

The Victim's Assistance and Survivor Protection Act Closes Gaps in Sexual Assault Survivor Protection Act, Offering Greater Protection to Victims

Litigation Quarterly Advisor

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New Jersey has taken a significant step towards protecting victims of sexual violence, stalking, and cyber-harassment with the implementation of the Victim's Assistance and Survivor Protection Act (VASPA) in January 2024. VASPA expands the scope of civil protective orders, providing a crucial safeguard for survivors who may not qualify for help under domestic violence statutes. VASPA builds upon the protections offered by the previous Sexual Assault Survivor Protection Act (SASPA) of 2015. While SASPA addressed sexual assault, VASPA widens the net to include stalking and cyber-harassment. Sexual offenses covered under VASPA include any nonconsensual sexual contact, sexual penetration, lewdness, and any attempt of such behavior, stalking and cyber harassment.

This broader scope allows survivors of these acts to seek civil protective orders, even if the perpetrator was not known to the survivor prior to the act. This is an important aspect of VASPA, as it allows victims to seek a protective order that do not meet the criteria for a domestic violence restraining order. In order to seek a domestic violence restraining order, the perpetrator must be a current/former spouse, have had a current/prior dating relationship with the victim, have a child in common with the victim, or a current/prior household member. Prior to SASPA and VASPA if the perpetrator was a co-workers, neighbors, or strangers, the victim could not to obtain a protective order without a criminal charge or conviction in place. As with those seeking a restraining order under the Prevention of Domestic Violence Act (PDVA), survivors can apply for a civil protective order under VASPA regardless of whether they choose to report the person who caused them harm to law enforcement.

Survivors or the parent or guardian of a survivor can apply on behalf of the survivor if the survivor is under 18 or has a developmental disability. The application is filed in the Chancery Division – Family Part, and thus the matter is adjudicated by a Family Part Judge. However, where the perpetrator is an unemancipated minor, the survivor will need to proceed in Juvenile Court.

Survivors can file for a protective order, under VASPA, at the courthouse during normal business hours, in the county in which they reside, in the county where the sexual offense occurred, or in the county where the perpetrator resides. Survivors can also apply electronically, through the Judiciary Electronic Document Submission (JEDS). If filed in the courthouse during regular business hours, the application will be heard the same day or as soon as practicable. If the application is filed electronically, on JEDS, during normal business hours, the hearing will also take place the same day. However, applications filed after 4:00 p.m. or on a weekend or holiday, will be contacted the next business day and be informed of the date and time of the hearing.

The protective order process, under VASPA (as it was under SASPA and for protective orders under the PDVA), is a two-step process. The process requires speedy filing with the court and it would be best to consult counsel.

The benefit of obtaining a final restraining order is that it protects the victim from further sexual offenses, stalking and cyber harassment from the perpetrator. It also prevents the perpetrator from contacting or seeing the victim. Any violation, by the perpetrator, of the final restraining order is a contempt of the order, which is a criminal act in New Jersey.

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