

3 Actionable Legal Remedies for Florida Sexual Assault Victims

Sexual assaults have dominated our media recently. If you have been the victim of a sexual assault, contact The Law Offices of Thomas J. Lavin right away.

WEST PALM BEACH, FLORIDA, USA, January 22, 2018 /EINPresswire.com/ -- [Sexual assaults](#) have dominated the national headlines in recent weeks. Reports from Hollywood have focused the nation's attention on the sexual misconduct of producers, actors, and others in the film and television industry. But the problem of sexual assault is not confined to Hollywood.

In Florida, sexual assault accusations against a state senator have prompted a sexual harassment investigation. Those stories reside at the tip of a much larger issue: women (and sometimes men) who are subjected to unwanted physical contact in the workplace, or who feel pressured to perform a sexual act as a condition of remaining employed.

Understanding how Florida lawyers can help victims of unwanted sexual contact or coercion is an important step toward obtaining a remedy for unlawful sexual behavior.

Sexual Assaults in the News

Rape and other acts of sexual violence can occur in any environment. Most sexual assault victims, however, know their attacker. Sexual assaults often arise out of family, dating, or workplace relationships.

The stories that have dominated the news highlight sexual misconduct that involves an abuse of



power. The accusations have typically focused on sexual assaults or sexually inappropriate conduct committed by men who use their status or authority to take advantage of less powerful victims, often in the context of an employment relationship.

The news and entertainment industry has produced daily accusations of sexual misconduct. Allegations have been lodged against producers (including Harvey Weinstein and Brett Ratner), actors (including Kevin Spacey and Casey Affleck), television stars (including Bill Cosby and Jeremy Piven), and newscasters (including Bill O'Reilly and Mark Halperin).

In some cases, the accused have admitted their misconduct, while others have denied the accusations. Everyone is innocent until proven guilty. The flood of allegations nevertheless highlight the larger issue of people taking advantage of power and authority to engage in sexually assaultive behavior.

Sexual Assaults in the Workplace

The disparity of power in the workplace accounts for the fact that so many reports of sexual assault stem from the employment relationship. Some bosses feel empowered to force employees to engage in sex acts, while employees may submit to avoid losing their jobs.

Sexual misconduct in the workplace is not limited to assaults committed in Hollywood. Accusations about a workplace culture that fosters sexually inappropriate conduct toward women have been leveled at Uber and Sterling Jewelers as well as thousands of employers that maintain a lower profile.

New concerns are surfacing about pervasive sexual harassment in male-dominated industries (sometimes referred to as the "bro" culture), including advertising agencies, the tech industry, and venture capital firms. The Florida legislature may fall into that category, given that only 25% of legislators are women.

While sexual assaults and sexual harassment can both occur in the workplace, they are different but overlapping concepts. Florida law defines a sexual assault as a criminal act. A sexual assault in the workplace can also be a form of sexual harassment. Federal and Florida laws define sexual harassment as conduct that makes the workplace oppressive or intolerable because of an employee's gender.

Laws that prohibit sexual harassment in the workplace are civil rather than criminal. Victims need to understand the distinction between civil and criminal law before they decide upon a sexual assault remedy.

Sexual Assault Crimes in Florida

Different states use different terminology to describe similar sex offenses. A "rape" in one state might be a "first degree sexual assault" in another. In addition, state laws often define sex offenses according to the specific conduct involved (penetration versus touching), the age of the victim, and whether the victim consented.

In Florida, the offense of rape is known as a sexual battery. A sexual battery is the "oral, anal, or vaginal penetration by, or union with, the sexual organ of another" or penetration with an object. As it applies to an adult who commits a sexual battery upon another adult, Florida law makes it:

- A life felony to commit a sexual battery without the victim's consent by using or threatening to use a weapon, or by using physical force that is likely to cause a serious physical injury;

- A first-degree felony to commit a sexual battery without the victim's consent if the victim is coerced to submit by threats of physical force that would likely cause a serious physical injury;
- A first-degree felony to commit a sexual battery without the victim's consent if the victim is physically or mentally incapacitated, helpless to resist, or under the influence of an incapacitating drug that the offender administered; or
- A second-degree felony to commit a sexual battery without the victim's consent if physical force was not threatened or used to commit the crime.

For the purpose of Florida's sexual battery laws, "consent" means voluntarily engaging in sexual relations. The law imposes no requirement to resist in order to establish a lack of consent.

In Florida, intentionally touching another person against that person's will constitutes the crime of battery. In a sexual context, the touching could include breasts, genitals, or buttocks, although a Florida battery is not limited to sexual misconduct. A Florida battery is generally a misdemeanor unless it is committed by using a weapon.

Reporting Sexual Assaults

According to the Florida Department of Health, one out of six adult women in Florida have been the victim of a forcible rape at some point in their lives. Many more women (and some men) are subject to forms of sexual abuse other than rape, including unwanted touching and groping without their consent.

Studies show that more than half of all sexual assaults are never reported to the police. Reasons victims fail to report sexual abuse include:

- Shame, humiliation, or embarrassment;
- Fear of reprisal;
- Fear of the justice system;
- Desire to protect the offender;
- Victim's belief that the report will not be believed;
- Victim's belief that the police will take no action;
- Victim's desire to protect the offender; or
- Lack of knowledge of how to report.

Reporting the assault is the starting point for Florida victims of a sexual battery or unlawful sexual touching. The local police agency will usually have jurisdiction over the crime. Reports can also be made to the county sheriff if the victim is not comfortable reporting to the local police.

Victims who need help or support can call the toll-free hotline operated by the Florida Council Against Sexual Violence (FCASV). The FCASV helps Florida victims of sexual assault obtain medical attention, counseling, and other services in addition to supporting the victim's contact with law enforcement. As well, reporting a sexual assault allows the police to investigate and potentially to make an arrest.

Victims of sexual assaults in Florida can pursue three important civil remedies, whether or not the assault is prosecuted as a crime. These remedies can provide victims with protection and compensation. Legal remedies in Florida for sexual assault victims include:

1. Domestic Violence Protection Orders

Many sexual assaults occur in a domestic setting. The fact of marriage does not immunize a spouse

from prosecution for a sexual battery. Spouses have the right to say “no” when they do not want to engage in sexual activity. Dating partners are also entitled to decide for themselves when and whether to have sex.

When a sexual assault occurs in a domestic context, the victim can request a protection order. Florida law refers to the order as an “injunction for protection against domestic violence.” The injunction is available to victims of domestic violence and to individuals who reasonably fear that domestic violence is imminent.

Domestic violence is an assault, battery, sexual battery, or other criminal act of violence against a:

- Spouse;
- Former spouse;
- Person related to the victim by blood or marriage who lives, or formerly lived, in the victim’s household;
- Person who is presently residing with the victim, or who has resided with the victim in the past, as if that person were part of the victim’s family; and
- Parent of the victim’s child.

A protection order prohibits the abuser from committing further acts of abuse. The order may also prohibit the abuser from occupying or entering the victim’s residence. The abuser can be ordered to participate in domestic violence counseling. When the abuser is a parent of the victim’s child, the court can also decide whether, when, and how the abuser should have contact with the child, subject to later revision by a family court.

Violation of a protective order is a crime. Abuse victims who are uncomfortable dealing with the legal system can also request the assistance of an advocate from a certified domestic violence center. Victims are entitled to retain the services of a lawyer. Contact [The Law Offices of Thomas J. Lavin](#) if you need a referral to a family lawyer who can help you apply for a protective order.

2. Sexual Harassment Claim

When it occurs in the workplace, a sexual assault is a form of sexual harassment. Federal and Florida laws protect employees from sexual harassment in the workplace. Those laws apply to all Florida employers with at least 15 employees.

While criminal law focuses on punishing the conduct of individuals, sexual harassment laws impose a duty on employers to create a workplace that is free from sex discrimination, including sexual harassment.

Sexual harassment in the workplace includes:

- Unwanted sexual contact;
- Unwelcome sexual advances;
- Requests for sexual favors;
- Offensive sexual comments; and
- Insults or derogatory language directed only toward members of one gender.

Not all offensive acts violate the law. Occasional teasing or offhand comments will not usually be considered sexual harassment. However, when the conduct is severe or frequent, it may create a hostile work environment. A work environment is hostile if a reasonable employee would consider it oppressive or if the harassing conduct substantially interferes with the ability to work.

A single incident (such as an off-color joke) that would not make it difficult for a reasonable employee to continue working is not the kind of harassment that triggers a legal remedy. A sexual assault in the workplace, however, is generally regarded as unlawful sexual harassment because no reasonable employee would want to continue working in a place where she fears another assault will occur.

The law holds employers accountable for sexual assaults that are committed by the CEO, managers, supervisors of the victim, and other employees who have the ability to fire, demote, or reduce the victim's pay. The employer is also accountable when any of those individuals coerce the victim to engage in a sex act by threatening termination, the denial of a promotion, or the loss of other benefits if the victim does not submit to the request.

Reporting Sexual Harassment in a Florida Workplace

When a co-worker engages in sexual harassment, an employer may or may not be held responsible, depending on the circumstances. Employees might first be required to report harassment, at least if the employer has developed a reporting policy, so that the employer can take action to stop it. An employer might not be liable for co-worker sexual harassment if the employer had no reason to know about it, although employers are not permitted to turn a blind eye to pervasive harassment that is too obvious to be ignored.

Whenever an employee has been sexually harassed, the employee should report the incident to the employer by following the employer's reporting procedure. When the harassment involves a sexual assault, the employee should also report it to the police and to an employment discrimination attorney.

It is unlawful to fire an employee for reporting sexual harassment or for cooperating in an investigation of sexual harassment. Retaliating against an employee who complains about sexual harassment in the workplace is one of the most common employment law violations filed in Florida.

Sexual harassment and retaliation remedies can include lost wages, medical expenses, compensation for emotional distress, and punitive damages. Keep in mind that a claim may need to be filed within 300 days of the date the harassment occurred. If you were the victim of a sexual assault in the workplace, contact The Law Offices of Thomas J. Lavin right away to obtain legal advice or a referral to an employment law attorney.

3. Civil Lawsuits for Florida Sexual Assaults

Sexual harassment claims are brought against the employer rather than the individual who engaged in the harassing behavior. That is often the best remedy when a sexual assault occurs at work, because employers are usually in a position to pay compensation.

Whether or not a sexual assault is work related, it is possible to sue the abuser for assault, battery, false imprisonment, and/or intentional infliction of emotional distress. Whether that lawsuit will be worth bringing depends on whether the offender has sufficient assets to pay any judgment the victim may win. A [personal injury](#) lawyer can investigate the facts and advise you whether it makes sense to sue.

It is also possible to bring a lawsuit against landlords, hotels, schools, hospitals, and owners of other places where a sexual assault occurred. Under some circumstances, property owners have a duty to maintain adequate lighting and security to prevent sexual assaults. A personal injury lawyer can evaluate the facts and help sexual assault victims decide whether a property owner's negligence may

have contributed to the sexual assault.

If you have been the victim of a sexual assault, contact The Law Offices of Thomas J. Lavin right away. We can determine what legal remedy might be available in your case. If you need a family law attorney or an employment law attorney rather than a personal injury lawyer, we can refer you to a firm that may be able to offer additional help.

Mr. Thomas J. Lavin
The Law Offices of Thomas J. Lavin
(561) 557-4546
email us here

This press release can be viewed online at: <http://www.einpresswire.com>

Disclaimer: If you have any questions regarding information in this press release please contact the company listed in the press release. Please do not contact EIN Presswire. We will be unable to assist you with your inquiry. EIN Presswire disclaims any content contained in these releases.

© 1995-2018 IPD Group, Inc. All Right Reserved.