



Tips for Community-Based Victim Advocates in New York State Courts

Family Court Act Provisions Relating to Victim Advocates

FCA § 253 – Family Courts may allow “auxiliary services,” such as advocates, to be present in court.

FCA § 838 – Petitioners (and respondents who have no attorney) may have a non- witness friend, relative, counselor or social worker present in the courtroom, unless the court finds it undesirable. This person does not take part in the proceedings (though they can request to address the court), but may be called as a witness.

Confidentiality

Advocates. You have a responsibility to keep client information *confidential*, but must make sure that victims understand that what they say to you is not legally *privileged* (unless you are a social worker). The court has the right to require you to testify as a witness.

You should also be aware of your agency’s policy on child abuse reporting, and make sure your clients are informed of it.

Attorneys have a duty of confidentiality to their clients, as well as a duty to protect clients’ legal rights. What clients say to their lawyer is *privileged* – it cannot be used as evidence in court, and lawyers cannot be forced to testify about it.

- Only the *client* can waive the privilege.
- Privilege can be broken unintentionally if a third party, such as an advocate, is present for meetings between attorneys and clients. Advocates must understand this, and help clients make informed decisions about whether to waive privilege by having them present.
- Attorneys are not required to report suspected child abuse.

Court Advocacy Tip Sheet #1

Timeframes

Questions the client may have	Time frames to expect
After I file a petition, how long does the abuser have to respond?	A temporary order of protection, if granted, may be granted the same day the petition is filed. The respondent is served notice of the filing and given a date to appear. Depending on the court calendar, it could be a week before the first appearance. Then the case is usually adjourned for up to several weeks before the second appearance.
How long before the case is transferred to IDV court?	Resource Coordinator recommends transfer to IDV judge, who decides on transfer to IDV court usually within 2-4 weeks.
If there are criminal charges, when do I talk to the DA about what happened?	It depends. The DA may first refer victims to community-based advocates for information and safety planning. Or the DA or Victim-Witness Liaison may speak with victims early on.
How long after I file a petition will there be a trial?	It depends. Due process requires the judge to consider whether the defendant is ready to enter a plea or go to trial when scheduling a hearing. It could take over a month, or as much as several months.
How long does a permanent order of protection last?	<p>Criminal Court: Felonies: up to 8 years Misdemeanors: up to 5 years Violations: up to 2 years</p> <p>Family Court: Up to 2 years, or up to 5 years if there are aggravating circumstances.</p>

Court Advocacy Tip Sheet #1

DV/IDV Court Resource Coordinators

Resource Coordinators (in other courts, Victim-Witness Liaisons have similar roles) have to be impartial; they refer for services, but are not advocates. Resource Coordinators have five core responsibilities:

- *Case identification*: working with court clerks to make sure all domestic violence and sex offense cases are identified and transferred to the specialized court's docket.
- *Service referrals*: gathering and organizing all related court information pertaining to the litigants and assisting with intake assessments to determine correct legal services or program referral.
- *Quality control*: maintaining an in-depth working knowledge of programs in the community, their eligibility requirements, and their appropriateness for referral.
- *Supporting compliance reviews*: assisting the judge in monitoring defendants or respondents' compliance with mandated programs and regularly reporting back to the court prior to compliance reviews.
- *Community collaboration*: serving as a liaison between the court and the community through coordination of on-going community response meetings with the court and stakeholders, planning trainings, and ensuring proper communication. Many resource coordinators also have an active role in maintaining court data for evaluation or grant reporting