

## **Fact Sheet: The Importance of Civil Justice to Sexual Assault Survivors and the Devastating Consequences of “Tort Reform”**

In its March 2019 report, *The Importance of Civil Justice to Sexual Assault Survivors and the Devastating Consequences of “Tort Reform,”* the Center for Justice & Democracy illustrates how critical civil cases are to sexual assault survivors. Civil cases not only help with the financial burdens of an assault but also provide victims with a forum to hold perpetrators directly accountable.

The report describes recent civil cases filed after sexual violence by many types of assailants, including adult care staff, airplane passengers, Boy Scout leaders, clergy and religious instructors, doctors, drivers, entertainment moguls, massage therapists, restaurant employees, school employees and students, security guards, and sports coaches.

The study also shows how so-called “tort reform” laws can further harm victims while protecting those responsible for sexual violence.

### **Sexual assault is a widespread, brutal problem.**

- According to the Centers for Disease Control and Prevention, “1 in 3 women and 1 in 6 men have experienced sexual violence involving physical contact at some point in their lives.”<sup>1</sup>

### **Access to the civil courts can be critically important to sexual assault survivors.**

- Survivors can face terrible financial burdens, including medical and mental health care bills, while also experiencing trauma, pain, suffering and lost quality of life. The criminal system isn’t designed to compensate them for such injuries, but the civil justice system is.
- The criminal justice system doesn’t hold perpetrators or culpable third parties (like churches) directly accountable to victims, but civil cases do. Indeed sometimes,

---

<sup>1</sup> Centers for Disease Control and Prevention, “Sexual Violence Prevention,” April 5, 2018, <https://www.cdc.gov/features/sexualviolence/index.html>

compensation is far less important to survivors than establishing some type of accountability by filing a civil case.

- Cases can be brought against those who commit sexual assault, as well as the third parties who facilitate it.

**“Tort reform” laws hurt sexual assault survivors, and help rapists and other violent abusers.**

- Tort restrictions limit the ability of survivors to file suits or be adequately compensated, while protecting those who commit sexual assault.
- Many states have enacted so-called “tort reform” laws in recent years, further protecting rapists and third parties who assist them. These laws include:
  - **Caps on damages, which apply irrespective of what a judge or jury decides and no matter how vicious an assault or devastating the harm.**
    - **Caps on non-economic damages** limit compensation for injuries like trauma, suffering and damaged lives, and have a disparate impact on women, children, seniors and the poor.
    - **Caps on punitive damages** limit compensation in cases where misconduct is particularly egregious, grossly negligent or intentional, as is often true in sexual assault cases.
  - **Overly-restrictive state statutes of limitations.**
    - Most state laws require someone to file a lawsuit within a very short period of time of their assault, with some variations for suing third parties like negligent companies. Oftentimes, these laws keep survivors from even filing a civil case, protecting rapists and other sexual abusers, as well as third parties who are responsible.

###