



Protect Those Reporting Sexual Assault

RAINN's Recommendations on Immunity for Sexual Violence Reporting

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Survivors of sexual assault often fear legal repercussions for alcohol or drug use, preventing them from reporting violent crimes. This fear also emboldens perpetrators, who target individuals under the influence, knowing they're less likely to seek help. When survivors don't report, violent crimes go uninvestigated. Lawmakers can encourage survivors to come forward by extending immunity from prosecution for alcohol and drug use/simple possession for someone seeking to report a sexual offense.

Fear Silences Survivors; Immunity Laws Empower Them

Self-blame and fear of being punished for use/simple possession of alcohol or drugs deters victims from reporting. Rape and crimes of sexual violence are chronically underreported, with only 46% of victims reporting to law enforcement.¹ Only ten percent of child sex abuse victims who report (approximately only one in five) do so to legal authorities.² Additionally, as high as **84% of sexual assaults involved the use of drugs or alcohol by the victim.**³ The focus of any sexual violence investigation must be on the perpetrator's disregard for consent, not the victim's substance use. Immunity for drug and alcohol use/possession prioritizes victim reporting and perpetrator accountability. Victims are never at fault for assault, regardless of substance involvement.

¹<https://bjs.ojp.gov/document/cv23.pdf>

² Delayed Disclosure Child USA 2024 Factsheet, A Comprehensive Report on Delayed Disclosure in Cases of Child Sexual Abuse, Insights, Implications, and Pathways Forward, <https://childusa.org/wp-content/uploads/2024/06/Delayed-Disclosure-2024.pdf>

³ Basile KC, Smith SG, Liu Y, Lowe A, Gilmore AK, Khatiwada S, Kresnow MJ. Victim and perpetrator characteristics in alcohol/drug-involved sexual violence victimization in the U.S. Drug Alcohol Depend. 2021 Sep 1;226:108839. doi: 10.1016/j.drugalcdep.2021.108839. Epub 2021 Jun 24. PMID: 34216864; PMCID: PMC8355168. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8355168/#R4>

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Children are especially vulnerable to perpetrators who use drugs and alcohol to groom and control their victims. Abusers provide substances to lower inhibitions, then threaten exposure if the child discloses the abuse. **Scared of getting in trouble and intimidated, these children remain silent.**

Current state laws discourage reporting, allowing rapists and child abusers to escape justice and re-offend. Survivors' fear of repercussions for alcohol and drug use/simple possession **incentivizes perpetrators to harm individuals who are under the influence of drugs or alcohol**, since they are less likely to go to the authorities.

It is time for the law to reflect that sexual assault survivors are not to blame for what happened to them and encourage survivors to report assault. Lawmakers must improve the reporting of sexual violence. The legislation we suggest offers a step towards achieving justice for survivors and ensuring public safety.

Immunity is a Successful Legislative Policy

Many states and colleges already successfully use drug or alcohol immunity to increase crime reporting, without increasing substance use. Immunity policies make victims and witnesses feel safer coming forward and seeking medical attention.⁴

College Campus Models

Colleges changed their policies to provide immunity to victims of sexual violence to combat the high rates of sexual violence on campuses. These policies prohibit schools from disciplining someone for drugs or alcohol when they experience a sexual assault. Given the age of college students, underage drinking is common. These students fear school discipline and criminal charges and are therefore less likely to report, access justice, and receive medical care after a sexual assault.

⁴ Ibid.

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In 2020, 13% of college students experienced nonconsensual sexual contact; for women, it was 25.95% (one in four).⁵ Alcohol is highly associated with campus sexual violence⁶ and “nearly three-quarters (72%) of victims experienced rape while intoxicated.”⁷

Despite these staggering numbers, campus sexual violence is severely underreported. Less than 5% of completed or attempted rapes against women on college campuses are reported to law enforcement, though up to two-thirds tell another person.⁸ Of those who didn't report, 30.9% cited fear of hostile treatment from police or the justice system, partly due to the risk of punishment for alcohol/drug use.⁹ While student victims carry the impact of an assault for a lifetime, perpetrators walk free, allowing them to continue victimizing others. Studies show 4-16% of college men admit to rape, and two-thirds of those are repeat offenders.¹⁰

Campus immunity policies successfully contribute to improved reporting: the rate of reporting of these serious violent crimes is higher at schools that have immunity policies.¹¹ As a result, more survivors have sought medical attention, contributed to investigations, and received needed support. Immunity policies are crucial to promoting public health and safety on college campuses. By empowering students to seek medical support and justice without fear, these policies unequivocally affirm that survivors are never to blame for their sexual assault.

⁵ Cantor, D., et al. (2020, January 17). Report on the AAU Campus Climate Survey on Sexual Assault and Misconduct, Association of American Universities, <https://www.aau.edu/sites/default/files/AAU-Files/Key-Issues/Campus-Safety/Revised%20Aggregate%20report%20and%20appendice>.

⁶ Ellyson, A., Ortega, A., & Bedard-Gilligan, M. (2023, January). Institution of Higher Education Substance Use Amnesty Policies and Sexual Violence Reporting, *Journal of Interpersonal Violence* 2023 38:1-2, 212-236, <https://journals.sagepub.com/doi/epub/10.1177/08862605221080156>.

⁷ Mohler-Kuo, M., Dowdall, G. W., Koss, M. P., & Wechsler, H. (2004). Correlates of rape while intoxicated in a national sample of college women. *Journal of studies on alcohol*, 65(1), 37-45. <https://doi.org/10.15288/jsa.2004.65.37>.

⁸ Fisher, B., Cullen, F., & Turner, M. (2000). The sexual victimization of college women (NCJ 182369). Retrieved from the National Criminal Justice Reference Service: <https://www.ncjrs.gov/pdffiles1/nij/182369.pdf>

⁹ Ibid.

¹⁰ Hopper, Jim (accessed 9/5/2024) Repeat Rape by College Men.

<https://jimhopper.com/topics/sexual-assault-and-the-brain/repeat-rape-by-college-men/>

¹¹ Ibid.

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Good Samaritan Model

48 states have "Good Samaritan" laws granting immunity to those seeking help for drug overdoses. Police involvement is the primary reason people hesitate to call for medical assistance during an overdose, leading to calls in less than 50% of cases. "Good Samaritan" policies have been shown to reduce overdose rates by 15% with no increase in drug use.¹²

Before the implementation of "Good Samaritan" drug laws, people were left with an impossible reality: access to medical care for an overdose could also result in their arrest. The immunity offered through "Good Samaritan" drug laws prioritizes the importance of public health and results in the accessibility of life-saving treatment.

Similarly, survivors of sexual violence must prioritize reporting a sexual assault and receiving a rape kit when under the influence of drugs or alcohol. Such action continues to prioritize public health and safety. Adding those seeking to report a sexual offense to existing immunity statutes helps improve the reporting of violent crimes, supports victims in accessing urgent medical care, and prioritizes public safety.

Protect Survivors Who Come Forward

Protections for survivors shouldn't be limited to college campuses. Laws must encourage, not impede, reporting sexual violence. Granting immunity for drug and alcohol use/simple possession to sexual assault survivors and witnesses encourages them to come forward. This also helps law enforcement apprehend violent offenders and stop serial perpetrators. By implementing victim immunity, lawmakers have a crucial opportunity to support victims and hold sexual offenders accountable. Below are our recommendations and sample statutory language.

¹² National Bureau of Economic Research, "A Little Help from my Friends: The Effects of Naloxone Access and Good Samaritan Laws on Opioid-Related Deaths," NBER Working Paper Series, February 2017.



RAINN's Recommendations

RAINN offers the following recommendations to policymakers to ensure state laws support victims and prioritize public safety. Similar changes in college campus policies have demonstrated the efficacy of these reforms.

This is not an exhaustive list but highlights components of effective statutes. Most states can modify existing Good Samaritan laws. If a standalone bill is preferred, a model is provided below.

We recognize that each state's code is unique and complicated. RAINN's policy department can work hand-in-hand with lawmakers and their staff to tailor these recommendations to meet each state's specific needs.

1. Extend protections to victims and other individuals seeking to report a sexual offense, but not for the person alleged to have committed the sexual offense.
2. Protections should apply to victims of any sexual offenses where perpetrators capitalize on the victims' use of drugs or alcohol to commit the offense or silence victims.
3. Encourage victims to report by focusing on the arrest of the violent offender instead of the victim.
4. Recognize that victims who are already involved in the criminal justice system have additional barriers to reporting and remove them.
5. Eliminate requirements that can further traumatize a victim.

Extend protections to victims and other individuals seeking to report a sexual offense, but not for the person alleged to have committed the sexual offense

Similar to Good Samaritan overdose laws, immunity aims to encourage reporting serious situations to law enforcement. Since most sexual violence victims don't report, states should encourage any victim or witness to a sexual offense to report or

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seek medical treatment without negative consequences.¹³ However, protections should not extend to the alleged perpetrator.

Sample Statutory Language:

“Such individual in good faith, seeks or obtains assistance for themselves or another individual from a medical provider or a law enforcement officer for a sexual offense or seeks to report a sexual offense for themselves or another individual, but does not include an individual alleged to have committed the act of sexual violence”

“The person in good faith seeks to report a sexual offense, request assistance for a victim of a sexual offense, or is a victim of or witness to a sexual offense and:

- (a) the evidence for the drug offense or alcohol offense was obtained as a result of the report or request for assistance related to the sexual offense; or*
- (b) the person committed the drug offense or alcohol offense at the time that the person was the victim of or witness to the sexual offense; and the person is not alleged to have committed the sexual offense.”*

¹³ Most victims of sexual assault, 58–94%, seek help informally from friends and family members, and “[f]or adolescents especially, their first disclosure of sexual assault victimization is typically made to a friend or family member, not a formal service provider.”

https://www1.odu.edu/content/dam/odu/offices/police/docs/2019-6_TB_Improving-Responses-to-SA-Disclosures.pdf; “About two-thirds of sexual assault survivors disclose to informal sources such as friends, family, or significant others in search of support.” Kirkner A, Lorenz K, Ullman SE, Mandala R. A Qualitative Study of Sexual Assault Disclosure Impact and Help-Seeking on Support Providers. *Violence Vict.* 2018 Aug;33(4):721–738. doi: 10.1891/0886-6708.VV-D-17-00059. PMID: 30567770; PMCID: PMC6309334.<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6309334/#:~:text=About%20two%2Dthirds%20of%20sexual,Filipas%20%26%20Ullman%2C%202001>).

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Protections should apply to victims of any sexual offenses where perpetrators capitalize on the victims' use of drugs or alcohol to commit the offense or silence victims

Any definition of “sexual offense” should be broad enough to encompass all sexual offenses where a victim’s use of drugs or alcohol inhibits reporting. In addition to using drugs or alcohol to facilitate the sexual offense, perpetrators use drugs or alcohol in other ways to commit the offense. With minors, these substances are used as an enticement¹⁴ for minors to engage in sexual conduct. Perpetrators coerce victims, including minors, by threatening to disclose the victim’s use of drugs or alcohol to parents, the victim’s school, or law enforcement.¹⁵ All sexual violence victims deserve protection.

Sample Statutory Language:

“Sexual offense” means any alleged violation, whether or not a civil or criminal action arises as a result of the alleged violation, of any offense in [chapter/title] involving sexual contact or sexually explicit conduct.

Crimes to consider:

1. Sexual Exploitation
2. Human trafficking
3. Incest
4. Sexual Assault/Rape

¹⁴ Individuals “provide gifts or bribes to persuade, desensitize or coerce minor victims as part of the grooming process” and this includes supplying drugs or alcohol to victims. Kirk-Provencher KT, Jeglic EL, Calkins C, Spillane NS. The use of substances in sexual offending in a United States sample. *Psychiatr Psychol Law*. 2021 Apr 27;29(1):53-67. doi: 10.1080/13218719.2021.1904445. PMID: 35693381; PMCID: PMC9186352. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9186352/>

¹⁵ Ian A. Elliott. A Self-Regulation Model of Sexual Grooming. *Trauma, Violence, & Abuse*. 2015. DOI: 10.1177/1524838015591573. <https://www.nationalcac.org/wp-content/uploads/2019/05/a-self-regulation-model-of-sexual-grooming.pdf>

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5. Forcible Sodomy
6. Sexual Battery
7. Sexual Abuse of a Child

Encourage victims to report by focusing on the arrest of the violent offender instead of the victim

Prioritize investigations of violent offenses over the non-violent crimes of using drugs or alcohol during the sexual offense or at the time of reporting. Removing the fear of being arrested, prosecuted, or even blamed for drug or alcohol use will increase the reporting of these crimes.

Sample Statutory Language:

"No individual shall be issued a citation for, arrested, charged, prosecuted, penalized or convicted of the following offenses if that offense is related to the sexual offense that the person is reporting[insert applicable drug and alcohol offenses]"

Recognize that victims who are already involved in the criminal justice system have additional barriers to reporting and remove them

Victims often fear blame or punishment for drug/alcohol consumption, extending beyond prosecution, especially for those already in the criminal justice system. Collateral consequences can hinder disclosures as much as formal charges. Removing these barriers encourages truthful disclosures, helps victims access care, and aids investigators in removing sexual offenders from the community.

Sample Statutory Language:

"A person's pretrial release, probation, furlough, supervised release, or parole shall not be revoked based on an incident for which the person would be immune from prosecution under subsection [X] of this section."



Eliminate requirements that can further traumatize a victim

Most Good Samaritan overdose laws condition immunity on remaining with the victim who is suffering an overdose. However, requiring a victim or witness of a sexual offense to stay at the crime scene can be both physically unsafe (because the perpetrator may still be on scene) and emotionally unsafe (requiring a victim to remain at the location of a traumatic event). Instead, individuals obtaining immunity should identify themselves and provide information sufficient to determine that a sexual offense may have occurred. Additionally, victims may be unable to decide whether they want to be involved in the criminal justice system immediately after a traumatic event. Requiring full cooperation immediately after the traumatic event can inhibit victim reporting and future cooperation, and is not trauma-informed.¹⁶ Encouraging immediate reporting allows evidence collection crucial for future prosecution when the victim is able to participate.

Sample Statutory Language:

“the person provides their full name, contact information and sufficient information to determine that a sexual offense may have occurred”

Model Standalone Bill

Most states can use the above statutory text to modify their existing Good Samaritan laws. If lawmakers prefer a standalone bill, however, we offer model legislation below.

(1) For purposes of this section:

¹⁶ This is not unique in the sexual violence space. Under federal law, states who receive STOP Violence Against Women Formula Grant funding cannot condition payments for sexual assault exams on the victim's cooperation with law enforcement. <https://www.justice.gov/ovw/page/file/1008816/dl>

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- (a) “Alcohol offense” means any offense involving the possession or consumption of alcoholic beverages under [insert state-specific offenses – including public intoxication and consumption by a minor]
 - (b) “Drug offense” means any offense involving the possession or consumption of drugs under [insert state-specific offenses – include drug paraphernalia]
 - (c) “Sexual offense” means any offense involving sexual contact or sexually explicit conduct, whether or not a civil or criminal action arises as a result of the alleged violation, and includes any offense under [insert state-specific offenses – include Rape, Sexual Offenses Against Children, Trafficking, Incest, Sexual Exploitation, Sexual Battery, Sexual Harassment, Exploitation (Electronic)]
- (2) A person shall not be issued a citation, taken into custody, arrested, charged, prosecuted, penalized, or convicted for a drug offense or alcohol offense, if:
- (a) the person in good faith seeks to report a sexual offense, request assistance for a victim of a sexual offense, or is a victim of or witness to a sexual offense and:
 - (i) the evidence for the drug offense or alcohol offense was obtained as a result of the report or request for assistance related to the sexual offense; or
 - (ii) the person committed the drug offense or alcohol offense at the time that the person was the victim of or witness to the sexual offense;
 - (b) the person provides their full name, contact information and sufficient information to determine that a sexual offense may have occurred; and
 - (c) the person is not alleged to have committed the sexual offense;
- (3) A person’s pretrial release, probation, furlough, supervised release, or parole shall not be revoked based on an incident for which the person would be immune from prosecution under subsection (2) of this section.
- (4) Nothing in this section shall:
- (a) be construed to bar the admissibility of any evidence obtained in connection with the investigation and prosecution of other crimes or

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violations committed by a person who otherwise qualifies for limited immunity under this section; or

(b) preclude prosecution of a person on the basis of evidence obtained from an independent source.

(5) The act of providing assistance to a sexual assault victim may be used as a mitigating factor in a criminal prosecution for which immunity is not provided.

Next Steps:

For more information about the laws in your state, please see RAINN's state law database. For additional information about involuntary pelvic exams generally, please visit RAINN's website. To schedule a call with someone on RAINN's policy team, email policy@rainn.org.