Advocate Confidentiality Statutes

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| ALABAMA | **Ala. Code § 30-6-8****Information confidential.**Information identifying individuals or facilities received by the office, the circuit, any district attorney or his or her employees, the director, or by authorized **persons employed by or volunteering services to a domestic violence center**, through files, reports, inspection, or otherwise, is confidential and exempt from Section 36-12-40. Information about the location of domestic violence centers and facilities is confidential and exempt from Section 36-12-40. Oral communications between a domestic violence victim and an advocate and written reports and records concerning the victim may not be disclosed without the written consent of the victim. This privilege does not relieve a person from any duty imposed pursuant to **Section 26-14-1** or Section 38-9-2. However, when cooperating with the Department of Human Resources, the staff and volunteers of a domestic violence center shall protect the confidentiality of other clients at the center. A victim or advocate may not claim this privilege when providing evidence in proceedings concerning child abuse, but may claim this privilege in all other proceedings, both criminal and civil. This privilege expires upon the death of the victim. The director shall ensure that the information obtained under authority of this chapter shall be restricted to the items germane to the implementation thereof and shall ensure that the provisions are administered so as not to accumulate any information or distribute any information that is not required by this chapter. **Ala. Code § 26-14-1****§ 26-14-1. Definitions.**For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:(1) Abuse. — Harm or threatened harm to a child’s health or welfare. Harm or threatened harm to a child’s health or welfare can occur through nonaccidental physical or mental injury, sexual abuse or attempted sexual abuse, or sexual exploitation or attempted sexual exploitation. “Sexual abuse” includes the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in, any sexually explicit conduct or any simulation of the conduct for the purpose of producing any visual depiction of the conduct; or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children as those acts are defined by Alabama law. “Sexual exploitation” includes allowing, permitting, or encouraging a child to engage in prostitution and allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child for commercial purposes.(2) Neglect. — Negligent treatment or maltreatment of a child, including the failure to provide adequate food, medical treatment, supervision, clothing, or shelter.(3) Child. — Either of the following:a. A person under the age of 18 years.b. A person under the age of 19 years who is in need of protective services and does not qualify for adult protective services under Chapter 9 of Title 38.(4) Duly constituted authority. — The chief of police of a municipality or municipality and county; or the sheriff, if the observation of child abuse or neglect is made in an unincorporated territory; or the **Department of Human Resources; or any person, organization, corporation, group, or agency authorized and designated by the Department of Human Resources to receive reports of child abuse and neglect; provided, that a “duly constituted authority” shall not include an agency involved in the acts or omissions of the reported child abuse or neglect**. |
| ALASKA | **Alaska Stat. § 18.66.200****Sec. 18.66.200. Compulsory disclosure of communications prohibited.**(a) Except as provided in AS 18.66.210 or 18.66.220, a victim or victim counselor may not be compelled, without appropriate consent, to give testimony or to produce records concerning confidential communications for any purpose in a criminal, civil, legislative, or administrative proceeding. In this subsection, “appropriate consent” means(1) the consent of the victim with respect to the testimony of(A) an adult victim; and(B) a victim counselor when the victim is an adult;(2) the consent of the victim’s parent, legal guardian, or guardian ad litem with respect to the testimony of a(A) victim who is a minor or incompetent to testify; and(B) victim counselor when the victim is a minor or incompetent to testify.(b) Either party may apply for appointment of a guardian ad litem for purposes of (a)(2) of this section.(c) A victim or victim counselor may not be compelled to provide testimony in a civil, criminal, or administrative proceeding that would identify the name, address, location, or telephone number of a safe house, abuse shelter, or other facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding, or the name, address, or telephone number of a victim counselor, unless the court or hearing officer determines that the information is necessary and relevant to the facts of the case.(d) Notwithstanding (a) of this section,(1) a minor may waive the privilege provided under (a) of this section and testify or give consent for a victim counselor to testify if the court determines that the minor is capable of knowingly waiving the privilege;(2) a parent or legal guardian may not, on behalf of a minor, waive the privilege provided under (a) of this section with respect to the minor’s testimony or the testimony of a victim counselor if(A) the parent or legal guardian has been charged with a crime against the minor;(B) a protective order or restraining order has been entered against the parent or legal guardian on request of or on behalf of the minor; or(C) the parent or legal guardian otherwise has an interest adverse to that of the minor with respect to the waiver of privilege.**Alaska Stat. § 18.66.210****Exceptions**The privilege provided under AS 18.66.200 does not apply to(1) reports of suspected child abuse or neglect under AS 47.17;(2) evidence that the victim is about to commit a crime;(3) a proceeding that occurs after the victim's death;(4) a communication relevant to an issue of breach by the victim or victim counselor of a duty arising out of the victim-victim counselor relationship;(5) a communication that is determined to be admissible hearsay as an excited utterance under the Alaska Rules of Evidence;(6) a child-in-need-of-aid proceeding under AS 47.10;(7) a communication made during the victim-victim counselor relationship if the services of the counselor were sought, obtained, or used to enable anyone to commit or plan a crime or to escape detection or apprehension after the commission of a crime; or(8) a criminal proceeding concerning criminal charges against a victim of domestic violence or sexual assault where the victim is charged with a crime(A) under AS 11.41 against a minor; or(B) in which the physical, mental, or emotional condition of the victim is raised in defense of the victim.  **Alaska Stat. § 18.66.220****§ 18.66.220. Waiver.**(a) A victim does not waive the protections provided in AS 18.66.200 by testifying except that, if the victim partially discloses the contents of a confidential communication in the course of testifying in a civil, criminal, or administrative proceeding, then either party may request the court or hearing officer to rule that justice requires the protections of AS 18.66.200 to be waived to the extent they apply to that portion of the communication. A waiver under this subsection applies only to the extent necessary to require a witness to respond to counsel's questions concerning the confidential communications that were disclosed and only to the extent that they are relevant to the facts of the case. (b) A victim counselor may not waive the protections afforded to a victim under AS 18.66.200 without the consent of the victim or the consent of a parent, legal guardian, or guardian ad litem authorized to give consent under AS 18.66.200.  **Alaska Stat. § 18.66.250****Sec. § 18.66.250. Definition.**(1) "confidential communication" means information exchanged between a victim and a victim counselor in private or in the presence of a third party who is necessary to facilitate communication or further the counseling process and that is disclosed in the course of victim counseling resulting from a sexual assault or domestic violence; (2) "sexual assault" means an offense under AS 11.41.410 -- 11.41.470 or an offense in another jurisdiction whose elements are similar to the elements of an offense under AS 11.41.410 -- 11.41.470; (3) "victim" means a person who consults a victim counselor for assistance in overcoming adverse effects of a sexual assault or domestic violence;(4) "victim counseling" means support, assistance, advice, or treatment to alleviate the adverse effects of a sexual assault or domestic violence on the victim; (5) "victim counseling center" means a private organization, an organization operated by or contracted by a branch of the armed forces of the United States, or a local government agency that(A) has, as one of its primary purposes, the provision of direct services to victims for trauma resulting from a sexual assault or domestic violence;(B) is not affiliated with a law enforcement agency or a prosecutor's office; and(C) is not on contract with the state to provide services under AS 47;(6) "victim counselor" means an employee or supervised volunteer of a victim counseling center that provides counseling to victims(A) who has undergone a minimum of 40 hours of training in domestic violence or sexual assault, crisis intervention, victim support, treatment and related areas; or(B) whose duties include victim counseling.  **Alaska Stat. § 18.66.230****Sec. 18.66.230. Inference from claim of privilege; instruction**.**(a)** The claim of a privilege under AS 18.66.200, whether in a present proceeding or upon a prior occasion, is not a proper subject of comment by a judge, hearing officer, legislator, or counsel. An inference may not be drawn from the claim of privilege.**(b)** In jury cases, proceedings shall be conducted, to the extent practicable, so as to facilitate the making of a claim of privilege under AS 18.66.200 without the knowledge of the jury.**(c)** Upon request, a party against whom a jury might draw an adverse inference from a claim of privilege under AS 18.66.200 is entitled to an instruction that an inference may not be drawn from the claim of privilege. |
| AMERICAN SAMOA | **No statute for advocates specifically.****Am. Samoa Code Ann. § 46.5012: Victim confidentiality**Information obtained from victim is privileged and confidential and protected from disclosure. The American Samoa Government shall implement measures to ensure that the victim’s name and other personally identifiable information shall remain confidential and private. Department of Homeland Security, in coordination with the Department of Public Safety and the Attorney General’s Office shall develop policies on how limited information about human trafficking victims shall be shared among government and nongovernment agencies in responding to victims. A victim’s informed consent to limited sharing of information cannot be construed as a waiver of any confidentiality or any privilege.” |
| ARIZONA | **Ariz. Rev. Stat. Ann. § 8-409****§ 8-409. Consultation between crime victim advocate and victim; privileged information; exception.**A. A crime **victim advocate** shall not disclose as a witness or otherwise any communication made by or with the victim, including any communication made to or in the presence of others, unless the victim consents in writing to the disclosure.B. Unless the victim consents in writing to the disclosure, a crime victim advocate shall not disclose records, notes, documents, correspondence, reports or memoranda that contain opinions, theories or other information made while advising, counseling or assisting the victim or that are based on communications made by or with the victim, including communications made to or in the presence of others.C. The communication is not privileged if the crime victim advocate knows that the victim will give or has given perjured testimony or if the communication contains exculpatory material.D. An accused may make a motion for disclosure of privileged information. If the court finds there is reasonable cause to believe the material is exculpatory, the court shall hold a hearing in camera. Material that the court finds is exculpatory shall be disclosed to the accused.E. If, with the written or verbal consent of the victim, the crime victim advocate discloses to the prosecutor or a law enforcement agency any communication between the victim and the crime victim advocate or any records, notes, documents, correspondence, reports or memoranda, the prosecutor or law enforcement agent shall disclose the material to the accused’s attorney only if the information is otherwise exculpatory.F. Notwithstanding subsections A and B of this section, if a crime victim consents either verbally or in writing, a crime victim advocate may disclose information to other professionals and administrative support persons that the advocate works with for the purpose of assisting the advocate in providing services to the victim and to the court in furtherance of any victims’ right pursuant to this chapter. |
| ARKANSAS |  **Ark. Code Ann. § 9-4-106****Program requirements.**Every shelter shall:(1) Develop and implement a written nondiscrimination policy to provide services without regard to race, religion, color, age, marital status, national origin, ancestry, or sexual preference;(2) Provide a facility that is open, accessible, and staffed by an advocate or a volunteer each day of the calendar year and twenty-four (24) hours each day;(3) Provide emergency housing and related supportive services in a safe, protective environment for victims of domestic abuse and their children;(4)(A) Provide a crisis telephone hotline that is answered by an advocate or a volunteer who meets the training requirements under this chapter each day of the calendar year and twenty-four (24) hours each day.(B) The crisis telephone hotline shall not be answered by an answering machine, answering service, or mobile telephone;(5)(A) Require all advocates and volunteers who provide direct services to victims to sign a written confidentiality agreement that prohibits the release of the following:(i) The names or other personal and identifying information about the victims who are served at the shelter; and(ii) The names or other personal and identifying information about the family or household members of the victims who are served at the shelter.(B) The confidentiality agreement shall not apply to advocates who testify in court.(C) The confidentiality agreement shall not prevent disclosure from federal grant review, audit, or reporting;(6) Develop and implement a written plan for outreach efforts to aid victims of domestic violence;(7) Provide peer support groups for victims;(8) Provide assistance and court advocacy for victims seeking orders of protection; and(9) Provide training and educational information on domestic violence for professionals, community organizations, and interested individuals. **Ark. Code Ann. § 9-4-111****Disclosure of information.**Information received by the Arkansas Child Abuse/Rape/Domestic Violence Commission, its employees, or its designees through files, reports, evaluations, inspections, or otherwise shall be confidential information and shall not be disclosed publicly in a manner as to identify individuals or facilities. |
| CALIFORNIA | **Cal Evid. Code § 912****§ 912. Waiver of privilege****(a)** Except as otherwise provided in this section, the right of any person to claim a privilege provided by Section 954 (lawyer-client privilege), 966 (lawyer referral service-client privilege), 980 (privilege for confidential marital communications), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), 1033 (privilege of penitent), 1034 (privilege of clergy member), 1035.8 (sexual assault counselor-victim privilege), 1037.5 (domestic violence counselor-victim privilege), or 1038 (human trafficking caseworker-victim privilege) is waived with respect to a communication protected by the privilege if any holder of the privilege, without coercion, has disclosed a significant part of the communication or has consented to disclosure made by anyone. Consent to disclosure is manifested by any statement or other conduct of the holder of the privilege indicating consent to the disclosure, including failure to claim the privilege in any proceeding in which the holder has legal standing and the opportunity to claim the privilege.**(b)** Where two or more persons are joint holders of a privilege provided by Section 954 (lawyer-client privilege), 966 (lawyer referral service-client privilege), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), 1035.8 (sexual assault counselor-victim privilege), 1037.5 (domestic violence counselor-victim privilege), or 1038 (human trafficking caseworker-victim privilege), a waiver of the right of a particular joint holder of the privilege to claim the privilege does not affect the right of another joint holder to claim the privilege. In the case of the privilege provided by Section 980 (privilege for confidential marital communications), a waiver of the right of one spouse to claim the privilege does not affect the right of the other spouse to claim the privilege.**(c)** A disclosure that is itself privileged is not a waiver of any privilege.**(d)** A disclosure in confidence of a communication that is protected by a privilege provided by Section 954 (lawyer-client privilege), 966 (lawyer referral service-client privilege), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), 1035.8 (sexual assault counselor-victim privilege), 1037.5 (domestic violence counselor-victim privilege), or 1038 (human trafficking caseworker-victim privilege), when disclosure is reasonably necessary for the accomplishment of the purpose for which the lawyer, lawyer referral service, physician, psychotherapist, sexual assault counselor, domestic violence counselor, or human trafficking caseworker was consulted, is not a waiver of the privilege. **Cal Evid. Code § 1035.2****“Sexual assault counselor”**As used in this article, “sexual assault counselor” means any of the following:(a) A person who is engaged in any office, hospital, institution, or center commonly known as a rape crisis center, whose primary purpose is the rendering of advice or assistance to victims of sexual assault and who has received a certificate evidencing completion of a training program in the counseling of sexual assault victims issued by a counseling center that meets the criteria for the award of a grant established pursuant to Section 13837 of the Penal Code and who meets one of the following requirements:(1) Is a psychotherapist as defined in Section 1010; has a master’s degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in rape crisis counseling.(2) Has 40 hours of training as described below and is supervised by an individual who qualifies as a counselor under paragraph (1). The training, supervised by a person qualified under paragraph (1), shall include, but not be limited to, the following areas:(A) Law.(B) Medicine.(C) Societal attitudes.(D) Crisis intervention and counseling techniques.(E) Role playing.(F) Referral services.(G) Sexuality.(b) A person who is engaged in a program on the campus of a public or private institution of higher education, whose primary purpose is the rendering of advice or assistance to victims of sexual assault and who has received a certificate evidencing completion of a training program in the counseling of sexual assault victims issued by a counseling center that meets the criteria for the award of a grant established pursuant to Section 13837 of the Penal Code and who meets one of the following requirements:(1) Is a psychotherapist as defined in Section 1010; has a master’s degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in rape crisis counseling.(2) Has 40 hours of training as described below and is supervised by an individual who qualifies as a counselor under paragraph (1). The training, supervised by a person qualified under paragraph (1), shall include, but not be limited to, the following areas:(A) Law.(B) Medicine.(C) Societal attitudes.(D) Crisis intervention and counseling techniques.(E) Role playing.(F) Referral services.(G) Sexuality.(c) A person who is employed by any organization providing the programs specified in Section 13835.2 of the Penal Code, whether financially compensated or not, for the purpose of counseling and assisting sexual assault victims, and who meets one of the following requirements:(1) Is a psychotherapist as defined in Section 1010; has a master’s degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in rape assault counseling.(2) Has the minimum training for sexual assault counseling required by guidelines established by the employing agency pursuant to subdivision (c) of Section 13835.10 of the Penal Code, and is supervised by an individual who qualifies as a counselor under paragraph (1). The training, supervised by a person qualified under paragraph (1), shall include, but not be limited to, the following areas:(A) Law.(B) Victimology.(C) Counseling.(D) Client and system advocacy.(E) Referral services. **Cal Evid. Code § 1035.4** **§ 1035.4. "Confidential communication between the sexual assault counselor and the victim"**As used in this article, “confidential communication between the sexual assault counselor and the victim” means information transmitted between the victim and the sexual assault counselor in the course of their relationship and in confidence by a means which, so far as the victim is aware, discloses the information to no third persons other than those who are present to further the interests of the victim in the consultation or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the sexual assault counselor is consulted. The term includes all information regarding the facts and circumstances involving the alleged sexual assault and also includes all information regarding the victim’s prior or subsequent sexual conduct, and opinions regarding the victim’s sexual conduct or reputation in sexual matters.The court may compel disclosure of information received by the sexual assault counselor which constitutes relevant evidence of the facts and circumstances involving an alleged sexual assault about which the victim is complaining, and which is the subject of a criminal proceeding if the court determines that the probative value outweighs the effect on the victim, the treatment relationship, and the treatment services if disclosure is compelled. The court may also compel disclosure in proceedings related to child abuse if the court determines the probative value outweighs the effect on the victim, the treatment relationship, and the treatment services if disclosure is compelled.When a court is ruling on a claim of privilege under this article, the court may require the person from whom disclosure is sought or the person authorized to claim the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the person authorized to claim the privilege and such other persons as the person authorized to claim the privilege is willing to have present. If the judge determines that the information is privileged and must not be disclosed, neither he or she nor any other person may ever disclose, without the consent of a person authorized to permit disclosure, what was disclosed in the course of the proceedings in chambers.If the court determines certain information shall be disclosed, the court shall so order and inform the defendant. If the court finds there is a reasonable likelihood that particular information is subject to disclosure pursuant to the balancing test provided in this section, the following procedure shall be followed:**(1)** The court shall inform the defendant of the nature of the information which may be subject to disclosure.**(2)** The court shall order a hearing out of the presence of the jury, if any, and at the hearing allow the questioning of the sexual assault counselor regarding the information which the court has determined may be subject to disclosure.**(3)** At the conclusion of the hearing, the court shall rule which items of information, if any, shall be disclosed. The court may make an order stating what evidence may be introduced by the defendant and the nature of questions to be permitted. The defendant may then offer evidence pursuant to the order of the court. Admission of evidence concerning the sexual conduct of the complaining witness is subject to Sections 352, 782, and 1103.  **Cal Evid. Code § 1035.6****"Holder of the privilege"**As used in this article, "holder of the privilege" means:(a) The victim when such person has no guardian or conservator.(b) A guardian or conservator of the victim when the victim has a guardian or conservator.(c) The personal representative of the victim if the victim is dead.**Cal Evid. Code § 1035.8****§ 1035.8. Victim's privilege****A victim of a sexual assault, whether or not a party, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a sexual assault counselor if the privilege is claimed by any of the following:**(a) The holder of the privilege;(b) A person who is authorized to claim the privilege by the holder of the privilege; or(c) The person who was the sexual assault counselor at the time of the confidential communication, but that person may not claim the privilege if there is no holder of the privilege in existence or if he or she is otherwise instructed by a person authorized to permit disclosure.**Cal Evid. Code § 1036****Counselor's privilege**The sexual assault counselor who received or made a communication subject to the privilege under this article shall claim the privilege if he or she is present when the communication is sought to be disclosed and is authorized to claim the privilege under subdivision (c) of Section 1035.8.**Cal Evid. Code § 1036.2****"Sexual assault"**As used in this article, “sexual assault” includes all of the following:(a) Rape, as defined in Section 261 of the Penal Code.(b) Unlawful sexual intercourse, as defined in Section 261.5 of the Penal Code.(c) Rape in concert with force and violence, as defined in Section 264.1 of the Penal Code.(d) Sodomy, as defined in Section 286 of the Penal Code, except a violation of subdivision (e) of that section.(e) A violation of Section 288 of the Penal Code.(f) Oral copulation, as defined in Section 287 of, or former Section 288a of, the Penal Code, except a violation of subdivision (e) of those sections.(g) Sexual penetration, as defined in Section 289 of the Penal Code.(h) Annoying or molesting a child under 18 years of age, as defined in Section 647a of the Penal Code.(i) Any attempt to commit any of the acts listed in this section. **Cal Evid. Code § 1037.1** **§ 1037.1. "Domestic violence counselor"**(a)(1) As used in this article, “domestic violence counselor” means a person who is employed by a domestic violence victim service organization, asdefined in this article, whether financially compensated or not, for the purpose of rendering advice or assistance to victims of domestic violence and whohas at least 40 hours of training as specified in paragraph (2).(2) The 40 hours of training shall be supervised by an individual who qualifies as a counselor under paragraph (1), and who has at least one year ofexperience counseling domestic violence victims for the domestic violence victim service organization. The training shall include, but need not belimited to, the following areas: history of domestic violence, civil and criminal law as it relates to domestic violence, the domestic violence victimcounselor privilege and other laws that protect the confidentiality of victim records and information, societal attitudes towards domestic violence, peercounseling techniques, housing, public assistance and other financial resources available to meet the financial needs of domestic violence victims, andreferral services available to domestic violence victims.(3) A domestic violence counselor who has been employed by the domestic violence victim service organization for a period of less than six monthsshall be supervised by a domestic violence counselor who has at least one year of experience counseling domestic violence victims for the domesticviolence victim service organization.(b) As used in this article, “domestic violence victim service organization” means either of the following:(1) A nongovernmental organization or entity that provides shelter, programs, or services to victims of domestic violence and their children, including,but not limited to, either of the following:(A) Domestic violence shelter-based programs, as described in Section 18294 of the Welfare and Institutions Code.(B) Other programs with the primary mission to provide services to victims of domestic violence whether or not that program exists in an agency thatprovides additional services.(2) Programs on the campus of a public or private institution of higher education with the primary mission to provide support or advocacy services to victims of domestic violence. **Cal Evid. Code § 1037.2****“Confidential communication”; Compelling disclosure**(a) As used in this article, “confidential communication” means any information, including, but not limited to, written or oral communication, transmitted between the victim and the counselor in the course of their relationship and in confidence by a means which, so far as the victim is aware, discloses the information to no third persons other than those who are present to further the interests of the victim in the consultation or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the domestic violence counselor is consulted. The term includes all information regarding the facts and circumstances involving all incidences of domestic violence, as well as all information about the children of the victim or abuser and the relationship of the victim with the abuser.(b) The court may compel disclosure of information received by a domestic violence counselor which constitutes relevant evidence of the facts and circumstances involving a crime allegedly perpetrated against the victim or another household member and which is the subject of a criminal proceeding, if the court determines that the probative value of the information outweighs the effect of disclosure of the information on the victim, the counseling relationship, and the counseling services. The court may compel disclosure if the victim is either dead or not the complaining witness in a criminal action against the perpetrator. The court may also compel disclosure in proceedings related to child abuse if the court determines that the probative value of the evidence outweighs the effect of the disclosure on the victim, the counseling relationship, and the counseling services.(c) When a court rules on a claim of privilege under this article, it may require the person from whom disclosure is sought or the person authorized to claim the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the person authorized to claim the privilege and such other persons as the person authorized to claim the privilege consents to have present. If the judge determines that the information is privileged and shall not be disclosed, neither he nor she nor any other person may disclose, without the consent of a person authorized to permit disclosure, any information disclosed in the course of the proceedings in chambers.(d) If the court determines that information shall be disclosed, the court shall so order and inform the defendant in the criminal action. If the court finds there is a reasonable likelihood that any information is subject to disclosure pursuant to the balancing test provided in this section, the procedure specified in subdivisions (1), (2), and (3) of Section 1035.4 shall be followed.**Cal Evid Code § 1037.3****Effect of article on obligation to report child abuse**Nothing in this article shall be construed to limit any obligation to report instances of child abuse as required by Section 11166 of the Penal Code. **Cal Evid Code § 1037.4****§ 1037.4. "Holder of the privilege"**As used in this article, "holder of the privilege" means:(a) The victim when he or she has no guardian or conservator.(b) A guardian or conservator of the victim when the victim has a guardian or conservator, unless the guardian or conservator is accused of perpetrating domestic violence against the victim. **Cal Evid Code § 1037.5****Who may claim privilege****A victim of domestic violence, whether or not a party to the action, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a domestic violence counselor in any proceeding specified in Section 901 if the privilege is claimed by any of the following persons:****(**a) The holder of the privilege.(b) A person who is authorized to claim the privilege by the holder of the privilege.(c) The person who was the domestic violence counselor at the time of the confidential communication. However, that person may not claim the privilege if there is no holder of the privilege in existence or if he or she is otherwise instructed by a person authorized to permit disclosure. **Cal Evid Code § 1037.6****When domestic violence counselor must claim privilege**The domestic violence counselor who received or made a communication subject to the privilege granted by this article shall claim the privilege whenever he or she is present when the communication is sought to be disclosed and he or she is authorized to claim the privilege under subdivision (c) of Section 1037.5.**Cal Evid Code § 1037.8****§ 1037.8. Informing victim of limitations on confidentiality of communications**A domestic violence counselor shall inform a domestic violence victim of any applicable limitations on confidentiality of communications between the victim and the domestic violence counselor. This information may be given orally.**Cal Evid Code § 1038****Right to prevent disclosure of confidential communication between victim and caseworker; Who may claim privilege; Notice to victim**(a) A trafficking victim, whether or not a party to the action, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication, whether made orally, in writing, or otherwise conveyed, between the victim and a human trafficking caseworker if the privilege is claimed by any of the following persons:(1) The holder of the privilege.(2) A person who is authorized to claim the privilege by the holder of the privilege.(3) The person who was the human trafficking caseworker at the time of the confidential communication or is presently the human trafficking caseworker for the victim. However, that person may not claim the privilege if there is no holder of the privilege in existence or if the person is otherwise instructed by the court or by another person authorized to permit disclosure.(b) The human trafficking caseworker shall claim the privilege whenever the caseworker is present when the communication is sought to be disclosed and the caseworker is authorized to claim the privilege under this section.(c) A human trafficking caseworker shall inform a trafficking victim of any applicable limitations on confidentiality of communications between the victim and the caseworker. This information may be given orally**.** **Cal Evid Code § 1038.1****When court may compel disclosure; Ruling on claim of privilege**(a) The court may compel disclosure of information received by a human trafficking caseworker that constitutes relevant evidence of the facts and circumstances involving a crime allegedly perpetrated against the victim and that is the subject of a criminal proceeding, if the court determines that the probative value of the information outweighs the effect of disclosure of the information on the victim, the counseling relationship, and the counseling services.(b) When a court rules on a claim of privilege under this article, it may require the person from whom disclosure is sought or the person authorized to claim the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the person authorized to claim the privilege and those other persons that the person authorized to claim the privilege consents to have present.(c) If the judge determines that the information is privileged and shall not be disclosed, no person shall disclose, without the consent of a person authorized to permit disclosure, any information disclosed in the course of the proceedings in chambers. If the court determines that information shall be disclosed, the court shall so order and inform the defendant in the criminal action. If the court finds there is a reasonable likelihood that any information is subject to disclosure pursuant to the balancing test provided in this section, the procedure specified in paragraphs (1), (2), and (3) of Section 1035.4 shall be followed.  |
| COLORADO | **Colo. Rev. Stat. § 13-90-107****Who may not testify without consent – definitions**(k)(I) A victim’s advocate shall not be examined as to any communication made to such victim’s advocate by a victim of domestic violence, as defined in section 18-6-800.3 (1), C.R.S., or a victim of sexual assault, as described in sections 18-3-401 to 18-3-405.5, 18-6-301, and 18-6-302, C.R.S., in person or through the media of written records or reports without the consent of the victim.(II) For purposes of this paragraph (k), a “victim’s advocate” means a person at a battered women’s shelter or rape crisis organization or a comparable community-based advocacy program for victims of domestic violence or sexual assault and does not include an advocate employed by any law enforcement agency:(A) Whose primary function is to render advice, counsel, or assist victims of domestic or family violence or sexual assault; and(B) Who has undergone not less than fifteen hours of training as a victim’s advocate or, with respect to an advocate who assists victims of sexual assault, not less than thirty hours of training as a sexual assault victim’s advocate; and(C) Who supervises employees of the program, administers the program, or works under the direction of a supervisor of the program.(l)(I) A parent may not be examined as to any communication made in confidence by the parent’s minor child to the parent when the minor child and the parent were in the presence of an attorney representing the minor child, or in the presence of a physician who has a confidential relationship with the minor child pursuant to paragraph (d) of this subsection (1), or in the presence of a mental health professional who has a confidential relationship with the minor child pursuant to paragraph (g) of this subsection (1), or in the presence of a clergy member, minister, priest, or rabbi who has a confidential relationship with the minor child pursuant to paragraph (c) of this subsection (1). The exception may be waived by express consent to disclosure by the minor child who made the communication or by failure of the minor child to object when the contents of the communication are demanded. This exception does not relieve any physician, mental health professional, or clergy member, minister, priest, or rabbi from any statutory reporting requirements.(II) This exception does not apply to:(A) Any civil action or proceeding by one parent against the other or by a parent or minor child against the other;(B) Any proceeding to commit either the minor child or parent, pursuant to title 27, C.R.S., to whom the communication was made;(C) Any guardianship or conservatorship action to place the person or property or both under the control of another because of an alleged mental or physical condition of the minor child or the minor child’s parent;(D) Any criminal action or proceeding in which a minor’s parent is charged with a crime committed against the communicating minor child, the parent’s spouse, the parent’s partner in a civil union, or a minor child of either the parent or the parent’s spouse or the parent’s partner in a civil union;(E) Any action or proceeding for termination of the parent-child legal relationship;(F) Any action or proceeding for voluntary relinquishment of the parent-child legal relationship; or(G) Any action or proceeding on a petition alleging child abuse, dependency or neglect, abandonment, or non-support by a parent. |
| CONNECTICUT | **Conn. Gen. Stat. § 52-146k****Sec. 52-146k. Privileged communications between victim and domestic violence counselor or sexual assault counselor.** (a) As used in this section:(1) “Domestic violence agency” means any office, shelter, host home or agency offering assistance to victims of domestic violence through crisis intervention, emergency shelter referral and medical and legal advocacy, and which meets the Department of Social Services criteria of service provision for such agencies.(2) “Domestic violence counselor” means any person engaged in a domestic violence agency (A) who has undergone a minimum of twenty hours of training which shall include, but not be limited to, the dynamics of domestic violence, crisis intervention, communication skills, working with diverse populations, an overview of the state criminal justice system and information about state and community resources for victims of domestic violence, (B) who is certified as a counselor by the domestic violence agency that provided such training, (C) who is under the control of a direct service supervisor of a domestic violence agency, and (D) whose primary purpose is the rendering of advice, counsel and assistance to, and the advocacy of the cause of, victims of domestic violence.(3) “Confidential communication” means information transmitted between a victim of domestic violence or a victim of a sexual assault and a domestic violence counselor or a sexual assault counselor in the course of that relationship and in confidence by a means which, so far as the victim is aware, does not disclose the information to a third person other than any person who is present to further the interests of the victim in the consultation or any person to whom disclosure is reasonably necessary for the transmission of the information or for the accomplishment of the purposes for which such counselor is consulted, and includes all information received by, and any advice, report or working paper given or made by, such counselor in the course of the relationship with the victim.(4) “Rape crisis center” means any office, institution or center offering assistance to victims of sexual assault and their families through crisis intervention, medical and legal advocacy and follow-up counseling.(5) “Sexual assault counselor” means (A) any person engaged in a rape crisis center who (i) has undergone a minimum of twenty hours of training which shall include, but not be limited to, the dynamics of sexual assault and incest, crisis intervention, communication skills, working with diverse populations, an overview of the state criminal justice system, information about hospital and medical systems and information about state and community resources for sexual assault victims, (ii) is certified as a counselor by the sexual assault center which has provided such training, (iii) is under the control of a direct services supervisor of a rape crisis center, and (iv) whose primary purpose is the rendering of advice, counseling and assistance to, and the advocacy of the cause of, victims of sexual assault, or (B) any member of the armed forces of the state or the United States who is trained and certified as a victim advocate or a sexual assault prevention coordinator in accordance with the military’s sexual assault prevention and response program.(6) “Victim” means any person who consults a domestic violence counselor or a sexual assault counselor for the purpose of securing advice, counseling or assistance concerning a mental, physical or emotional condition caused by domestic violence or a sexual assault.(b) On or after October 1, 1983, a domestic violence counselor or a sexual assault counselor shall not disclose any confidential communications made to such counselor at any time by a victim in any civil or criminal case or proceeding or in any legislative or administrative proceeding unless the victim making the confidential communications waives the privilege, provided under no circumstances shall the location of the domestic violence agency or rape crisis center or the identity of the domestic violence counselor or sexual assault counselor be disclosed in any civil or criminal proceeding. Any request made on or after October 1, 1983, by the defendant or the state for such confidential communications shall be subject to the provisions of this subsection.(c) When a victim is deceased or has been adjudged incompetent by a court of competent jurisdiction, the guardian of the victim or the executor or administrator of the estate of the victim may waive the privilege established by this section.(d) A minor may knowingly waive the privilege established by this section. In any instance where the minor is, in the opinion of the court, incapable of knowingly waiving the privilege, the parent or guardian of the minor may waive the privilege on behalf of the minor, provided the parent or guardian is not the defendant and does not have a relationship with the defendant such that the parent or guardian has an interest in the outcome of the proceeding.(e) The privilege established by this section shall not apply: (1) In matters of proof concerning chain of custody of evidence; (2) in matters of proof concerning the physical appearance of the victim at the time of the injury; or (3) where the domestic violence counselor or sexual assault counselor has knowledge that the victim has given perjured testimony and the defendant or the state has made an offer of proof that perjury may have been committed by the victim.(f) The failure of any party to testify as a witness pursuant to the provisions of this section shall not result in an inference unfavorable to the state’s cause or to the cause of the defendant. |
| DELAWARE | No Statute |
| DISTRICT OF COLUMBIA |  **D.C. Code § 14-310****§ 14-310. Domestic violence counselors**(a) For the purposes of this section, the term:(1) “Confidential communication” means information exchanged between a victim and a domestic violence counselor during the course of the counselor providing counseling, support, and assistance to a victim, including all records kept by the counselor and the domestic violence program concerning the victim and services provided to the victim.(2) “Domestic violence counselor” means an employee, contractor, or volunteer of a domestic violence program who:(A) Is rendering support, counseling, or assistance to a victim;(B) Has undergone not less than 40 hours of domestic violence counselor training conducted by a domestic violence program that includes dynamics of domestic violence, trauma resulting from domestic violence, crisis intervention, personal safety, risk management, criminal and civil court processes, and resources available to victims; and(C)(i) Is or is under the supervision of a licensed social worker, nurse, physician, psychologist, or psychotherapist; or(ii) Is or is under the supervision of a person who has a minimum of 5 years of experience rendering support, counseling, or assistance to persons against whom severe emotional abuse or a criminal offense has been committed or is alleged to have been committed, of which at least 2 years of experience involves victims.(3) “Domestic violence program” means a nonprofit, non-governmental organization that supports, counsels, and assists victims, including domestic violence hotlines, domestic violence shelters, and domestic violence intake centers.(4) “Intrafamily offense” shall have the same meaning as provided in § 16-1001(8).(5) “Victim” means a person against whom severe emotional abuse or an intrafamily offense has been committed or is alleged to have been committed.(b)(1) A domestic violence counselor shall not disclose a confidential communication except:(A) As required by statute or by a court of law;(B) As voluntarily authorized in writing by the victim;(C) To other individuals employed at the domestic violence program and third party providers when and to the extent necessary to facilitate the delivery of services to the victim;(D) To the Metropolitan Police Department or other law enforcement agency to the extent necessary to protect the victim or another individual from a substantial risk of imminent and serious physical injury;(E) To compile statistical or anecdotal information, without personal identifying information, for research or public information purposes; or(F) For any confidential communications relevant to a claim or defense if the victim files a lawsuit against a domestic violence counselor or a domestic violence program.(2) Unless the disclosure is public, confidential communications disclosed pursuant to paragraph (1) of this subsection shall not be further disclosed by the recipient except as authorized in paragraph (1) of this subsection.(3) Confidential communications are not waived by the presence of a sign language or foreign language interpreter. Such an interpreter is subject to the same disclosure limitations set forth in paragraph (1) of this subsection and the same privilege set forth in subsection (c) of this section.(c)(1) Except as provided in paragraph (2) of this subsection, when a victim is under 12 years of age, has been adjudicated incompetent by a court of competent jurisdiction for the purpose of asserting or waiving the privilege established by this section, or is deceased, the victim’s parent, guardian, or personal representative may assert or waive the privilege.(2) If the parent, guardian, or personal representative of a victim described in paragraph (1) of this subsection has been charged with an intrafamily offense or has had a protection order or a neglect petition entered against him or her at the request of or on behalf of the victim, or otherwise has interests adverse to those of the victim with respect to the assertion or waiver of the privilege, the court shall appoint an attorney for purposes of asserting or waiving the privilege.(d) The assertion of any privilege under this section is not admissible in evidence. |
| FLORIDA | **Fla. Stat. Ann. § 90.5035****§ 90.5035. Sexual assault counselor-victim privilege**(1) For purposes of this section:(a) A “rape crisis center” is any public or private agency that offers assistance to victims of sexual assault or sexual battery and their families.(b) A “sexual assault counselor” is any employee of a rape crisis center whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault or sexual battery.(c) A “trained volunteer” is a person who volunteers at a rape crisis center, has completed 30 hours of training in assisting victims of sexual violence and related topics provided by the rape crisis center, is supervised by members of the staff of the rape crisis center, and is included on a list of volunteers that is maintained by the rape crisis center.(d) A “victim” is a person who consults a sexual assault counselor or a trained volunteer for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by a sexual assault or sexual battery, an alleged sexual assault or sexual battery, or an attempted sexual assault or sexual battery.(e) A communication between a sexual assault counselor or trained volunteer and a victim is “confidential” if it is not intended to be disclosed to third persons other than:1. Those persons present to further the interest of the victim in the consultation, examination, or interview.2. Those persons necessary for the transmission of the communication.3. Those persons to whom disclosure is reasonably necessary to accomplish the purposes for which the sexual assault counselor or the trained volunteer is consulted.(2) A victim has a privilege to refuse to disclose, and to prevent any other person from disclosing, a confidential communication made by the victim to a sexual assault counselor or trained volunteer or any record made in the course of advising, counseling, or assisting the victim. Such confidential communication or record may be disclosed only with the prior written consent of the victim. This privilege includes any advice given by the sexual assault counselor or trained volunteer in the course of that relationship.(3) The privilege may be claimed by:(a) The victim or the victim’s attorney on his or her behalf.(b) A guardian or conservator of the victim.(c) The personal representative of a deceased victim.(d) The sexual assault counselor or trained volunteer, but only on behalf of the victim. The authority of a sexual assault counselor or trained volunteer to claim the privilege is presumed in the absence of evidence to the contrary. |
| GEORGIA | No Statute |
| GUAM | **6 Guam Code Ann. § 9102****(a)** Definitions. As used in this Section, crime **victim advocate** means a person who is employed or authorized by a public or private entity to provide counseling, treatment or other support assistance to crime **victims**.**(b)** **Victim-Advocate** Privilege. **(1)** A crime **victim** has a privilege to refuse to disclose, and to prevent any other person from disclosing, a confidential communication made by the **victim** to a crime **victim advocate** or any record made in the course of advising, counseling or assisting the **victim**. The privilege applies to confidential communications made between the **victim** and the **advocate**, and to records of those communications. This privilege does not include communications excluded under Subsection (c)(3) of this Section. **(2)** The privilege may be claimed by the following: **(A)** The **victim**, or the **victim**'s attorney on behalf of the **victim**. **(B)** A guardian or conservator of the **victim**. **(C)** The personal representative of a deceased **victim**. **(D)** The crime **victim advocate**, but only on behalf of the **victim**. The authority of the **advocate** to claim the privilege is presumed in the absence of evidence to the contrary.**(c)** Consultation Between Crime **Victim Advocate** and **Victim**; Privileged Information; Exception. **(1)** A crime **victim advocate** shall not disclose as a witness or otherwise, any communication made by or with the **victim**, including any communication made to or in the presence of others, unless the **victim** consents in writing to the disclosure. **(2)** Unless the **victim** consents either verbally or in writing to the disclosure, a crime **victim advocate** shall not disclose records, notes, documents, correspondence, reports or memoranda that contain opinions, theories or other information made while advising, counseling or assisting the **victim**, or that are based on communications made by or with the **victim**, including communications made to or in the presence of others. **(3)** The communication is not privileged if the crime **victim advocate** knows that the **victim** will give or has given perjured testimony or if the communication contains exculpatory material. **(4)** Notwithstanding Subsections (c)(1) and (2) of this Section, with the written or verbal consent of the **victim**, a crime **victim advocate** who is employed by the Attorney General's Office may disclose information to the prosecutor. **(5)** If, with the written or verbal consent of the **victim**, the crime **victim advocate** discloses to the prosecutor or a law enforcement agency any communication between the **victim** and the **advocate**, or any records, notes, document, correspondence, reports or memoranda; the prosecutor or law enforcement agent shall disclose the material to the defendant's attorney only if such information is otherwise exculpatory. **(6)** Notwithstanding Subsections (c)(1) and (2) of this Section, with the written or verbal consent of the **victim**, a crime **victim advocate** may disclose information to other professional and administrative support persons with whom the **advocate** works for the purpose of assisting the **advocate** in providing services to the **victim**. |
| HAWAII | **Haw. Rev. Stat. Ann. § Rule-505.5****Victim-counselor privilege.**(a) Definitions. As used in this rule:(1) A communication is “confidential” if not intended to be disclosed to third persons other than those to whom disclosure would be in furtherance of the provision of counseling or treatment services to the victim or those reasonably necessary for the transmission of the communication.(2) “Domestic violence victims’ program” means any refuge, shelter, office, safe home, institution, or center established for the purpose of offering assistance to victims of abuse through crisis intervention, medical, legal, or support counseling.(3) “Sexual assault crisis center” means any office, institution, or center offering assistance to victims of sexual assault and the families of such victims through crisis intervention, medical, and legal, or support counseling.(4) “Social worker” means a person who has received a master’s degree in social work from a school of social work accredited by the Council on Social Work Education.(5) A “victim” is a person who consults a victim counselor for assistance in overcoming any adverse emotional or psychological effect of sexual assault, domestic violence, or child abuse.(6) A “victim counseling program” is any activity of a domestic violence victims’ program or a sexual assault crisis center that has, as its primary function, the counseling and treatment of sexual assault, domestic violence, or child abuse victims and their families, and that operates independently of any law enforcement agency, prosecutor’s office, or the department of human services.(7) A “victim counselor” is either a sexual assault counselor or a domestic violence victims’ counselor. A sexual assault counselor is a person who is employed by or is a volunteer in a sexual assault crisis center, has undergone a minimum of thirty-five hours of training and who is, or who reports to and is under the direct control and supervision of, a social worker, nurse, psychiatrist, psychologist, or psychotherapist, and whose primary function is the rendering of advice, counseling or assistance to victims of sexual assault. A domestic violence victims’ counselor is a person who is employed by or is a volunteer in a domestic violence victims’ program, has undergone a minimum of twenty-five hours of training and who is, or who reports to and is under the direct control and supervision of, a direct service supervisor of a domestic violence victims’ program, and whose primary function is the rendering of advice, counseling, or assistance to victims of abuse.(b) General rule of privilege. A victim has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made to a victim counselor for the purpose of counseling or treatment of the victim for the emotional or psychological effects of sexual assault, domestic violence, or child abuse or neglect, and to refuse to provide evidence that would identify the name, location, or telephone number of a safe house, abuse shelter, or other facility that provided temporary emergency shelter to the victim.(c) Who may claim the privilege. The privilege may be claimed by the victim, the victim’s guardian or conservator, or the personal representative of a deceased victim. The person who was the victim counselor at the time of the communication is presumed to have authority to claim the privilege but only on behalf of the victim.(d) Exceptions. There is no privilege under this rule:(1) Perjured testimony by victim. If the victim counselor reasonably believes that the victim has given perjured testimony and a party to the proceeding has made an offer of proof that perjury may have been committed.(2) Physical appearance and condition of victim. In matters of proof concerning the physical appearance and condition of the victim at the time of the alleged crime.(3) Breach of duty by victim counselor or victim counseling program. As to a communication relevant to an issue of breach of duty by the victim counselor or victim counseling program to the victim.(4) Mandatory reporting. To relieve victim counselors of any duty to refuse to report child abuse or neglect under chapter 350, domestic abuse under chapter 586, or abuse of a vulnerable adult under part X of chapter 346, and to refuse to provide evidence in child abuse proceedings under chapter 587A.(5) Proceedings for hospitalization. For communications relevant to an issue in proceedings to hospitalize the victim for mental illness or substance abuse, or in proceedings for the discharge or release of a victim previously hospitalized for mental illness or substance abuse.(6) Examination by order of court. If the court orders an examination of the physical, mental, or emotional condition of a victim, whether a party or a witness, communications made in the course thereof are not privileged under this rule with respect to the particular purpose of which the examination is ordered unless the court orders otherwise.(7) Condition an element of claim or defense. As to a communication relevant to the physical, mental, or emotional condition of the victim in any proceeding in which the victim relies upon the condition as an element of the victim's claim or defense or, after the victim's death, in any proceeding in which any party relies upon the condition as an element of the party's claim or defense.(8) Proceedings against the victim counselor. In any administrative or judicial proceeding in which the competency or practice of the victim counselor or of the victim counseling program is at issue, provided that the identifying data of the victims whose records are admitted into evidence shall be kept confidential unless waived by the victim. The administrative agency, board or commission shall close to the public any portion of a proceeding, as necessary to protect the confidentiality of the victim. |
| IDAHO | **Idaho Code Ann. § 19-5701**The legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, stalking, human trafficking or malicious harassment frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, sexual assault, malicious harassment, human trafficking or stalking, to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, sexual assault, malicious harassment, human trafficking or stalking, and to enable state and local agencies to accept a program participant's use of an address designated by the secretary of state as a substitute mailing address. |
| ILLINOIS | **750 Ill. Comp. Stat. Ann. 60/227****§ 750 ILCS 60/227. Privileged communications between domestic violence counselors and victims** **(a)** As used in this Section:* **(1)** “Domestic violence program” means any unit of local government, organization, or association whose major purpose is to provide one or more of the following: information, crisis intervention, emergency shelter, referral, counseling, advocacy, or emotional support to victims of domestic violence.
* **(2)** “Domestic violence advocate or counselor” means any person (A) who has undergone a minimum of forty hours of training in domestic violence advocacy, crisis intervention, and related areas, and (B) who provides services to victims through a domestic violence program either on an employed or volunteer basis.
* **(3)** “Confidential communication” means any communication between an alleged victim of domestic violence and a domestic violence advocate or counselor in the course of providing information, counseling, or advocacy. The term includes all records kept by the advocate or counselor or by the domestic violence program in the course of providing services to an alleged victim concerning the alleged victim and the services provided.
* The confidential nature of the communication is not waived by the presence at the time of the communication of any additional persons, including but not limited to an interpreter, to further express the interests of the domestic violence victim or by the advocate’s or counselor’s disclosure to such an additional person with the consent of the victim when reasonably necessary to accomplish the purpose for which the advocate or counselor is consulted.
* **(4)** “Domestic violence victim” means any person who consults a domestic violence counselor for the purpose of securing advice, counseling or assistance related to one or more alleged incidents of domestic violence.
* **(5)** “Domestic violence” means abuse as defined in this Act.

**(b)** No domestic violence advocate or counselor shall disclose any confidential communication or be examined as a witness in any civil or criminal case or proceeding or in any legislative or administrative proceeding without the written consent of the domestic violence victim except (1) in accordance with the provisions of the Abused and Neglected Child Reporting Act [325 ILCS 5/1 et seq.] or (2) in cases where failure to disclose is likely to result in an imminent risk of serious bodily harm or death of the victim or another person.**(c)** A domestic violence advocate or counselor who knowingly discloses any confidential communication in violation of this Act commits a Class A misdemeanor.**(d)** When a domestic violence victim is deceased or has been adjudged incompetent by a court of competent jurisdiction, the guardian of the domestic violence victim or the executor or administrator of the estate of the domestic violence victim may waive the privilege established by this Section, except where the guardian, executor or administrator of the estate has been charged with a violent crime against the domestic violence victim or has had an Order of Protection entered against him or her at the request of or on behalf of the domestic violence victim or otherwise has an interest adverse to that of the domestic violence victim with respect to the waiver of the privilege. In that case, the court shall appoint an attorney for the estate of the domestic violence victim.**(e)** A minor may knowingly waive the privilege established by this Section. Where a minor is, in the opinion of the court, incapable of knowingly waiving the privilege, the parent or guardian of the minor may waive the privilege on behalf of the minor, except where such parent or guardian has been charged with a violent crime against the minor or has had an Order of Protection entered against him or her on request of or on behalf of the minor or otherwise has any interest adverse to that of the minor with respect to the waiver of the privilege. In that case, the court shall appoint an attorney for the minor child who shall be compensated in accordance with Section 506 of the Illinois Marriage and Dissolution of Marriage Act [[750 ILCS 5/506](https://plus.lexis.com/document/?pdmfid=1530671&crid=ce898fbf-b56e-44ca-86cb-d5f6b6ca4cfd&pddocfullpath=%2Fshared%2Fdocument%2Fstatutes-legislation%2Furn%3AcontentItem%3A8JRP-7TT2-D6RV-H3GD-00000-00&pdtocnodeidentifier=ACHAAUAACABL&ecomp=34qkk&prid=3e20fae4-ae91-45c5-b4a9-bdbd3f7ca45a)].**(f)** Nothing in this Section shall be construed to limit in any way any privilege that might otherwise exist under statute or common law.**(g)** The assertion of any privilege under this Section shall not result in an inference unfavorable to the State’s cause or to the cause of the domestic violence victim. |
| INDIANA | **Ind. Code Ann. § 35-37-6-9****Testimonial privileges.**(a) The following persons or entities may not be compelled to give testimony, to produce records, or to disclose any information concerning confidential communications and confidential information to anyone or in any judicial, legislative, or administrative proceeding:(1) A victim.(2) A victim advocate or victim service provider unless the victim specifically consents to the disclosure in a written authorization that contains the date the consent expires.(b) A victim advocate, victim service provider, or victim may not be compelled to provide testimony in any judicial, legislative, or administrative proceeding that would identify the name, address, location, or telephone number of any facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding unless the facility is a party to the proceeding.(c) A victim service provider or victim advocate may not require a victim to consent to the disclosure of information concerning confidential communications and confidential information as a condition of the victim receiving services.(d) This section does not prohibit a victim from providing testimony concerning an offense.(e) The consent to disclose information on behalf of:(1) a child who is less than eighteen (18) years of age and is unemancipated; or(2) an incapacitated victim;may be made by a custodial parent, custodian, guardian, or guardian ad litem in a written authorization that contains the date the consent expires.(f) A consent under subsection (e) may not be given by a custodial parent, custodian, guardian, or guardian ad litem of the victim if the custodial parent, custodian, guardian, or guardian ad litem:(1) committed; or(2) is alleged to have committed; an offense against the victim.**Ind. Code Ann. § 35-37-6-11**Testimony by victim advocate.A victim advocate may not waive the protections afforded to a victim under this chapter. However, if:(1) a victim brings suit against a victim advocate or victim service provider in which the victim advocate was employed or served as a volunteer at the time of the counseling relationship; and(2) the suit alleges malpractice during the relationship; the victim advocate may testify or produce records regarding confidential communications with the victim and is not liable for doing so. |
| IOWA | **Iowa Code § 915.20A**Victim counselor privilege.1. As used in this section:a. “Confidential communication” means information shared between a crime victim and a victim counselor within the counseling relationship, and includes all information received by the counselor and any advice, report, or working paper given to or prepared by the counselor in the course of the counseling relationship with the victim. “Confidential information” is confidential information which, so far as the victim is aware, is not disclosed to a third party with the exception of a person present in the consultation for the purpose of furthering the interest of the victim, a person to whom disclosure is reasonably necessary for the transmission of the information, or a person with whom disclosure is necessary for accomplishment of the purpose for which the counselor is consulted by the victim.b. “Crime victim center” means any office, institution, agency, or crisis center offering assistance to victims of crime and their families through crisis intervention, accompaniment during medical and legal proceedings, and follow-up counseling.c. “Victim” means a person who consults a victim counselor for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by a violent crime committed against the person.d. “Victim counselor” means a person who is engaged in a crime victim center, is certified as a counselor by the crime victim center, and is under the control of a direct services supervisor of a crime victim center, whose primary purpose is the rendering of advice, counseling, and assistance to the victims of crime. To qualify as a “victim counselor” under this section, the person must also have completed at least twenty hours of training provided by the center in which the person is engaged, by the Iowa organization of victim assistance, by the Iowa coalition against sexual assault, or by the Iowa coalition against domestic violence, which shall include but not be limited to, the dynamics of victimization, substantive laws relating to violent crime, sexual assault, and domestic violence, crisis intervention techniques, communication skills, working with diverse populations, an overview of the state criminal justice system, information regarding pertinent hospital procedures, and information regarding state and community resources for victims of crime.2. A victim counselor shall not be examined or required to give evidence in any civil or criminal proceeding as to any confidential communication made by a victim to the counselor, nor shall a clerk, secretary, stenographer, or any other employee who types or otherwise prepares or manages the confidential reports or working papers of a victim counselor be required to produce evidence of any such confidential communication, unless the victim waives this privilege in writing or disclosure of the information is compelled by a court pursuant to subsection 7. Under no circumstances shall the location of a crime victim center or the identity of the victim counselor be disclosed in any civil or criminal proceeding.3. If a victim is deceased or has been declared to be incompetent, this privilege specified in subsection 2 may be waived by the guardian of the victim or by the personal representative of the victim’s estate.4. A minor may waive the privilege under this section unless, in the opinion of the court, the minor is incapable of knowingly and intelligently waiving the privilege, in which case the parent or guardian of the minor may waive the privilege on the minor’s behalf if the parent or guardian is not the defendant and does not have such a relationship with the defendant that the parent or guardian has an interest in the outcome of the proceeding being favorable to the defendant.5. The privilege under this section does not apply in matters of proof concerning the chain of custody of evidence, in matters of proof concerning the physical appearance of the victim at the time of the injury or the counselor’s first contact with the victim after the injury, or where the counselor has reason to believe that the victim has given perjured testimony and the defendant or the state has made an offer of proof that perjury may have been committed.6. The failure of a counselor to testify due to this section shall not give rise to an inference unfavorable to the cause of the state or the cause of the defendant.7. Upon the motion of a party, accompanied by a written offer of proof, a court may compel disclosure of certain information if the court determines that all of the following conditions are met:a. The information sought is relevant and material evidence of the facts and circumstances involved in an alleged criminal act which is the subject of a criminal proceeding.b. The probative value of the information outweighs the harmful effect, if any, of disclosure on the victim, the counseling relationship, and the treatment services.c. The information cannot be obtained by reasonable means from any other source.8. In ruling on a motion under subsection 7, the court, or a different judge, if the motion was filed in a criminal proceeding to be tried to the court, shall adhere to the following procedure:a. The court may require the counselor from whom disclosure is sought or the victim claiming the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the victim and any other persons the victim is willing to have present.b. If the court determines that the information is privileged and not subject to compelled disclosure, the information shall not be disclosed by any person without the consent of the victim.c. If the court determines that certain information may be subject to disclosure, as provided in subsection 7, the court shall so inform the party seeking the information and shall order a subsequent hearing out of the presence of the jury, if any, at which the parties shall be allowed to examine the counselor regarding the information which the court has determined may be subject to disclosure. The court may accept other evidence at that time.d. At the conclusion of a hearing under paragraph “c”, the court shall determine which information, if any, shall be disclosed and may enter an order describing the evidence which may be introduced by the moving party and prescribing the line of questioning which may be permitted. The moving party may then offer evidence pursuant to the court order. However, no victim counselor is subject to exclusion under rule of evidence 5.615.9. This section does not relate to the admission of evidence of the victim’s past sexual behavior which is strictly subject to rule of evidence 5.412. |
| KANSAS | **Kan. Stat. Ann. § 44-1132****Discrimination, retaliation prohibited; time off for certain purposes; documentation required; confidentiality of information; limitations on time off**(2) When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within 48 hours after the beginning of the unscheduled absence, provides a certification to the employer in the form of any of the following:(C) documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence or sexual assault.**Kan. Stat. Ann. § 65-5810****Confidential communications; exceptions**(a) The confidential relations and communications between a licensed professional counselor and such counselor’s client are placed on the same basis as provided by law for those between an attorney and an attorney’s client.(b) The confidential relations and communications between a licensed clinical professional counselor and such counselor’s client are placed on the same basis as provided by law for those between an attorney and an attorney’s client.(c) Nothing in this section or in this act shall be construed to prohibit any licensed professional counselor or licensed clinical professional counselor from testifying in court hearings concerning matters of adult abuse, adoption, child abuse, child neglect, or other matters pertaining to the welfare of children or from seeking collaboration or consultation with professional colleagues or administrative superiors, or both, on behalf of the client. There is no privilege under this section for information which is required to be reported to a public official.**Kan. Stat. Ann. § 75-771****Kansas victim information and notification everyday (VINE) coordinator.**(a) The attorney general shall appoint a Kansas victim information and notification everyday (VINE) coordinator, and within the limits of appropriations available therefor, such additional staff as necessary to support the coordinator.(b) The Kansas VINE coordinator shall work with interested parties, including, but not limited to, the sheriffs throughout the state, to oversee the implementation and operation of the VINE system throughout the state.(c) The attorney general may appoint an advisory board to make recommendations for the implementation and operation of the VINE program. Such advisory committee, if appointed, may consist of up to five members appointed by the attorney general. One member shall be a victim advocate and one shall be a representative of the Kansas sheriffs’ association. Except as provided in K.S.A. 75-3212, and amendments thereto, no member of any such advisory committee shall receive any compensation, subsistence, mileage or other allowance for serving on an advisory board appointed pursuant to this section.(d) The attorney general shall promulgate rules and regulations necessary to carry out the provisions of this section. |
| KENTUCKY | **KRE Rule 506**Counselor-client privilege.(a)Definitions.As used in this rule:(1) A "counselor" includes:(A) A certified school counselor who meets the requirements of the Kentucky Board of Education and who is duly appointed and regularly employed for the purpose of counseling in a public or private school of this state;(B) A sexual assault counselor, who is a person engaged in a rape crisis center, as defined in KRS Chapter 421, who has undergone forty (40) hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault;(C) A certified professional art therapist who is engaged to conduct art therapy under KRS 309.130 to 309.1399;(D) A licensed marriage and family therapist as defined in KRS 335.300 who is engaged to conduct marriage and family therapy pursuant to KRS 335.300 to 335.399;(E) A licensed professional clinical counselor or a licensed professional counselor associate as defined in KRS 335.500;(F) An individual who provides crisis response services as a member of the community crisis response team or local community crisis response team under KRS 36.250 to 36.270;(G) A victim advocate as defined in KRS 421.570 except a victim advocate who is employed by a Commonwealth's attorney under KRS 15.760 or a county attorney pursuant to KRS 69.350; and(H) A Kentucky licensed pastoral counselor as defined in KRS 335.605 who is engaged to conduct pastoral counseling under KRS 335.600 to 335.699.(2) A "client" is a person who consults or is interviewed or assisted by a counselor for the purpose of obtaining professional or crisis response services from the counselor.(3) A communication is "confidential" if it is not intended to be disclosed to third persons, except persons present to further the interest of the client in the consultation or interview, persons reasonably necessary for the transmission of the communication, or persons present during the communication at the direction of the counselor, including members of the client's family.(b)General rule of privilege.A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of counseling the client, between himself, his counselor, and persons present at the direction of the counselor, including members of the client's family.(c)Who may claim the privilege.The privilege may be claimed by the client, his guardian or conservator, or the personal representative of a deceased client. The person who was the counselor (or that person's employer) may claim the privilege in the absence of the client, but only on behalf of the client.(d)Exceptions.There is no privilege under this rule for any relevant communication:(1) If the client is asserting his physical, mental, or emotional condition as an element of a claim or defense; or, after the client's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.(2) If the judge finds:(A) That the substance of the communication is relevant to an essential issue in the case;(B) That there are no available alternate means to obtain the substantial equivalent of the communication; and(C) That the need for the information outweighs the interest protected by the privilege. The court may receive evidence in camera to make findings under this rule. **KRS § 421.570****Training requirement for victim advocates -- Prohibition against practicing law.**(1) For the purposes of this section and KRS 421.575, “victim advocate” means an individual at least eighteen (18) years of age and of good moral character, who is employed by, or serves as a volunteer for, a public or private agency, organization, or official to counsel and assist crime victims as defined in KRS 421.500, and includes a victim advocate employed by a Commonwealth's attorney pursuant to KRS 15.760 and a victim advocate employed by a county attorney pursuant to KRS 69.350.(2) Each victim advocate shall complete training which shall include information concerning the difference between advocacy and the practice of law, and the appropriate intervention with crime victims, including victims of domestic violence, child physical and sexual abuse, human trafficking, and rape.(3) A victim advocate shall not engage in the practice of law as defined in KRS 524.130. **KRS § 421.575****421.575 Role of victim advocates in court proceedings**In all court proceedings, a victim advocate, upon the request of the victim, shall be allowed to accompany the victim during the proceeding to provide moral and emotional support. The victim advocate shall be allowed to confer orally and in writing with the victim in a reasonable manner. However, the victim advocate shall not provide legal advice or legal counsel to the crime victim in violation of KRS 421.570 and 524.130. |
| LOUISIANA | **La. Rev. Stat. Ann. § 46:2124.1****§ 46:2124.1. Privileged communications and records.**A. As used in this Section, the following terms shall have the following meanings:(1) “Community shelter” means a community shelter or other program established in accordance with R.S. 46:2124.(2) “Privileged communication” means a communication made to a representative or employee of a community shelter by a victim. It also means a communication not otherwise privileged made by a representative or employee of a community shelter to a victim in the course of rendering services authorized by R.S. 46:2124.(3) “Victim” means a victim or potential victim of an act of family or domestic violence and his or her children.B. Except as provided in Subsection D, no person shall be required to disclose, by way of testimony or otherwise, a privileged communication or to produce, under subpoena, any records, documentary evidence, opinions, or decisions relating to such privileged communication:(1) In connection with any civil or criminal case or proceeding.(2) By way of any discovery procedure.C. The records relating to a privileged communication kept by a community shelter or other agency or department shall not be public records. Such records may be used for the compilation of statistical data if the identity of the victim or the contents of any privileged communication are not disclosed.D. The prosecuting attorney or any person who is a party in a civil proceeding or who has been arrested or charged with a criminal offense may petition the court for an in-camera inspection of the records of a privileged communication concerning such person. The petition shall allege facts showing that such records would provide admissible evidence favorable to the person and, in criminal proceedings, are relevant to the issue of guilt or punishment and shall be verified. If the court determines that the person is entitled to all or any part of such records, it may order production and disclosure as it deems appropriate. |
| MAINE | **Me. Rev. Stat. Ann. tit. 16, § 53-A****§ 53-A. Privileged communications to sexual assault counselors.**1.  Definitions.  As used in this section, unless the context otherwise indicates, the following terms have the following meanings.A.   “Rape crisis center” means any publicly or privately funded agency, institution or facility existing in this State, having as its purpose to reduce the trauma of sexual assault to sexual assault victims and their families through crisis intervention, counseling, medical and legal information and dissemination of educational information pertaining to sexual assault.B.   “Sexual assault counselor” means a person who1)   Has undergone a program of training from a rape crisis center that includes, but is not limited to: law, medicine, societal attitudes, crisis intervention, counseling techniques and referral services; and2)  Is either a staff member, paid or unpaid, or under the supervision of a staff member of a rape crisis center.C.  “Confidential criminal history record information” has the same meaning as in section 703, subsection 2.D.  “Criminal justice agency” has the same meaning as in section 703, subsection 4.2.  Privileged Communications.  Except with regard to reporting, cooperating in an investigation or giving evidence pursuant to Title 22, chapter 958-A or 1071, or except at the request, or with the consent of, the victim of sexual assault, a sexual assault counselor may not be required to testify in any civil or criminal action, suit or proceeding at law or in equity about any information that the sexual assault counselor may have acquired in providing sexual assault counseling services. A sexual assault counselor or a rape crisis center may not be required to disclose to the court any records, notes, memoranda or documents containing confidential communications. When a court in the exercise of sound discretion determines the disclosure necessary to the proper administration of justice, information communicated to, or otherwise learned by, that sexual assault counselor in connection with the provision of sexual assault counseling services is not privileged and disclosure may be required. 3.  Confidential Criminal History Record Information.  A Maine criminal justice agency, whether directly or through any intermediary, may disseminate confidential criminal history record information to a sexual assault counselor for the purpose of planning for the safety of a victim of sexual assault. A sexual assault counselor who receives confidential criminal history record information pursuant to this subsection shall use it solely for the purpose authorized by this subsection and may not further disseminate the information. **Me. Rev. Stat. Ann. tit. 16, § 53-B****§ 53-B. Privileged communications to victim advocate; family violence.**1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.A. “Advocate” means an employee of or volunteer for a nongovernmental or Maine tribal program for victims of domestic or family violence who:(1) Has undergone at least 30 hours of training; and(2) As a primary function with the program gives advice to, counsels or assists victims, supervises employees or volunteers who perform that function or administers the program.A-1. “Confidential communications” means all information, whether written or oral, transmitted between a victim and a domestic violence advocate in the course of the working relationship. “Confidential communications” includes, but is not limited to, information received or given by the advocate in the course of the working relationship, advice, records, reports, notes, memoranda, working papers, electronic communications, case files, history and statistical data, including name, date of birth and social security number, that personally identify the victim.A-2. “Confidential criminal history record information” has the same meaning as in section 703, subsection 2.A-3. “Criminal justice agency” has the same meaning as in section 703, subsection 4.B. “Victim” means a victim of domestic or family violence.1-A. Confidential criminal history record information. A Maine criminal justice agency, whether directly or through any intermediary, may disseminate confidential criminal history record information to an advocate for the purpose of planning for the safety of a victim of domestic violence. An advocate who receives confidential criminal history record information pursuant to this subsection shall use it solely for the purpose authorized by this subsection and may not further disseminate the information.2. Privileged communication. Communications are privileged from disclosure as follows.A. A victim may refuse to disclose and may deny permission to an advocate to disclose confidential written or oral communications between the victim and the advocate and written records, notes, memoranda or reports concerning the victim.B. Except as provided in subsection 3, a victim, advocate or advocate’s agency may not be required through oral or written testimony or through production of documents to disclose to a court in criminal or civil proceedings or to any other agency or person confidential communications between the victim and the advocate.3. Exceptions. A person may not be required to publicly disclose the address or location of a domestic or family violence shelter or safe house, except that privileged communications may be disclosed in the following cases:A. When disclosure is required under Title 22, chapter 958-A or 1071 and that disclosure is in accordance with the provisions of either chapter;B. When a court in the exercise of its discretion determines the disclosure of the information necessary to the proper administration of justice, an inspection of records may be held in camera by the judge to determine whether those records contain relevant information. This proceeding does not entitle an opposing party to examine the records unless those records are made available by the court; orC. When a victim dies or is incapable of giving consent and disclosure is required for an official law enforcement investigation or criminal proceeding regarding the cause of that victim’s death or incapacitation. |
| MARYLAND | **MD Code, Public Safety, § 3-108****Victims’ rights advocates — Database maintained of complainants.**(a)(1) A law enforcement agency shall designate an employee as a victims’ rights advocate to act as the contact for the public within the agency on matters related to police misconduct.(2) A victims’ rights advocate shall:(i) explain to a complainant:1. the complaint, investigation, administrative charging committee, and trial board process;2. any decision to terminate an investigation;3. an administrative charging committee’s decision of administratively charged, not administratively charged, unfounded, or exonerated; and4. a trial board’s decision;(ii) provide a complainant with an opportunity to review a police officer’s statement, if any, before completion of an investigation by a law enforcementagency’s investigative unit;(iii) notify a complainant of the status of the case at every stage of the process; and(iv) provide a case summary to a complainant within 30 days after final disposition of the case.(b) Each law enforcement agency shall create a database that enables a complainant to enter the complainant’s case number to follow the status of thecase as it proceeds through:(1) investigation;(2) charging;(3) offer of discipline;(4) trial board;(5) ultimate discipline; and(6) appeal. |
| MASSACHUSETTS | **Mass. Ann. Laws ch. 233, § 20J****As used in this section the following words, unless the context clearly requires otherwise, shall have the following meaning:--**“Rape crisis center”, any office, institution or center offering assistance to victims of sexual assault and the families of such victims through crisis intervention, medical and legal counseling.“Sexual assault counsellor”, a person who is employed by or is a volunteer in a rape crisis center, has undergone thirty-five hours of training, who reports to and is under the direct control and supervision of a licensed social worker, nurse, psychiatrist, psychologist or psychotherapist and whose primary purpose is the rendering of advice, counseling or assistance to victims of sexual assault.“Victim”, a person who has suffered a sexual assault and who consults a sexual assault counsellor for the purpose of securing advice, counseling or assistance concerning a mental, physical or emotional condition caused by such sexual assault.“Confidential communication”, information transmitted in confidence by and between a victim of sexual assault and a sexual assault counsellor by a means which does not disclose the information to a person other than a person present for the benefit of the victim, or to those to whom disclosure of such information is reasonably necessary to the counseling and assisting of such victim. The term includes all information received by the sexual assault counsellor which arises out of and in the course of such counseling and assisting, including, but not limited to reports, records, working papers or memoranda.A sexual assault counsellor shall not disclose such confidential communication, without the prior written consent of the victim; provided, however, that nothing in this chapter shall be construed to limit the defendant's right of cross-examination of such counsellor in a civil or criminal proceeding if such counsellor testifies with such written consent.Such confidential communications shall not be subject to discovery and shall be inadmissible in any criminal or civil proceeding without the prior written consent of the victim to whom the report, record, working paper or memorandum relates. **Mass. Ann. Laws ch. 233, § 20K****§ 20K. Domestic violence victims' counselors; confidential communications**As used in this section the following words shall unless the context clearly requires otherwise have the following meanings:--“Abuse”, causing or attempting to cause physical harm; placing another in fear of imminent physical harm; causing another to engage in sexual relations against his will by force, threat of force, or coercion.“Confidential communication”, information transmitted in confidence by and between a victim and a domestic violence victims' counselor by a means which does not disclose the information to a person other than a person present for the benefit of the victim, or to those to whom disclosure of such information is reasonably necessary to the counseling and assisting of such victim. The term includes all information received by the domestic violence victims' counselor which arises out of and in the course of such counseling and assisting, including, but not limited to, reports, records, working papers, or memoranda.“Domestic violence victims' counselor”, a person who is employed or volunteers in a domestic violence victims' program, who has undergone a minimum of twenty-five hours of training and who reports to and is under the direct control and supervision of a direct service supervisor of a domestic violence victims' program, and whose primary purpose is the rendering of advice, counseling or assistance to victims of abuse.“Domestic violence victims' program”, any refuge, shelter, office, safe home, institution or center established for the purpose of offering assistance to victims of abuse through crisis intervention, medical, legal or support counseling.“Victim”, a person who has suffered abuse and who consults a domestic violence victims' counselor for the purpose of securing advice, counseling or assistance concerning a mental, physical or emotional condition caused by such abuse.A domestic violence victims' counselor shall not disclose such confidential communication without the prior written consent of the victim, except as hereinafter provided. Such confidential communication shall not be subject to discovery in any civil, legislative or administrative proceeding without the prior written consent of the victim to whom such confidential communication relates. In criminal actions such confidential communication shall be subject to discovery and shall be admissible as evidence but only to the extent of information contained therein which is exculpatory in relation to the defendant; provided, however, that the court shall first examine such confidential communication and shall determine whether or not such exculpatory information is therein contained before allowing such discovery or the introduction of such evidence. |
| MICHIGAN | **Mich. Comp. Laws Ann. § 600.2157a****Definitions; consultation between victim and sexual assault or domestic violence counselor; admissibility.**(1) For purposes of this section:(a) “Confidential communication” means information transmitted between a victim and a sexual assault or domestic violence counselor, or between a victim or sexual assault or domestic violence counselor and any other person to whom disclosure is reasonably necessary to further the interests of the victim, in connection with the rendering of advice, counseling, or other assistance by the sexual assault or domestic violence counselor to the victim.(b) “Domestic violence” means that term as defined in section 1501 of Act No. 389 of the Public Acts of 1978, being section 400.1501 of the Michigan Compiled Laws.(c) “Sexual assault” means assault with intent to commit criminal sexual conduct.(d) “Sexual assault or domestic violence counselor” means a person who is employed at or who volunteers service at a sexual assault or domestic violence crisis center, and who in that capacity provides advice, counseling, or other assistance to victims of sexual assault or domestic violence and their families.(e) “Sexual assault or domestic violence crisis center” means an office, institution, agency, or center which offers assistance to victims of sexual assault or domestic violence and their families through crisis intervention and counseling.(f) “Victim” means a person who was or who alleges to have been the subject of a sexual assault or of domestic violence.(2) Except as provided by section 11 of the child protection law, Act No. 238 of the Public Acts of 1975, being section 722.631 of the Michigan Compiled Laws, a confidential communication, or any report, working paper, or statement contained in a report or working paper, given or made in connection with a consultation between a victim and a sexual assault or domestic violence counselor, shall not be admissible as evidence in any civil or criminal proceeding without the prior written consent of the victim. |
| MINNESOTA | **Minn. Stat. Ann. § 595.02(k), (l)****595.02 Testimony of Witness.**(k)Sexual assault counselors may not be allowed to disclose any opinion or information received from or about the victim without the consent of the victim. However, a counselor may be compelled to identify or disclose information in investigations or proceedings related to neglect or termination of parental rights if the court determines good cause exists. In determining whether to compel disclosure, the court shall weigh the public interest and need for disclosure against the effect on the victim, the treatment relationship, and the treatment services if disclosure occurs. Nothing in this clause exempts sexual assault counselors from compliance with the provisions of section 626.557 and chapter 260E.“Sexual assault counselor” for the purpose of this section means a person who has undergone at least 40 hours of crisis counseling training and works under the direction of a supervisor in a crisis center, whose primary purpose is to render advice, counseling, or assistance to victims of sexual assault.(l)A domestic abuse advocate may not be compelled to disclose any opinion or information received from or about the victim without the consent of the victim unless ordered by the court. In determining whether to compel disclosure, the court shall weigh the public interest and need for disclosure against the effect on the victim, the relationship between the victim and domestic abuse advocate, and the services if disclosure occurs. Nothing in this paragraph exempts domestic abuse advocates from compliance with the provisions of section 626.557 and chapter 260E.For the purposes of this section, “domestic abuse advocate” means an employee or supervised volunteer from a community-based battered women’s shelter and domestic abuse program eligible to receive grants under section 611A.32; that provides information, advocacy, crisis intervention, emergency shelter, or support to victims of domestic abuse and who is not employed by or under the direct supervision of a law enforcement agency, a prosecutor’s office, or by a city, county, or state agency. |
| MISSISSIPPI | **Miss. Code Ann. § 93-21-125****Communications of victims of domestic violence, sexual assault, stalking and human trafficking with advocates deemed confidential**(1) Definitions. The following definitions apply in this section:(a) “Advocate” means an employee, contractor, agent or volunteer of a victim service provider whose primary purpose is to render services to victims of domestic violence, sexual assault, stalking, or human trafficking and who has completed a minimum of twenty (20) hours of training in the areas of dynamics of victimization, substantive laws relating to domestic violence, sexual assault, stalking and human trafficking, crisis intervention techniques, communications skills, working with diverse populations, an overview of the state’s criminal and civil justice systems, information regarding pertinent hospital procedures, victim compensation, and information regarding state and community resources for victims of domestic violence, sexual assault, stalking, human trafficking, or mandatory training required by the Office Against Interpersonal Violence, whichever is greater. “Advocate” also means a person employed by a victim service provider who supervises any employee, contractor, agent or volunteer rendering services. The term advocate also means a third party (i) present to further the interest of the victim in receiving services; (ii) necessary for the transmission of the communication; or (iii) to whom disclosure is reasonably necessary to accomplish the purposes for the victim seeking services.(b) “Confidential victim communications” means all information, whether written or oral, collected, transmitted or shared between a victim and an advocate in the course of that relationship and maintained by the victim service program in connection with services requested, utilized or denied. “Confidential victim communications” includes, but is not limited to, information received or given by the advocate in the course of the working relationship, advice, records, reports, notes, memoranda, working papers, electronic communications, case files, history, and statistical data that contain personally identifying information.(c) “Domestic violence” means any alleged misdemeanor or felony act of domestic violence as defined by Section 99-3-7, knowing violation of a domestic abuse protection order under Section 93-21-21, or incidence of abuse as defined by Section 93-21-3(a), whether or not a civil or criminal action arises as a result of the alleged violation. The term “domestic violence” also includes any pattern of behavior or coercive control resulting in physical, emotional or psychological harm to a victim committed by a spouse or former spouse of the victim, a person with whom the victim lives or lived as a spouse, a person related as parent, child, grandparent, grandchild, or someone similarly situated to the victim, a person having a child in common with the victim, or a person with whom the victim has or had a dating relationship.(d) “Human trafficking” means any alleged criminal act in violation of Section 97-3-54.1, whether or not a civil or criminal action arises as a result of the alleged violation.(e) “Personally identifying information” means any information for or about an individual, including information likely to disclose the location or identity of a victim of domestic violence, sexual assault, stalking, or human trafficking, including: (i) a first or last name; (ii) a home or other physical address; (iii) contact information, including a postal, email or internet protocol address; (iv) a social security number; or (v) any other information, including, but not limited to, date of birth, racial or ethnic background, marital status, children, disability, or religious affiliation that would serve to identify the individual.(f) “Services” includes, but is not limited to, crisis hotlines, operation of safe homes and shelters, assessment and intake, case management, advocacy, individual and peer counseling, support in medical, legal, administrative, and judicial systems, transportation, relocation, and crisis intervention.(g) “Sexual assault” means any alleged violation of Section 97-3-65, 97-3-95, 97-5-23, 97-5-24, 97-5-41, 97-29-3 or 97-29-7, whether or not a civil or criminal action arises as a result of the alleged violation.(h) “Stalking” means any alleged violation of Section 97-3-107 or 97-45-15, whether or not a civil or criminal action arises as a result of the alleged violation.(i) “Victim” means a person alleging domestic violence, sexual assault, stalking, or human trafficking, who consults a victim advocate for the purpose of obtaining, for the person, advice, counseling, or other services concerning mental, emotional, or physical injuries suffered as a result of the offense, whether or not services are actually received.(j) “Victim service provider” means an organization whose primary purpose or mission is to provide services to victims of domestic violence, sexual assault, stalking, or human trafficking. This term includes umbrella organizations that have specific victim service programs as part of its organization. Any provisions regarding confidentiality only extend to the specific program providing victim services and not to the entire organization.(2) Confidential victim communications protected from disclosure.(a) No advocate shall disclose any confidential victim communication or personally identifying information of a victim or be compelled to testify to or surrender any confidential victim communications or personally identifying information in any civil or criminal proceeding or in any legislative or administrative proceeding, without the prior informed, written and time-limited consent of the victim, except in the following circumstances: (i) where disclosure is mandated under Section 43-21-353, Section 43-47-7, Section 43-47-37, Section 97-3-54.1(4), Section 97-5-51, Section 97-29-49, or any other applicable provision of state or federal law; (ii) where failure to disclose is likely to result in imminent risk of serious bodily harm or death of the victim or another person, or when the victim dies or is incapable of giving consent and disclosure is required for an official law enforcement investigation or criminal proceedings regarding the cause of the victim’s death or incapacitation; or (iii) where disclosure is required pursuant to a valid court order.(b) Upon motion of a party in a civil action or of the defendant in a criminal action, the court may compel disclosure of certain confidential victim communications or personally identifying information, if the court determines, after in-camera review, that all of the following conditions are met: (i) the information sought is relevant and material evidence of the facts and circumstances involved in an alleged criminal act which is the subject of a criminal proceeding; (ii) the probative value of the information outweighs the harmful effect, if any, of disclosure on the victim, the advocacy relationship and provision and receipt of services; and (iii) the information cannot be obtained by reasonable means from any other source.The court shall document its determination to compel disclosure in writing or place its findings into the record of the proceeding. This proceeding does not entitle the requesting party to examine the records unless those records are made available by the court. The proceeding set in this paragraph (b) shall not supersede the provisions of Section 99-43-25 with regard to the protection of facts that could divulge the identity, residence, or place of employment of a victim.(c) A release of information without the consent of the victim shall be limited in scope to the minimum amount necessary to comply with any mandated disclosure. The advocate or victim service provider must make reasonable attempts to notify the victim of the disclosure, to whom the disclosure was made, and for what purpose.(d) A victim service program may not require consent to release of information as a condition of service to a victim.(e) A legal guardian, guardian ad litem or parent may consent to release of confidential information for a victim who, due to incompetency, incapacity or minority, is incapable of consenting, except that no person who has committed or is alleged to have committed a crime against the victim shall be granted this authority.(3) Under no circumstances shall the location of a shelter, safe house or transitional housing for victims of domestic violence, sexual assault, stalking, or human trafficking be disclosed in any civil or criminal proceeding.(4) A communication remains confidential for purposes of this section if made in the presence of or communicated to third parties: (a) present to further the interest of the victim in receiving services; (b) necessary for the transmission of the communication; or (c) to whom disclosure is reasonably necessary to accomplish the purposes for the victim is seeking services.(5) Nonpersonally identifying information or data in the aggregate regarding services to clients and nonpersonally identifying demographic information may be disclosed by victim service providers for purposes of submitting reports, obtaining funding, conducting evaluation or complying with data collection requirements.(6) An advocate or victim service provider who makes any disclosure in violation of this section shall be civilly liable to the person whose personal information was disclosed in the amount of Ten Thousand Dollars ($10,000.00), plus any compensatory damages that the individual may have suffered as the result of the disclosure.(7) Nothing in this section shall affect any confidentiality or privilege provisions established by law or court rule.(8) Nothing in this section shall prevent the sharing of law enforcement or court-generated information gathered in furtherance of an investigation or prosecution of a crime.(9) Nothing in this section shall prevent the disclosure of confidential victim communication by any governmental or private participant of a meeting of a multidisciplinary child protection team created pursuant to Section 43-15-51, such disclosures to be governed by Section 43-15-51(5).(10) Nothing in this section shall prevent an advocate from a governmental organization from sharing victim information with necessary persons to accomplish the duties of the job or to satisfy statutory or constitutional requirements of disclosure, including, but not limited to, a right to due process in connection with an educational or other property interest.(11) Nothing in this section shall be construed as creating a cause of action for damages against the state or any of its agencies, officials, employees or political subdivisions. |
| MISSOURI | **Mo. Rev. Stat. § 455.220****Requirements for shelter to qualify for funds.**1. To qualify for funds allocated and distributed pursuant to section 455.215 a shelter shall meet all of the following requirements:(1) Be incorporated in the state as a nonprofit corporation;(2) Have trustees who represent the racial, ethnic and socioeconomic diversity of the community to be served, at least one of whom must possess personal experience in confronting or mitigating the problems of domestic violence;(3) Receive at least twenty-five percent of its funds from sources other than funds distributed pursuant to section 455.215. These other sources may be public or private and may include contributions of goods or services, including materials, commodities, transportation, office space or other types of facilities or personal services;(4) Provide residential service or facilities for children when accompanied by a parent, guardian, or custodian who is a victim of domestic violence and who is receiving temporary residential service at the shelter;(5) Require persons employed by or volunteering services to the shelter to maintain the confidentiality of any information that would identify individuals served by the shelter and any information or records that are directly related to the advocacy services provided to such individuals;(6) Prior to providing any advocacy services, inform individuals served by the shelter of the nature and scope of the confidentiality requirement in subdivision (5) of this subsection.2. Any person employed by or volunteering services to a shelter for victims of domestic violence shall be incompetent to testify concerning any confidential information described in subdivision (5) of subsection 1 of this section, unless the confidentiality requirement is waived in writing by the individual served by the shelter.3. A shelter does not qualify for funds if it discriminates in its admissions or provision of services on the basis of race, religion, color, age, marital status, national origin, or ancestry.**Mo. Ann. Stat. § 455.230****455.230. Annual reports by shelters, contents--confidentiality--child assessment center established by department**1. A shelter for victims of domestic violence that receives funds pursuant to sections 455.200 to 455.230 shall file an annual report with the designated authority of the county, or of the city not within a county, in which it is located, on or before the thirty-first day of March of the year following the year in which funds were received. The annual report shall include statistics on the number of persons served by the shelter, the relationship of the victim of domestic violence to the abuser, the number of referrals made for medical, psychological, financial, educational, vocational, child care services or legal services, and shall include the results of an independent audit. No information contained in the report shall identify any person served by the shelter or enable any person to determine the identity of any such person. Any information contained in the report that is directly related to advocacy services provided by the shelter shall not be construed as a violation of section 455.220. Any shelter for victims of domestic violence as defined in this chapter may apply to the department of public safety for a grant to provide funds for the renovation, construction and improvement of such shelter on a 75/25 state/local match rate, subject to appropriation.2. The designated authority shall compile the reports filed pursuant to subsection 1 of this section annually.3. In addition to any shelter funded under said section, subject to appropriation, the department of social services shall fund a child assessment center to serve the needs of children from families in conflict and from domestic violence to be located in any county of the first classification without a charter form of government with a population of more than one hundred sixty thousand but less than two hundred thousand. |

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| MONTANA | **Mont. Code Ann. § 26-1-812****Advocate privilege.**(1) Unless a report is otherwise required by law, an advocate may not, without consent of the victim, be examined as to any communication made to the advocate by a victim and may not divulge records kept during the course of providing shelter, counseling, or crisis intervention services.(2) This privilege belongs to the victim and may not be waived, except by express consent. The privilege continues even if the victim is unreachable. Consent may not be implied because the victim is a party to a divorce or custody proceeding. The privilege terminates upon the death of the victim.(3) For purposes of this section, the following definitions apply:(a) “Advocate” means an employee or volunteer of a domestic violence shelter, crisis line, or victim’s services provider that provides services for victims of sexual assault, stalking, or any assault on a partner or family member.(b) “Victim” means a person seeking assistance because of partner or family member assault, any sexual assault, or stalking, whether or not the victim seeks or receives services within the criminal justice system. |
| NEBRASKA | **Neb. Rev. Stat. Ann. § 29-4303****Confidential communications; disclosure; when**(1) A victim, an advocate without the consent of the victim, a third party as described in subdivision (3) of section 29-4302 without the consent of the victim, or a minor or incapacitated victim without the consent of a custodial guardian or a guardian ad litem appointed upon application of either party, shall not be compelled to give testimony or to produce records concerning a confidential communication for any purpose in any criminal, civil, legislative, administrative, or other proceeding, except as follows:(a) The party seeking disclosure of a confidential communication shall, in a criminal, civil, or administrative proceeding, file a motion that sets forth specifically the issues on which disclosure is sought and enumerates the reasons why the party is seeking disclosure and why disclosure is necessary, accompanied by an affidavit or affidavits containing specific information which establishes that the confidential communication constitutes relevant and material evidence in the case; and(b) If the party seeking disclosure has complied with subdivision (a) of this subsection, the court or a hearing officer shall review the confidential communication in camera and out of the presence and hearing of all persons, except the victim, the advocate, and any other person the victim is willing to have present, to determine whether a failure to disclose the confidential communication would violate the constitutional rights of the party seeking disclosure.(2) An advocate, a victim, or a third party as described in subdivision (3) of section 29-4302 cannot be compelled to provide testimony in any criminal, civil, legislative, administrative, or other proceeding that would identify the name, address, location, or telephone number of a safe house, abuse shelter, or other facility that provided temporary emergency shelter to the victim of the offense that is the subject of the proceeding unless the facility is a party to the proceeding.**Neb. Rev. Stat. Ann. § 29-4304****Confidential communications; waiver; sections, how construed.**(1) A victim does not waive the protections afforded by sections 29-4301 to 29-4304 by testifying in court about the offense, except that:(a) If the victim partially discloses the contents of a confidential communication in the course of testifying, then either party may request the court to rule that justice requires the protections afforded by sections 29-4301 to 29-4304 be waived to the extent the protections apply to that portion of the confidential communication; and(b) Any waiver shall apply only to the extent necessary to require any witness to respond to counsel’s questions concerning a confidential communication that is relevant to the case.(2) An advocate cannot waive the protections afforded a victim under sections 29-4301 to 29-4304. However, if a victim brings suit against an advocate or the agency, business, or organization in which the advocate was employed or served as a volunteer at the time of the advocacy relationship, the advocate may testify or produce records regarding confidential communications with the victim and is not in violation of sections 29-4301 to 29-4304.(3) Sections 29-4301 to 29-4304 shall not relieve an advocate of any duty to report suspected adult abuse or neglect as required by section 28-372 or suspected child abuse or neglect as required by section 28-711 or any other legal duty to report a criminal or unlawful act.(4) Sections 29-4301 to 29-4304 shall not be construed to limit any other testimonial privilege available to any person under the laws of this state.**Neb. Rev. Stat. Ann. § 42-918****§ 42-918. Contact with victims of spouse abuse and families; confidentiality; violation; penalty.**Under the Protection from Domestic Abuse Act, strict confidence shall be observed in all contact with victims of spouse abuse and their families. Any record, report, or files maintained by the department pursuant to the act shall be confidential, except that the department may release statistical information, while not revealing names. Violation of this section shall be a Class V misdemeanor. |
| NEVADA | **Nev. Rev. Stat. Ann. § 49.2546** **When communication deemed to be confidential; "communication" defined.**1. A communication shall be deemed to be confidential if the communication is between a victim and a victim’s advocate and is not intended to be disclosed to third persons other than:(a) A person who is present to further the interest of the victim;(b) A person reasonably necessary for the transmission of the communication; or(c) A person who is participating in the advice, counseling or assistance of the victim, including, without limitation, a member of the victim’s family.2. As used in this section, “communication” includes, without limitation, all records concerning the victim and the services provided to the victim which are within the possession of:(a) The victim’s advocate; or(b) The nonprofit program, the program of a university, state college or community college within the Nevada System of Higher Education or the program of a tribal organization for whom the victim’s advocate works.**Nev. Rev. Stat. Ann. § 49.2545** **"Victim's advocate" defined.**“Victim’s advocate” means a person who works for a nonprofit program, a program of a university, state college or community college within the Nevada System of Higher Education or a program of a tribal organization which provides assistance to victims or who provides services to a victim of an alleged incident of sexual misconduct pursuant to NRS 396.125 to 396.1595, inclusive, with or without compensation and who has received at least 20 hours of relevant training.**Nev. Rev. Stat. Ann. § 49.2541** **Definitions.**As used in NRS 49.2541 to 49.2549, inclusive, the words and terms defined in NRS 49.2542 to 49.2545, inclusive, have the meanings ascribed to them in those sections. |
| NEW HAMPSHIRE | **N.H. Rev. Stat. Ann. § 173-C:2****Privilege.**I. A victim has the privilege to refuse to disclose and to prevent any other person from disclosing a confidential communication made by the victim to a sexual assault counselor or a domestic violence counselor, including any record made in the course of support, counseling, or assistance of the victim. Any confidential communication or record may be disclosed only with the prior written consent of the victim. This privilege terminates upon the death of the victim.I-a. The privilege and confidentiality under paragraph I shall extend to:(a) A third person present to assist communication with the victim.(b) A third person present to assist a victim who is physically challenged.(c) Co-participants in support group counseling of the victim.II. Persons prevented from disclosing a confidential communication or record pursuant to paragraph I shall be exempt from the provisions of RSA 631:6.**N.H. Rev. Stat. Ann. § 173-C:1****Definitions.**In this chapter:I. “Confidential communication” means information transmitted between a victim, as defined in paragraph VI, of an alleged sexual assault, alleged domestic abuse, alleged sexual harassment, or alleged stalking, and a sexual assault or domestic violence counselor in the course of that relationship and in confidence by means which, so far as the victim is aware, does not disclose the information to a third person. The presence of an interpreter for the deaf or hard of hearing, a foreign language interpreter, or any other interpreter necessary for that communication to take place shall not affect the confidentiality of the communication nor shall it be deemed a waiver of the privilege. The term includes all information received by the sexual assault or domestic violence counselor in the course of that relationship.II. “Domestic violence center” means any organization or agency which would qualify as a direct service grantee under RSA 173-B:21.III. “Domestic violence counselor” means any person who is employed or appointed or who volunteers in a domestic violence center who renders support, counseling, or assistance to victims of domestic abuse or attempted domestic abuse, who has satisfactorily completed 30 hours of training in a bona fide program which has been developed by a center as defined in RSA 173-C:1, II.IV. “Rape crisis center” means any public or private agency, office, or center that primarily offers assistance to victims of sexual assault and their families and provides all the following services:(a) Crisis intervention to victims of sexual assault 24 hours per day.(b) Support services to victims of sexual assault by trained volunteers during the hospital examination, police investigation, and court proceedings.(c) Referral of victims of sexual assault to public and private agencies offering needed services.(d) The establishment of peer counseling services for the victims of sexual assault.(e) The development of training programs and the standardization of procedures for law enforcement, hospital, legal and social service personnel to enable them to respond appropriately to the needs of victims.(f) The coordination of services which are being provided by existing agencies.(g) Education of the public about the nature and scope of sexual assault and the services which are available.(h) Development of services to meet the needs of special populations, for example, children, the elderly, and minorities.(i) Court advocacy through the criminal justice system.V. “Sexual assault counselor” means any person who is employed or appointed or who volunteers in a rape crisis center who renders support, counseling, or assistance to victims of sexual assault or attempted sexual assault, who has satisfactorily completed 30 hours of training in a bona fide program which has been developed by a rape crisis center as defined in RSA 173-C:1, IV.++-VI. “Victim” means any person alleging sexual assault under RSA 632-A, domestic abuse as defined in RSA 173-B:1, stalking under RSA 633:3-a, or sexual harassment as defined under state or federal law, who consults a sexual assault counselor or a domestic violence counselor for the purpose of securing support, counseling or assistance concerning a mental, physical, emotional, legal, housing, medical, or financial problem caused by an alleged act of sexual assault or domestic abuse, stalking, or sexual harassment, or an alleged attempted sexual assault or domestic abuse.**N.H. Rev. Stat. Ann. 173-C:3****Assertion or Waiver of Privilege.**The privilege may be claimed or waived in all civil, administrative, and criminal legal proceedings, including discovery proceedings, by the following persons:(a) The victim or an attorney on the victim's behalf.(b) The guardian of the victim, if the victim has been found incompetent by a court of competent jurisdiction.(c) A minor victim who is emancipated, married, or over the age of 15, unless, in the opinion of the court, the minor is incapable of knowingly waiving the privilege. A guardian ad litem shall be appointed in all cases in which there is a potential conflict of interest between a victim under the age of 18 and his parent or guardian.**N.H. Rev. Stat. Ann. 173-C:4****Partial Waiver.**Waiver as to a specific portion of communication between the victim and the counselor shall not constitute a waiver of the privilege as to other portions of the confidential communication between victim and counselor, relating to the alleged crime.**N.H. Rev. Stat. Ann. 173-C:5** **Limitation on the Privilege; Criminal Proceedings.**In criminal proceedings when a defendant seeks information privileged under this chapter in discovery or at trial, the procedure below shall be followed:I. A written pretrial motion shall be made by the defendant to the court stating that the defendant seeks discovery of records of a rape crisis center or domestic violence center or testimony of a sexual assault counselor or domestic violence counselor. The written motion shall be accompanied by an affidavit setting forth specific grounds as to why discovery is requested and showing that there is a substantial likelihood that favorable and admissible information would be obtained through discovery or testimony. No discovery or hearing shall occur pursuant to the information sought to be disclosed for at least 3 business days after the filing of a motion for disclosure.II. The only information subject to discovery from the records of a rape crisis center or a domestic violence center or which may be elicited during the testimony of a sexual assault or domestic violence counselor are those statements of the victim which relate to the alleged crime being prosecuted in the instant trial.III. Prior to admission of information at deposition, trial, or other legal proceeding, when a claim of privilege has been asserted and whether or not the information was obtained through discovery, the burden of proof shall be upon the defendant to establish by a preponderance of the evidence that:(a) The probative value of the information, in the context of the particular case, outweighs its prejudicial effect on the victim's emotional or physical recovery, privacy, or relationship with the counselor or the rape crisis or domestic violence center.(b) That the information sought is unavailable from any other source.(c) That there is a substantial probability that the failure to disclose that information will interfere with the defendant's right to confront the witnesses against him and his right to a fair trial.IV. The trial court shall review each motion for disclosure of information on a case by case basis and determine on the totality of the circumstances that the information sought is or is not subject to the privilege established in RSA 173-C:2. In finding that the privilege shall not apply in a particular case, the trial court shall make written findings as to its reasons therefor.V. The records and testimony of a rape crisis center or domestic violence center shall be disclosed solely to the trial judge to determine, as a matter of law, whether the information contained in the records or testimony is admissible under this chapter.VI. That portion of any record and testimony of a rape crisis center or domestic violence center which is not disclosed to the defendant shall be preserved by the court under seal for appeal. For the purpose of preservation, a copy of the record shall be retained with the original released to the center. Costs of duplication shall be borne by the defendant.VII. If, after disclosure of privileged information, the court upholds the privilege claim, the court shall impose a protective order against revealing any of the information without the consent of the person authorized to permit disclosure. |
| NEW JERSEY | **N.J. Stat. Ann. § 2A:84A-22.15** **Victim counselor confidentiality privilege.**Subject to Rule 37 of the Rules of Evidence, a victim counselor has a privilege not to be examined as a witness in any civil or criminal proceeding with regard to any confidential communication. The privilege shall be claimed by the counselor unless otherwise instructed by prior written consent of the victim. When a victim is incapacitated or deceased consent to disclosure may be given by the guardian, executor, or administrator except when the guardian, executor, or administrator is the defendant or has a relationship with the victim such that the guardian, executor, or administrator has an interest in the outcome of the proceeding. The privilege may be knowingly waived by a juvenile. In any instance where the juvenile is, in the opinion of the judge, incapable of knowing consent, the parent or guardian of the juvenile may waive the privilege on behalf of the juvenile, provided that the parent or guardian is not the defendant and does not have a relationship with the defendant such that he has an interest in the outcome of the proceeding. A victim counselor or a victim cannot be compelled to provide testimony in any civil or criminal proceeding that would identify the name, address, location, or telephone number of a domestic violence shelter or any other facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding unless the facility is a party to the proceeding.**N.J. Stat. Ann. § 2A:84A-22.14** **Definitions** As used in this act:a. “Act of violence” means the commission or attempt to commit any of the offenses set forth in subsection b. of section 11 of P.L. 1971, c. 317 (C. 52:4B-11).b. “Confidential communication” means any information exchanged between a victim and a victim counselor in private or in the presence of a third party who is necessary to facilitate communication or further the counseling process and which is disclosed in the course of the counselor’s treatment of the victim for any emotional or psychological condition resulting from an act of violence. It includes any advice, report or working paper given or made in the course of the consultation and all information received by the victim counselor in the course of that relationship.c. “Victim” means a person who consults a counselor for the purpose of securing advice, counseling or assistance concerning a mental, physical or emotional condition caused by an act of violence.d. “Victim counseling center” means any office, institution, or center offering assistance to victims and their families through crisis intervention, medical and legal accompaniment and follow-up counseling.e. “Victim counselor” means a person engaged in any office, institution or center defined as a victim counseling center by this act, who has undergone 40 hours of training and is under the control of a direct services supervisor of the center and who has a primary function of rendering advice, counseling or assisting victims of acts of violence. “Victim counselor” includes a rape care advocate as defined in section 4 of P.L. 2001, c. 81 (C. 52:4B-52).**N.J. Stat. Ann. § 2A:84A-22.16** **Where disclosure required** Nothing in this act shall be deemed to prevent the disclosure to a defendant in a criminal action of statements or information given by a victim to a county victim-witness coordinator, where the disclosure of the statements or information is required by the Constitution of this State or of the United States. |
| NEW MEXICO | **N.M. Stat. Ann. § 31-25-3****Confidential communications; information; privileged** A.  A victim, a victim counselor without the consent of the victim or a minor or incapacitated victim without the consent of a custodial guardian or a guardian ad litem appointed upon application of either party shall not be compelled to provide testimony or to produce records concerning confidential communications for any purpose in any criminal action or other judicial, legislative or administrative proceeding. B.  A victim counselor or a victim shall not be compelled to provide testimony in any civil or criminal proceeding that would identify the name, address, location or telephone number of a safe house, abuse shelter or other facility that provided temporary emergency shelter to the victim of the offense or occurrence that is the subject of a judicial, legislative or administrative proceeding unless the facility is a party to the proceeding.**N.M. Stat. Ann. § 31-25-2** **Definitions** As used in the Victim Counselor Confidentiality Act [31-25-1 NMSA 1978]:A.  “confidential communication” means any information exchanged between a victim and a victim counselor in private or in the presence of a third party who is necessary to facilitate communication or further the counseling process and which is disclosed in the course of the counselor’s treatment of the victim for any emotional or psychological condition resulting from a sexual assault or family violence;B.  “victim” means a person who consults a victim counselor for assistance in overcoming adverse emotional or psychological effects of a sexual assault or family violence;C.  “victim counseling” means assessment, diagnosis and treatment to alleviate the adverse emotional or psychological impact of a sexual assault or family violence on the victim. Victim counseling includes crisis intervention;D.  “victim counseling center” means a private organization or unit of a government agency which has as one of its primary purposes the treatment of victims for any emotional or psychological condition resulting from a sexual assault or family violence; andE.  “victim counselor” means any employee or supervised volunteer of a victim counseling center or other agency, business or organization that provides counseling to victims who is not affiliated with a law enforcement agency or the office of a district attorney, has successfully completed forty hours of academic or other formal victim counseling training or has had a minimum of one year of experience in providing victim counseling and whose duties include victim counseling.**N.M. Stat. Ann. § 31-25-4** **Waiver** 1. A victim does not waive the protections afforded by the Victim Counselor Confidentiality Act [31-25-1 NMSA 1978] by testifying in court about the crime; provided that if the victim partially discloses the contents of a confidential communication in the course of his testimony, then either party to the action may request the court to rule that justice requires the protections of that act be waived to the extent they apply to that portion of the communication. Waiver shall apply only to the extent necessary to require any witness to respond to questions concerning the confidential communication that are relevant to the facts and circumstances of the case.
2. A victim counselor shall not have authority to waive the protections afforded to a victim under the Victim Counselor Confidentiality Act [31-25-1 NMSA 1978]; provided that if a victim brings suit against a victim counselor or the agency, business or organization in which the victim counselor was employed or served as a volunteer at the time of the counseling relationship and the suit alleges malpractice during the counseling relationship, the victim counselor may testify or produce records regarding confidential communications with the victim without liability for those actions.
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| NEW YORK | **NY CLS CPLR § 4510****§ 4510.  Rape crisis counselor or domestic violence advocate.**(a) Definitions. When used in this section, the following terms shall have the following meanings:1. “Rape crisis program” means any office, institution or center which has been approved pursuant to subdivision fifteen of section two hundred six of the public health law, as added by chapter 432 of the laws of 1993, offering counseling and assistance to clients concerning sexual offenses, sexual abuses or incest.2. “Rape crisis counselor” means any person who has been certified by an approved rape crisis program as having satisfied the training standards specified in subdivision fifteen of section two hundred six of the public health law, as added by chapter 432 of the laws of 1993, and who, regardless of compensation, is acting under the direction and supervision of an approved rape crisis program.3. “Client” means(i) any person who is seeking or receiving the services of a rape crisis counselor for the purpose of securing counseling or assistance concerning any sexual offenses, sexual abuse, incest or attempts to commit sexual offenses, sexual abuse, or incest, as defined in the penal law; or(ii) any victim of domestic violence as defined in section four hundred fifty-nine-a of the social services law.4. “Domestic violence program” means a residential program for victims of domestic violence or a non-residential program for victims of domestic violence as defined in section four hundred fifty-nine-a of the social services law or any similar program operated by an Indian tribe, as defined by section two of the Indian law.5. “Domestic violence advocate” means any person who is acting under the direction and supervision of a licensed and approved domestic violence program and has satisfied the training standards required by the office of children and family services.(b) Confidential information privileged. A rape crisis counselor or domestic violence advocate shall not be required to disclose a communication made by his or her client to him or her, or advice given thereon, in the course of his or her services nor shall any clerk, stenographer or other person working for the same program as the rape crisis counselor or domestic violence advocate or for the rape crisis counselor or domestic violence advocate be allowed to disclose any such communication or advice given thereon nor shall any records made in the course of the services given to the client or recording of any communications made by or to a client be required to be disclosed, nor shall the client be compelled to disclose such communication or records, except:1. that a rape crisis counselor or domestic violence advocate may disclose such otherwise confidential communication to the extent authorized by the client;2. that a rape crisis counselor or domestic violence advocate shall not be required to treat as confidential a communication by a client which reveals the intent to commit a crime or harmful act;3. that a domestic violence advocate shall not be required to treat as confidential a communication by a client which reveals a case of suspected child abuse or maltreatment pursuant to title six of article six of the social services law;4. in a case in which the client waives the privilege by instituting charges against the rape crisis counselor or domestic violence advocate or the rape crisis program or domestic violence program and such action or proceeding involves confidential communications between the client and the rape crisis counselor or domestic violence advocate.(c) Who may waive the privilege. The privilege may only be waived if the client, the personal representative of a deceased client, or, in the case of a client who has been adjudicated incompetent or for whom a conservator has been appointed, the committee or conservator provides the rape crisis counselor or domestic violence advocate with informed, written and reasonably time-limited consent.(d) Limitation on waiver. A client who, for the purposes of obtaining compensation under article twenty-two of the executive law or insurance benefits, authorizes the disclosure of any privileged communication to an employee of the office of victim services or an insurance representative shall not be deemed to have waived the privilege created by this section. |
| NORTH CAROLINA | **N.C. Gen. Stat. § 8-53.12** **Communications with agents of rape crisis centers and domestic violence programs privileged** (a) Definitions. — The following definitions apply in this section:(1) Agent. — An employee or agent of a center who has completed a minimum of 20 hours of training as required by the center, or a volunteer, under the direct supervision of a center supervisor, who has completed a minimum of 20 hours of training as required by the center.(2) Center. — A domestic violence program or rape crisis center.(3) Domestic violence program. — A nonprofit organization or program whose primary purpose is to provide services to domestic violence victims.(4) Domestic violence victim. — Any person alleging domestic violence as defined by G.S. 50B-1, who consults an agent of a domestic violence program for the purpose of obtaining, for himself or herself, advice, counseling, or other services concerning mental, emotional, or physical injuries suffered as a result of the domestic violence. The term shall also include those persons who have a significant relationship with a victim of domestic violence and who have sought, for themselves, advice, counseling, or other services concerning a mental, physical, or emotional condition caused or reasonably believed to be caused by the domestic violence against the victim.(5) Rape crisis center. — Any publicly or privately funded agency, institution, organization, or facility that offers counseling and other services to victims of sexual assault and their families.(6) Services. — Includes, but is not limited to, crisis hotlines; safe homes and shelters; assessment and intake; children of violence services; individual counseling; support in medical, administrative, and judicial systems; transportation, relocation, and crisis intervention. The term does not include investigation of physical or sexual assault of children under the age of 16.(7) Sexual assault. — Any alleged violation of G.S. 14-27.21, 14-27.22, 14-27.24, 14-27.25, 14-27.26, 14-27.27, 14-27.29, 14-27.30, 14-27.31, 14-27.32, or 14-202.1, whether or not a civil or criminal action arises as a result of the alleged violation.(8) Sexual assault victim. — Any person alleging sexual assault, who consults an agent of a rape crisis center for the purpose of obtaining, for themselves, advice, counseling, or other services concerning mental, physical, or emotional injuries suffered as a result of sexual assault. The term shall also include those persons who have a significant relationship with a victim of sexual assault and who have sought, for themselves, advice, counseling, or other services concerning a mental, physical, or emotional condition caused or reasonably believed to be caused by sexual assault of a victim.(9) Victim. — A sexual assault victim or a domestic violence victim.(b) Privileged Communications. — No agent of a center shall be required to disclose any information which the agent acquired during the provision of services to a victim and which information was necessary to enable the agent to render the services; provided, however, that this subsection shall not apply where the victim waives the privilege conferred. Any agent or center that receives a request for such information shall make every effort to inform the victim of the request and provide the victim a copy of the request if the request was in writing. Any resident or presiding judge in the district in which the action is pending shall compel disclosure, either at the trial or prior thereto, if the court finds, by a preponderance of the evidence, a good faith, specific and reasonable basis for believing that (i) the records or testimony sought contain information that is relevant and material to factual issues to be determined in a civil proceeding, or is relevant, material, and exculpatory upon the issue of guilt, degree of guilt, or sentencing in a criminal proceeding for the offense charged or any lesser included offense, (ii) the evidence is not sought merely for character impeachment purposes, and (iii) the evidence sought is not merely cumulative of other evidence or information available or already obtained by the party seeking the disclosure or the party’s counsel. If the case is in district court, the judge shall be a district court judge, and if the case is in superior court, the judge shall be a superior court judge.The judge in any court proceeding subject to this section shall inquire as to whether the victim is present and wishes to be heard. If the victim is present and wishes to be heard, the court shall grant the victim an opportunity to be reasonably heard. The right to be reasonably heard may be exercised, at the victim’s discretion, through an oral statement, submission of a written statement, or submission of an audio or video statement. Before requiring production of records, the court must find that the party seeking disclosure has made a sufficient showing that the records are likely to contain information subject to disclosure under this subsection. If the court finds a sufficient showing has been made, the court shall order that the records be produced for the court under seal, shall examine the records in camera, and may allow disclosure of those portions of the records which the court finds contain information subject to disclosure under this subsection. After all appeals in the action have been exhausted, any records received by the court under seal shall be returned to the center, unless otherwise ordered by the court. The privilege afforded under this subsection terminates upon the death of the victim.(c) Duty in Case of Abuse or Neglect. — Nothing in this section shall be construed to relieve any person of any duty pertaining to abuse or neglect of a child or disabled adult as required by law. |
| NORTH DAKOTA | **N.D. Cent. Code, § 14-07.1-18** **Domestic violence or sexual assault program records – Confidentiality – Exceptions – Penalty.**1. All agents, employees, and volunteers participating in a domestic violence or sexual assault program shall maintain the confidentiality of the:a. Address, telephone number, and other identifying information of a safe home, and place of emergency safe housing;b. Name, address, telephone number, personally identifying information, and case file or history of any client receiving services from a domestic violence or sexual assault program; andc. Name, address, telephone number, and other identifying information of an agent, employee, or volunteer providing services under a domestic violence or sexual assault program.2. The information described in subsection 1 is not subject to section 44-04-18 and may not be disclosed unless:a. A client consents to the release of information that relates only to that client or the client’s dependents;b. The agent, employee, or volunteer operating a domestic violence or sexual assault program determines the disclosure of the information necessary for the efficient and safe operation of a domestic violence or sexual assault program; or for the protection of the safety of an employee, agent, volunteer, or client of a domestic violence or sexual assault program; or for the protection of a third party reasonably thought to be in need of protection;c. A court of competent jurisdiction orders the disclosure after an in camera review and a written finding by the court that the information directly and specifically relates to a determination of child abuse and neglect under chapter 50-25.1 or termination of parental rights under sections 14-15-19, 27-20.3-20, 27-20.3-21, 27-20.3-22, 27-20.3-23, and 27-20.3-24; ord. An agent, employee, or volunteer working with a domestic violence or sexual assault program has knowledge or reasonable cause to suspect a child has been abused or neglected as defined by section 50-25.1-02.3. The address, telephone number, and other identifying information of a shelter are exempt records as defined in section 44-04-17.1.4. Any person who violates this section is guilty of an infraction. |
| NORTHERN MARINA ISLANDS | No Statute |
| OHIO | No Statute |
| OKLAHOMA | **Okl. Stat. Ann. tit. 74, § 18p-3****§** 18p-3.  Contracts for shelter and services--Disclosure of case records, shelter locations or board member information A.  The Attorney General is hereby authorized and directed to enter into agreements and to contract for the shelter and other services that are needed for victims of domestic abuse, sexual assault or batterers intervention programs. Any domestic violence, sexual assault or batterers intervention program providing services pursuant to certification by the Attorney General or a contract or subcontract with the Attorney General and receiving funds from the Attorney General or any contractor with the Attorney General shall be subject to the provisions of the administrative rules of the Attorney General.B.  1.  Except as otherwise provided by paragraph 3 of this subsection, the case records, case files, case notes, client records, or similar records of a domestic violence or sexual assault program certified by the Attorney General or of any employee or trained volunteer of a program regarding an individual who is residing or has resided in such program or who has otherwise utilized or is utilizing the services of any domestic violence or sexual assault program or counselor shall be confidential and shall not be disclosed.2.  For purposes of this subsection, the term “client records” shall include, but not be limited to, all communications, records, and information regarding clients of domestic violence and sexual assault programs.3.  The case records, case files, or case notes of programs specified in paragraph 1 of this subsection shall be confidential and shall not be disclosed except with the written consent of the individual, or in the case of the individual’s death or disability, of the individual’s personal representative or other person authorized to sue on the individual’s behalf or by court order for good cause shown by the judge in camera.C.  The district court shall not order the disclosure of the address of a domestic violence shelter, the location of any person seeking or receiving services from a domestic violence or sexual assault program, or any other information which is required to be kept confidential pursuant to subsection B of this section. D.  The home address, personal telephone numbers and social security number of board members, staff and volunteers of certified domestic violence and sexual assault programs shall not be construed to be open records pursuant to the Oklahoma Open Records Act. |
| OREGON | **Or. Rev. Stat. Ann. § 409.273****Funding of sexual assault crisis centers and crisis lines; rulemaking.** **(**1)  The Director of Human Services may make grants to and enter into contracts with private nonprofit organizations that provide intervention and support services to victims of sexual offenses and their families. Grants or contracts under this subsection may be:(a) For the funding of sexual assault crisis centers; and(b) For the funding of crisis lines providing services to victims of sexual offenses and their families.* (2)  Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478 and 192.610 to 192.810:
	+ (a) The director may by rule provide that the locations of premises utilized for sexual assault crisis centers shall be kept confidential.

 (b) All information maintained by the sexual assault crisis center or crisis line relating to clients is confidential. Except for the names of clients, necessary information may be disclosed to the director**Or. Rev. Stat. Ann. § 409.292****Funding of programs relating to family violence; rules.** (1)  The Director of Human Services may make grants to and enter into contracts with nonprofit private organizations or public agencies for programs and projects designed to prevent, identify and treat family, domestic and teen dating violence. Grants or contracts under this subsection may be: (a) For the funding of shelter homes for spouses and children who are or have experienced family violence or domestic violence including acquisition and maintenance of shelter homes;(b) For the funding of crisis lines providing services to victims of family, domestic or teen dating violence and their families;(c) For the funding of safe houses for victims of family or domestic violence and their families;(d) For the funding of services, programs and curricula to educate and inform students in grades 7 through 12 about teen dating and domestic violence, to provide assistance to victims of teen dating and domestic violence and to prevent and reduce the incidence of teen dating and domestic violence; and(e)  For the development and establishment of programs for professional and paraprofessional personnel in the fields of social work, law enforcement, education, law, medicine and other relevant fields who are engaged in the field of the prevention, identification and treatment of family, domestic and teen dating violence and training programs in methods of preventing family, domestic and teen dating violence.(2)  The director shall not make a grant to any organization or agency under this section except on the condition that a local governmental unit or community organization provide matching moneys equal to 25 percent of the amount of the grant. The applying organization itself may contribute to or provide the required local matching funds. The value of in kind contributions and volunteer labor from the community may be computed and included as a part of the local matching requirement imposed by this subsection.(3)  Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478 and 192.610 to 192.810: (a) The director may by rule provide that the locations of premises utilized for shelter homes or other physical facilities in family and domestic violence programs and projects shall be kept confidential.(b) All information maintained by the shelter home, safe house or crisis line relating to clients is confidential. However, crisis lines specifically funded to provide services for victims of child abuse are subject to the requirements of ORS 419B.005 to 419B.050. Except for the names of clients, necessary information may be disclosed to the director. |
| PENNSYLVANIA | **23 Pa. Stat. Ann. § 6116****§ 6116.  Confidentiality.** Unless a victim waives the privilege in a signed writing prior to testimony or disclosure, a domestic violence counselor/advocate or a coparticipant who is present during domestic violence counseling/advocacy shall not be competent nor permitted to testify or to otherwise disclose confidential communications made to or by the counselor/advocate by or to a victim. The privilege shall terminate upon the death of the victim. Neither the domestic violence counselor/advocate nor the victim shall waive the privilege of confidential communications by reporting facts of physical or sexual assault under Chapter 63 (relating to child protective services), a Federal or State mandatory reporting statute or a local mandatory reporting ordinance.**23 Pa. Stat. Ann. § 6102** **§ 6102. Definitions. (§ 6102(a)(5)(1)(2))***“Domestic violence counselor/advocate.”* An individual who is engaged in a domestic violence program, the primary purpose of which is the rendering of counseling or assistance to victims of domestic violence, who has undergone 40 hours of training.\*\*\**“Victim.”* —A person who is physically or sexually abused by a family or household member. For purposes of section 6116 (relating to confidentiality), a victim is a person against whom abuse is committed who consults a domestic violence counselor or advocate for the purpose of securing advice, counseling or assistance. The term shall also include persons who have a significant relationship with the victim and who seek advice, counseling or assistance from a domestic violence counselor or advocate regarding abuse of the victim. |
| PUERTO RICO | **8 L.P.R.A. § 652****§ 652 Confidentiality of communications**The Women's Advocate Office shall take steps to guarantee the confidentiality of the communications and information it receives from its clients during the course of rendering services to prevent domestic violence and intervene with its victims. All communications between the persons attended to in the Women's Advocate Office and its personnel shall be privileged and shall be protected by the confidentiality privilege established in the Rules of Evidence of Puerto Rico. Likewise, all communications between a victim of domestic violence and any other public entity or body, which renders services to victims of domestic abuse, shall enjoy the same privilege and confidentiality, in harmony with Rule 26-A of the Rules of Evidence of Puerto Rico and the Bill of Rights of Victims and Witnesses of Crime. |
| RHODE ISLAND | No Statute |
| SOUTH CAROLINA | **S.C. Code Ann. § 16-25-360(C)****Confidentiality of Meetings; penalty**(C) Information identifying a victim or a household member, guardian, or caretaker of a victim, or an alleged or suspected perpetrator of domestic violence may not be disclosed during a public meeting, and information regarding the involvement of any agency with the victim, alleged perpetrator, and other household members may not be disclosed during a public meeting. |
| SOUTH DAKOTA | **S.D. Codified Laws § 25-10-28****§ 25-10-28.  Minimum requirements for domestic or sexual abuse shelters or service programs.** Any shelter or service programs established pursuant to this chapter shall have as its primary purpose the provision of services to victims of domestic violence or sexual assault, or both, and shall include:(1)  Crisis telephone and referral services available twenty-four hours per day, seven days per week;(2)  Shelter available twenty-four hours per day, seven days per week;(3)  Prevention and education programs periodically available to the local community;(4)  Victim advocacy; and(5)  Confidentiality of identity, location, records, and information pertaining to any person to whom services are or were provided. |
| TENNESSEE | **Tenn. Code. Ann. § 36-3-623****§ 36-3-623. Confidentiality of records of shelters, centers, providers.**(a) The records of domestic violence shelters, rape crisis centers, and human trafficking service providers shall be treated as confidential by the records custodian of such shelters, centers, or providers unless:(1) The individual to whom the records pertain authorizes their release; or(2) A court approves a subpoena for the records, subject to such restrictions as the court may impose, including in camera review.(b) As used in this section, “human trafficking service providers” means agencies or groups that are incorporated as a not-for-profit organization for at least six (6) months, are tax-exempt under § 501 of the Internal Revenue Code (26 U.S.C. § 501), and that have provided services to victims of human trafficking. |
| TEXAS | **Tex. Gov't Code Ann. § 420.071****§ 420.071.  Confidential Communications and Records; Privilege**(a) Any communication, including an oral or written communication, between an advocate and a survivor that is made in the course of advising, counseling, or assisting the survivor is confidential.(b) Any record created by, provided to, or maintained by an advocate is confidential if the record relates to the services provided to a survivor or contains the identity, personal history, or background information of the survivor or information concerning the victimization of the survivor.(c) In any civil, criminal, administrative, or legislative proceeding, subject to Section 420.072, a survivor has a privilege to refuse to disclose and to prevent another from disclosing, for any purpose, a communication or record that is confidential under this section.(c-1) Except as provided by this subsection, the unauthorized disclosure of a portion of a confidential communication or record does not constitute a waiver of the privilege provided by Subsection (c). If a portion of a confidential communication or record is disclosed, a party to the relevant court or administrative proceeding may make a motion requesting that the privilege be waived with respect to the disclosed portion. The court or administrative hearing officer, as applicable, may determine that the privilege has been waived only if:(1) the disclosed portion is relevant to a disputed matter at the proceeding; and(2) waiver is necessary for a witness to be able to respond to questioning concerning the disclosed portion.(d) This subchapter governs a confidential communication or record concerning a survivor regardless of when the survivor received the services of an advocate or sexual assault program. |
| UTAH | **Utah Code Ann. § 77-38-203** **§ 77-38-203.  Definitions.**As used in this part:(1) “Confidential communication” means information given to a sexual assault counselor by a victim and includes reports or working papers made in the course of the counseling relationship.(2) “Rape crisis center” means any office, institution, or center assisting victims of sexual assault and their families which offers crisis intervention, medical, and legal services, and counseling.(3) “Sexual assault counselor” means a person who is employed by or volunteers at a rape crisis center who has a minimum of 40 hours of training in counseling and assisting victims of sexual assault and who is under the supervision of the director or designee of a rape crisis center.(4)  “Victim” means a person who has experienced a sexual assault of whatever nature including incest and rape and requests counseling or assistance regarding the mental, physical, and emotional consequences of the sexual assault.**Utah Code Ann. § 77-38-204****§ 77-38-204.  Disclosure of confidential communications.**Notwithstanding Title 53B, Chapter 28, Part 2, Confidential Communications for Institutional Advocacy Services Act, the confidential communication between a victim and a sexual assault counselor is available to a third person only when:(1) the victim is a minor and the counselor believes it is in the best interest of the victim to disclose the confidential communication to the victim’s parents;(2) the victim is a minor and the minor’s parents or guardian have consented to disclosure of the confidential communication to a third party based upon representations made by the counselor that it is in the best interest of the minor victim to make such disclosure;(3) the victim is not a minor, has given consent, and the counselor believes the disclosure is necessary to accomplish the desired result of counseling; or(4) the counselor has an obligation under Title 62A, Chapter 4a, Child and Family Services to report information transmitted in the confidential communication. |
| VERMONT | **Vt. Stat. Ann. tit. 12, § 1614****§ 1614. Victim and crisis worker privilege.**(a) (1) "Crisis worker" means an employee or volunteer who:(A)  provides direct services to victims of abuse or sexual assault for a domestic violence program or sexual assault crisis program incorporated or organized for the purpose of providing assistance, counseling or support services; (B)  has undergone 20 hours of training; (C)  works under the direction of a supervisor of the program, supervises employees or volunteers, or administers the program; and (D)  is certified by the director of the program.(2)  A communication is "confidential" if not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of services to the victim or those reasonably necessary for the transmission of the communication. (b)  A victim receiving direct services from a crisis worker has the privilege to refuse to disclose and to prevent any other person from disclosing a confidential communication made by the victim to the crisis worker, including any record made in the course of providing support, counseling or assistance to the victim. The crisis worker shall be presumed to have authority to claim the privilege but only on behalf of the victim. |
| VIRGIN ISLANDS | No Statute |
| VIRGINIA | **Va. Code Ann. § 63.2-104.1** **§ 63.2-104.1.  Confidentiality of records of persons receiving domestic and sexual violence services.**A.  In order to ensure the safety of adult and child victims of domestic violence, dating violence, sexual assault, or stalking, or victims of a violation of § 18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1, and their families, programs and individuals providing services to such victims shall protect the confidentiality and privacy of persons receiving services.B.  Except as provided in subsections C and D, programs and individuals providing services to victims of domestic violence, dating violence, sexual assault, or stalking, or victims of a violation of § 18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1, shall not: 1.  Disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through programs for victims of domestic violence, dating violence, sexual assault, or stalking, or victims of a violation of § 18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; or2.  Reveal individual client information without the informed, written, reasonably time-limited consent of the person about whom information is sought; the minor and his parent or legal guardian, in cases in which the client is an unemancipated minor; or the guardian of an incapacitated person as defined in § 64.2-2000, whether for this program or any other Federal, State, tribal, or territorial grant program. However, consent for release may not be given by the abuser or alleged abuser of the minor or incapacitated person, or the abuser or alleged abuser of the other parent of the minor.C.  If release of information described in subsection B is compelled by statutory or court mandate, the program or individual providing services shall:1. Make reasonable attempts to provide notice to victims affected by the disclosure of information; and 2. Take steps necessary to protect the privacy and safety of the persons affected by the release of the information.D. Programs and individuals providing services to victims of domestic violence, dating violence, sexual assault, or stalking, or victims of a violation of § 18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1, may share: 1. Nonpersonally identifying data in the aggregate regarding services to their clients and nonpersonally identifying demographic information in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements; 2. Court generated information and law-enforcement generated information contained in secure, governmental registries for protection order enforcement purposes; and 3. Information necessary for law enforcement and prosecution purposes.For purposes of this section, “programs” shall include public and not-for-profit agencies the primary mission of which is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking, or victims of a violation of § 18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1.E. For the purposes of this section, a person may be a victim of domestic violence, dating violence, sexual assault, or stalking, or a victim of a violation of § 18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1, regardless of whether any person has been charged with or convicted of any offense. |
| WASHINGTON | **Wash. Rev. Code § 5.60.060** Who is disqualified — Privileged communications.(1) A spouse or domestic partner shall not be examined for or against his or her spouse or domestic partner, without the consent of the spouse or domestic partner; nor can either during marriage or during the domestic partnership or afterward, be without the consent of the other, examined as to any communication made by one to the other during the marriage or the domestic partnership. But this exception shall not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to a criminal action or proceeding against a spouse or domestic partner if the marriage or the domestic partnership occurred subsequent to the filing of formal charges against the defendant, nor to a criminal action or proceeding for a crime committed by said spouse or domestic partner against any child of whom said spouse or domestic partner is the parent or guardian, nor to a proceeding under chapter 71.05 or 71.09 RCW: PROVIDED, That the spouse or the domestic partner of a person sought to be detained under chapter 71.05 or 71.09 RCW may not be compelled to testify and shall be so informed by the court prior to being called as a witness.(2)(a) An attorney or counselor shall not, without the consent of his or her client, be examined as to any communication made by the client to him or her, or his or her advice given thereon in the course of professional employment.(b) A parent or guardian of a minor child arrested on a criminal charge may not be examined as to a communication between the child and his or her attorney if the communication was made in the presence of the parent or guardian. This privilege does not extend to communications made prior to the arrest.(3) A member of the clergy, a Christian Science practitioner listed in the Christian Science Journal, or a priest shall not, without the consent of a person making the confession or sacred confidence, be examined as to any confession or sacred confidence made to him or her in his or her professional character, in the course of discipline enjoined by the church to which he or she belongs.(4) Subject to the limitations under RCW 71.05.217 (6) and (7), a physician or surgeon or osteopathic physician or surgeon or podiatric physician or surgeon shall not, without the consent of his or her patient, be examined in a civil action as to any information acquired in attending such patient, which was necessary to enable him or her to prescribe or act for the patient, except as follows:(a) In any judicial proceedings regarding a child’s injury, neglect, or sexual abuse or the cause thereof; and(b) Ninety days after filing an action for personal injuries or wrongful death, the claimant shall be deemed to waive the physician-patient privilege. Waiver of the physician-patient privilege for any one physician or condition constitutes a waiver of the privilege as to all physicians or conditions, subject to such limitations as a court may impose pursuant to court rules.(5) A public officer shall not be examined as a witness as to communications made to him or her in official confidence, when the public interest would suffer by the disclosure.(6)(a) A peer support group counselor shall not, without consent of the peer support group client making the communication, be compelled to testify about any communication made to the counselor by the peer support group client while receiving counseling. The counselor must be designated as such by the agency employing the peer support group client prior to the incident that results in counseling. The privilege only applies when the communication was made to the counselor while acting in his or her capacity as a peer support group counselor. The privilege does not apply if the counselor was an initial responding first responder, department of corrections staff person, or jail staff person; a witness; or a party to the incident which prompted the delivery of peer support group counseling services to the peer support group client.(b) For purposes of this section:(i) “First responder” means:(A) A law enforcement officer;(B) A limited authority law enforcement officer;(C) A firefighter;(D) An emergency services dispatcher or recordkeeper;(E) Emergency medical personnel, as licensed or certified by this state; or(F) A member or former member of the Washington national guard acting in an emergency response capacity pursuant to chapter 38.52 RCW.(ii) “Law enforcement officer” means a general authority Washington peace officer as defined in RCW 10.93.020.(iii) “Limited authority law enforcement officer” means a limited authority Washington peace officer as defined in RCW 10.93.020 who is employed by the department of corrections, state parks and recreation commission, department of natural resources, liquor and cannabis board, or Washington state gambling commission.(iv) “Peer support group client” means:(A) A first responder;(B) A department of corrections staff person; or(C) A jail staff person.(v) “Peer support group counselor” means:(A) A first responder, department of corrections staff person, or jail staff person or a civilian employee of a first responder entity or agency, local jail, or state agency who has received training to provide emotional and moral support and counseling to a peer support group client who needs those services as a result of an incident in which the peer support group client was involved while acting in his or her official capacity; or(B) A nonemployee counselor who has been designated by the first responder entity or agency, local jail, or state agency to provide emotional and moral support and counseling to a peer support group client who needs those services as a result of an incident in which the peer support group client was involved while acting in his or her official capacity.(7) A sexual assault advocate may not, without the consent of the victim, be examined as to any communication made between the victim and the sexual assault advocate.(a) For purposes of this section, “sexual assault advocate” means the employee or volunteer from a community sexual assault program or underserved populations provider, victim assistance unit, program, or association, that provides information, medical or legal advocacy, counseling, or support to victims of sexual assault, who is designated by the victim to accompany the victim to the hospital or other health care facility and to proceedings concerning the alleged assault, including police and prosecution interviews and court proceedings.(b) A sexual assault advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. Any sexual assault advocate participating in good faith in the disclosing of records and communications under this section shall have immunity from any liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this section, the good faith of the sexual assault advocate who disclosed the confidential communication shall be presumed.(8) A domestic violence advocate may not, without the consent of the victim, be examined as to any communication between the victim and the domestic violence advocate.(a) For purposes of this section, “domestic violence advocate” means an employee or supervised volunteer from a community-based domestic violence program or human services program that provides information, advocacy, counseling, crisis intervention, emergency shelter, or support to victims of domestic violence and who is not employed by, or under the direct supervision of, a law enforcement agency, a prosecutor’s office, or the child protective services section of the department of children, youth, and families as defined in RCW 26.44.020.(b) A domestic violence advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. This section does not relieve a domestic violence advocate from the requirement to report or cause to be reported an incident under RCW 26.44.030(1) or to disclose relevant records relating to a child as required by RCW 26.44.030(15). Any domestic violence advocate participating in good faith in the disclosing of communications under this subsection is immune from liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this subsection, the good faith of the domestic violence advocate who disclosed the confidential communication shall be presumed.(9) A mental health counselor, independent clinical social worker, or marriage and family therapist licensed under chapter 18.225 RCW may not disclose, or be compelled to testify about, any information acquired from persons consulting the individual in a professional capacity when the information was necessary to enable the individual to render professional services to those persons except:(a) With the written authorization of that person or, in the case of death or disability, the person’s personal representative;(b) If the person waives the privilege by bringing charges against the mental health counselor licensed under chapter 18.225 RCW;(c) In response to a subpoena from the secretary of health. The secretary may subpoena only records related to a complaint or report under RCW 18.130.050;(d) As required under chapter 26.44 or 74.34 RCW or RCW 71.05.217 (6) or (7); or(e) To any individual if the mental health counselor, independent clinical social worker, or marriage and family therapist licensed under chapter 18.225 RCW reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the individual or any other individual; however, there is no obligation on the part of the provider to so disclose.(10) An individual who acts as a sponsor providing guidance, emotional support, and counseling in an individualized manner to a person participating in an alcohol or drug addiction recovery fellowship may not testify in any civil action or proceeding about any communication made by the person participating in the addiction recovery fellowship to the individual who acts as a sponsor except with the written authorization of that person or, in the case of death or disability, the person’s personal representative. |
| WEST VIRGINIA | **W. Va. Code § 48-26-701** **§ 48-26-701. Confidentiality.**(a) A program licensed pursuant to this article may not disclose, reveal or release or be compelled to disclose, reveal or release, any written records or personal or personally identifying information about a program participant created or maintained in providing services, regardless of whether the information has been encoded, encrypted, hashed, or otherwise protected, pursuant to this article except:(1)  Upon written consent, or upon oral consent in emergency situations defined by legislative rule, of the person seeking or who has sought services from the program; (2)  In any proceeding brought under § 9-6-4 and § 9-6-5, of this code or § 49-4-601 through § 49-4-610 of this code; (3)  As mandated by § 49-2- 801 through § 49-2-814 and § 9-6-1 et seq. of this code;(4)  Pursuant to an order of any court based upon a finding that the information is sufficiently relevant to a proceeding before the court to outweigh the importance of maintaining the confidentiality established by this section;(5)  To protect against a clear and substantial danger of imminent injury by a person receiving services to himself or herself or another; or (6) As authorized by the releases signed by batterer intervention and prevention program participants pursuant to the provisions of subsection (b) of this section.* (b)  Batterer intervention and prevention program participants shall authorize the release of information by signing the following releases:

(1)  Allowing the provider to inform the victim or alleged victim and the victim's advocates that the batterer is participating in a batterer intervention and prevention program with the provider and to provide information to the victim or alleged victim and her or his advocates, if necessary, for the victim's or alleged victim's safety;(2)  Allowing prior and current service providers to provide information about the batterer to the provider;(3)  Allowing the provider, for good cause, to provide information about the batterer to relevant legal entities, including courts, parole officers, probation officers, child protective services, adult protective services, law enforcement, licensed domestic violence programs, or other referral agencies;(4)  Allowing the provider to report to the court, if the participation was court ordered, and to the victim or alleged victim, if she or he requests and provides a method of notification, and to his or her advocate, any assault, failure to comply with program requirements, failure to attend the program, threat of harm by the batterer, reason for termination and recommendations for changes in the court order; and(5)  Allowing the provider to report to the victim or alleged victim, or his or her advocate, without the participant's authorization, all perceived threats of harm, the participant's failure to attend and reason for termination.(c)  Monitored parenting and exchange programs may disclose to one parent or guardian, without the permission of the other parent or guardian, any perceived threat of harm or violation of the court order or violation of the monitored parenting and exchange program rules by the other parent or guardian.(d)  A monitored parenting and exchange program may not release information about the child without consent of the parent with custodial responsibility or guardian.(e)  In addition to the provisions set forth in this section, the release of a victim's personally identifying information is subject to the provisions of 42 U. S. C. § 13925(b)(2).(f)  A consent or authorization for the transmission or disclosure of confidential information is not effective unless it is signed by the program participant whose information is being disclosed. Every person signing an authorization shall be given a copy.(g)  A victim of domestic violence, dating violence, sexual assault, or stalking shall not be required to provide consent to release his or her personally identifying information as a condition of eligibility for the services, nor may any personally-identifying information be shared in order to comply with federal or state reporting, evaluation, or data collection requirements: *Provided*, That nothing in this section prohibits a program from reporting suspected abuse or neglect, as defined by law, when the program is mandated by law to report suspected abuse or neglect. |
| WISCONSIN | **Wis. Stat. Ann. § 905.045** **Domestic violence or sexual assault advocate-victim privilege.**(1) Definitions. In this section:(a) “Abusive conduct” means abuse, as defined in s. 813.122 (1) (a), of a child, as defined in s. 813.122 (1) (b), interspousal battery, as described under s. 940.19 or 940.20 (1m), domestic abuse, as defined in s. 813.12 (1) (am), sexual exploitation by a therapist under s. 940.22, sexual assault under s. 940.225, human trafficking involving a commercial sex act under s. 940.302, or child sexual abuse under s. 948.02, 948.025, or 948.05 to 948.11.(b) “Advocate” means an individual who is an employee of or a volunteer for an organization the purpose of which is to provide counseling, assistance, or support services free of charge to a victim.(c) A communication or information is “confidential” if not intended to be disclosed to 3rd persons other than persons present to further the interest of the person receiving counseling, assistance, or support services, persons reasonably necessary for the transmission of the communication or information, and persons who are participating in providing counseling, assistance, or support services under the direction of a victim advocate, including family members of the person receiving counseling, assistance, or support services and members of any group of individuals with whom the person receives counseling, assistance, or support services.(d) “Victim” means an individual who has been the subject of abusive conduct or who alleges that he or she has been the subject of abusive conduct. It is immaterial that the abusive conduct has not been reported to any government agency.(e) “Victim advocate” means an individual who is an employee of or a volunteer for an organization the purpose of which is to provide counseling, assistance, or support services free of charge to a victim.(2) General rule of privilege. A victim has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made or information obtained or disseminated among the victim, a victim advocate who is acting in the scope of his or her duties as a victim advocate, and persons who are participating in providing counseling, assistance, or support services under the direction of a victim advocate, if the communication was made or the information was obtained or disseminated for the purpose of providing counseling, assistance, or support services to the victim.(3) Who may claim the privilege. The privilege may be claimed by the victim, by the victim’s guardian or conservator, or by the victim’s personal representative if the victim is deceased. The victim advocate may claim the privilege on behalf of the victim. The victim advocate’s authority to do so is presumed in the absence of evidence to the contrary.(4) EXCEPTIONS. Subsection (2) does not apply to any report concerning child abuse that a victim advocate is required to make under s. 48.981 or concerning a threat of violence in or targeted at a school that a victim advocate is required to make under s. 175.32.(5) Relationship to s. 905.04. If a communication or information that is privileged under sub. (2) is also a communication or information that is privileged under s. 905.04 (2), the provisions of s. 905.04 supersede this section with respect to that communication or information. |
| WYOMING | **Wyo. Stat. Ann. § 1-12-116****§ 1-12-116. Confidential communications between family violence and sexual assault advocate and victim.****(**a)  As used in this section:(i) “Advocate” or “family violence or sexual assault advocate” means a person who is employed by or volunteers services to any family violence and sexual assault program, who is certified by the program as having undergone at least forty (40) hours of crisis advocacy training and whose work is directed and supervised under a family violence and sexual assault program;(ii) “Confidential communication” means information transmitted in confidence between a victim and an advocate in the course of that relationship and includes all information received by, and any report, working paper or document prepared by the advocate in the course of that relationship;(iii) “Crisis services to victims of family violence and sexual assault” means emergency and follow-up intervention, information, referral services and medical, legal and social services advocacy;(iv) “Family violence and sexual assault program” means a program whose primary purpose is to offer shelter and crisis services to victims of family violence and sexual assault through any community facility or center;(v) “Shelter” means a place of temporary refuge, offered on a twenty-four (24) hour, seven (7) day per week basis to victims and their children;(vi) “Victim” means a person who has been subjected to sexual assault as defined by W.S. 6-2-301(a)(v), incest as defined by W.S. 6-4-402 or domestic abuse as defined by W.S. 35-21-102(a)(iii).(b)  Except as provided by W.S. 14-3-210, a person exempted from testifying under the provisions of W.S. 1-12-116 shall not be examined as a witness in any civil, criminal, legislative or administrative proceeding concerning the following communications and information:(i)  An advocate shall not testify concerning a confidential communication made by a victim in the course of that relationship, except the advocate:(A)  May testify:(I)  With the express consent of the victim; or(II)  If the victim voluntarily testifies, provided the advocate's testimony shall be limited to the same subject matter.(B)  May be compelled to testify if the victim is unable to testify due to death or incompetence. (ii)  Any employee of a family violence and sexual assault program who has access to confidential communication shall not testify except in those circumstances where the advocate may testify.**Wyo. Stat. Ann. § 14-3-210****§ 14-3-210.  Admissibility of evidence constituting privileged communications.**(a)  Evidence regarding a child in any judicial proceeding resulting from a report made pursuant to W.S. 14-3-201 through 14-3-215 shall not be excluded on the ground it constitutes a privileged communication:(i)  Between husband and wife;(ii)  Claimed under any provision of law other than W.S. 1-12-101(a)(i) and (ii); or(iii)  Claimed pursuant to W.S. 1-12-116. |