



PROTECTION ORDERS
NATIONAL CENTER ON PROTECTION
ORDERS AND FULL FAITH & CREDIT

Advocate Confidentiality Statutes

Revised July 2023

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| <p>ALABAMA</p> | <p>Ala. Code § 30-6-8 § 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.</p> <p>Code of Ala. § 36-12-40* § 36-12-40. Citizens' rights – Exceptions. Every citizen has a right to inspect and take a copy of any public writing of this state, except as otherwise expressly provided by statute. Provided however, registration and circulation records and information concerning the use of the public, public school or college and university libraries of this state shall be exempted from this section. Provided further, any parent of a minor child shall have the right to inspect the registration and circulation records of any school or public library that pertain to his or her child. Notwithstanding the foregoing, records concerning security plans, procedures, assessments, measures, or systems, and any other records relating to, or having an impact upon, the security or safety of persons, structures, facilities, or other infrastructures, including without limitation information concerning critical infrastructure (as defined at 42 U.S.C.S. § 5195c(e) as amended) and critical energy infrastructure information (as defined at 18 C.F.R. § 388.113(c)(1) as amended), the public disclosure of which could reasonably be expected to be detrimental to the public safety or welfare, and records the disclosure of which would otherwise be detrimental to the best interests of the public shall be exempted from this section. Any public officer who receives a request for records that may appear to relate to critical infrastructure or critical energy infrastructure information, shall notify the owner of such infrastructure in writing of the request and provide the owner an opportunity to comment on the request and on the threats to public safety or welfare that could reasonably be expected from public disclosure on the records.</p> <p>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</p> |
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| | <p>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.</p> <p>(2) Neglect. — Negligent treatment or maltreatment of a child, including the failure to provide adequate food, medical treatment, supervision, clothing, or shelter.</p> <p>(3) Child. — Either of the following:</p> <ul style="list-style-type: none"> 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. <p>(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.</p> <p>Code of Ala. § 38-9-2*** § 38-9-2. Definitions. For the purposes of this chapter, the following terms shall have the following meanings:</p> <p>(1) Abuse. The infliction of physical pain, injury, or the willful deprivation by a caregiver or other person of services necessary to maintain mental and physical health.</p> <p>(2) Adult in need of protective services. A person 18 years of age or older whose behavior indicates that he or she is mentally incapable of adequately caring for himself or herself and his or her interests without serious consequences to himself or herself or others, or who, because of physical or mental impairment, is unable to protect himself or herself from abuse, neglect, exploitation, sexual abuse, or emotional abuse by others, and who has no guardian, relative, or other appropriate person able, willing, and available to assume the kind and degree of protection and supervision required under the circumstances.</p> <p>(3) Caregiver. An individual who has the responsibility for the care of a protected person as a result of family relationship or who has assumed the responsibility for the care of the person voluntarily, by contract, or as a result of the ties of friendship.</p> <p>(4) Court. The circuit court or probate court.</p> <p>(5) Department. The Department of Human Resources of the State of Alabama.</p> <p>(6) Emotional abuse. The willful or reckless infliction of emotional or mental anguish or the use of a physical or chemical restraint, medication, or isolation as punishment or as a substitute for treatment or care of any protected person.</p> <p>(7) Employee of a nursing home. A person permitted to perform work in a nursing home by the nursing home administrator or by a person or an entity with an ownership interest in the facility, or by both. A person shall be considered an employee whether or not he or she receives compensation for the work performed.</p> <p>(8) Exploitation. The expenditure, diminution, or use of the property, assets, or resources of a protected person without the express voluntary consent of that person or his or her legally authorized representative or the admission of or provision of care to a protected person who needs to be in the care of a licensed hospital by an unlicensed hospital after a court order obtained by the State Board of Health has directed closure of the</p> |
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| | <p>unlicensed hospital. For the purpose of this section and Sections 38-9-6 and 38-9-7, the term “unlicensed hospital” shall have the meaning ascribed to it in Section 22-21-33, and the term “licensed hospital” shall have the meaning ascribed to it in Section 22-21-20.</p> <p>(9) Intentionally. A person acts intentionally with respect to a result or to conduct described by a statute defining an offense, when his or her purpose is to cause that result or to engage in that conduct.</p> <p>(10) Interested person. Any adult relative, friend, or guardian of a protected person, or any official or representative of a public or private agency, corporation, or association concerned with the welfare of the protected person.</p> <p>(11) Misappropriation of property of a nursing home resident. The deliberate misplacement or wrongful, temporary, or permanent use or withholding of belongings or money of a resident of a nursing home without the consent of the resident.</p> <p>(12) Neglect. The failure of a caregiver to provide food, shelter, clothing, medical services, or health care for the person unable to care for himself or herself; or the failure of the person to provide these basic needs for himself or herself when the failure is the result of the person’s mental or physical inability.</p> <p>(13) Neurodegenerative. Relating to or being a progressive loss of neurologic function.</p> <p>(14) Nursing facility. A facility that is licensed as a nursing home by the Alabama Department of Public Health pursuant to Article 2, Chapter 21, Title 22.</p> <p>(15) Other like incapacities. Those conditions incurred as the result of accident or mental or physical illness, producing a condition that substantially impairs an individual from adequately providing for his or her own care or protecting his or her own interests or protecting himself or herself from physical or mental injury or abuse.</p> <p>(16) Person. Any natural human being.</p> <p>(17) Physical injury. Impairment of physical condition or substantial pain.</p> <p>(18) Protected person. Any person 18 years of age or older subject to protection under this chapter and not otherwise subject to the jurisdiction of the juvenile court or any person, including, but not limited to, persons with a neurodegenerative disease, persons with intellectual disabilities and developmental disabilities, or any person 18 years of age or older who is not otherwise subject to the jurisdiction of the juvenile court and who is mentally or physically incapable of adequately caring for himself or herself and his or her interests without serious consequences to himself or herself or others.</p> <p>(19) Protective services. Those services whose objective is to protect an incapacitated person from himself or herself and from others.</p> <p>(20) Recklessly. A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he or she is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk shall be of such nature and degree that its disregard constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation. A person who creates a risk but is unaware of that risk solely by reason of voluntary intoxication, as defined in subdivision (e)(2) of Section 13A-3-2, acts recklessly with respect thereto.</p> <p>(21) Serious physical injury. Physical injury that creates a risk of death, or that causes serious and protracted disfigurement, protracted impairment of health, protracted loss of the function of any bodily organ, or the impairment of the function of any bodily organ.</p> <p>(22) Sexual abuse. Any conduct that constitutes a crime under Article 4 of Chapter 6 of Title 13A.</p> |

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**Sec. 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

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| | <p>(8) a criminal proceeding concerning criminal charges against a victim of domestic violence or sexual assault where the victim is charged with a crime</p> <ul style="list-style-type: none"> (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. <p>Alaska Stat. § 18.66.220 § 18.66.220. Waiver.</p> <p>(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.</p> <p>(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.</p> <p>Alaska Stat. § 18.66.250 Sec. § 18.66.250. Definition.</p> <p>(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;</p> <p>(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;</p> <p>(3) "victim" means a person who consults a victim counselor for assistance in overcoming adverse effects of a sexual assault or domestic violence;</p> <p>(4) "victim counseling" means support, assistance, advice, or treatment to alleviate the adverse effects of a sexual assault or domestic violence on the victim;</p> <p>(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</p> <ul style="list-style-type: none"> (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; <p>(6) "victim counselor" means an employee or supervised volunteer of a victim counseling center that provides counseling to victims</p> <ul style="list-style-type: none"> (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. |

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| | <p>Alaska Stat. § 18.66.230 Sec. 18.66.230. Inference from claim of privilege; instruction.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>Alaska Stat. § 24.65.100 Sec. 24.65.100. Jurisdiction; duties</p> <p>(a) The victims' advocate has jurisdiction to advocate on behalf of crime victims of felony offenses or class A misdemeanors, if the class A misdemeanor is a crime involving domestic violence or a crime against a person under AS 11.41, in the courts of the state and to investigate the complaints of crime victims of felony offenses or class A misdemeanors, if the class A misdemeanor is a crime involving domestic violence or a crime against a person under AS 11.41, that they have been denied their rights under the constitution and the laws of the state. In this subsection, "crime involving domestic violence" has the meaning given in AS 18.66.990.</p> <p>(b) The victims' advocate shall exercise reasonable care to</p> <ol style="list-style-type: none"> (1) ensure that the victims' advocate's exercise of jurisdiction granted under this section does not interfere with an ongoing criminal investigation or with a criminal prosecution; (2) prevent employees of the office of victims' rights from making extrajudicial statements that the victims' advocate is prohibited from making under the Alaska Rules of Professional Conduct. <p>(c) The victims' advocate may not advise, counsel, or advocate on behalf of a victim in a way that would</p> <ol style="list-style-type: none"> (1) prevent or discourage a victim from cooperating in a criminal investigation; (2) encourage a victim to withhold evidence in a criminal investigation; or (3) prevent or discourage a victim from testifying in a criminal proceeding. <p>(d) The victims' advocate shall provide written material to be given out to victims of crime as required by AS 12.61.010. The written material must contain a brief statement about the Violent Crimes Compensation Board and contact information for that board.</p> <p>Alaska Stat. § 24.65.110 Sec. 24.65.110. Advocacy on behalf of crime victims; records.</p> <p>(a) The victims' advocate shall assist crime victims in obtaining the rights crime victims are guaranteed under the constitution and laws of the state with regard to the contacts crime victims have with justice agencies.</p> <p>(b) The victims' advocate may make the statement a crime victim is authorized to make under art. I, sec. 24, Constitution of the State of Alaska, and AS 12.55.023, in a court of the state when requested by the crime victim and when the crime victim does not personally make a statement.</p> <p>(c) When advocating on behalf of a crime victim in an ongoing criminal case or juvenile adjudication, the victims' advocate is entitled to all information available to the defendant or juvenile.</p> |

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| | <p>(d) Records obtained by the victims’ advocate shall remain in the exclusive custody of the victims’ advocate. The victims’ advocate may not disclose confidential information to any person.</p> <p>Alaska Stat. § 24.65.190 Sec. 24.65.190. Immunity of the victims’ advocate. A civil action may not be brought against the victims’ advocate or a member of the victims’ advocate’s staff for anything done, said, or omitted in performing the victims’ advocate’s duties or responsibilities under this chapter.</p> <p>Alaska Stat. § 24.65.200 Sec. 24.65.200. Victims’ advocate’s privilege not to testify or produce documents or other evidence. Except as may be necessary to enforce the provisions of this chapter, the determinations, conclusions, thought processes, discussions, records, reports, and recommendations of or information collected by the victims’ advocate or staff of the victims’ advocate are not admissible in a civil or criminal proceeding, and are not subject to questioning or disclosure by subpoena or discovery.</p> |
| AMERICAN SAMOA | <p>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.”</p> |
| ARIZONA | <p>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.</p> |

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| | <p>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.</p> <p>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.</p> <p>A.R.S. § 13-4430 13-4430. Consultation between crime victim advocate and victim; privileged information; exception</p> <p>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.</p> <p>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.</p> <p>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 evidence.</p> <p>D. A defendant 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 defendant.</p> <p>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 such material to the defendant's attorney only if such information is otherwise exculpatory.</p> <p>F. Notwithstanding subsections A and B, 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 victim's right pursuant to this chapter.</p> <p>A.R.S. § 12-2239 12-2239. Domestic violence victim advocate; privilege; training; exception; definition</p> <p>A. In a civil action, a domestic violence victim advocate shall not be examined as to any communication made by the domestic violence victim to the domestic violence victim advocate.</p> <p>B. This section does not apply to a civil action brought pursuant to title 36, chapter 37, relating to the civil commitment of sexually violent persons.</p> <p>C. Unless the domestic violence shelter or service provider has immunity under other provisions of law, the communication is not privileged if the victim advocate knows or should have known that the victim will give or has given perjurious statements or statements that would tend to disprove the existence of domestic violence.</p> <p>D. The domestic violence victim advocate-victim privilege does not extend to cases in which the domestic violence victim advocate has a duty to report nonaccidental injuries and physical neglect of minors as required by section 13-3620.*</p> <p>E. A party to an action may make a motion for disclosure of privileged information under this section and, if the court finds reasonable cause, the court shall hold a hearing in camera as to whether the privilege should apply.</p> |

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| | <p>F. To qualify for the privilege prescribed in this section, a domestic violence victim advocate must have at least thirty hours of training in assisting victims of domestic violence. A portion of this training must include an explanation of privileged communication and the reporting requirements prescribed in section 13-3620.</p> <p>G. A domestic violence victim advocate who is a volunteer shall perform all activities under qualified supervision.</p> <p>H. The training prescribed in subsection F may be provided by the shelter or service provider or by an outside agency that issues a certificate of completion. The records custodian of the shelter or service provider must maintain the training documents.</p> <p>I. For the purposes of this section, “domestic violence victim advocate” means a person who is an employee or volunteer at a domestic violence shelter or service provider for victims of domestic violence and who meets the training requirements of this section.</p> <p>A.R.S. § 13-3620* 13-3620. Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions</p> <p>A. Any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who reasonably believes there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant who is protected under section 36-2281 shall immediately report or cause reports to be made of this information to a peace officer, to the department of child safety or to a tribal law enforcement or social services agency for any Indian minor who resides on an Indian reservation, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only. A member of the clergy, a Christian Science practitioner or a priest who has received a confidential communication or a confession in that person’s role as a member of the clergy, as a Christian Science practitioner or as a priest in the course of the discipline enjoined by the church to which the member of the clergy, the Christian Science practitioner or the priest belongs may withhold reporting of the communication or confession if the member of the clergy, the Christian Science practitioner or the priest determines that it is reasonable and necessary within the concepts of the religion. This exemption applies only to the communication or confession and not to personal observations the member of the clergy, the Christian Science practitioner or the priest may otherwise make of the minor. For the purposes of this subsection, “person” means:</p> <ol style="list-style-type: none"> 1. Any physician, physician’s assistant, optometrist, dentist, osteopathic physician, chiropractor, podiatrist, behavioral health professional, nurse, psychologist, counselor or social worker who develops the reasonable belief in the course of treating a patient. 2. Any peace officer, child welfare investigator, child safety worker, member of the clergy, priest or Christian Science practitioner. 3. The parent, stepparent or guardian of the minor. 4. School personnel, domestic violence victim advocates or sexual assault victim advocates who develop the reasonable belief in the course of their employment. 5. Any other person who has responsibility for the care or treatment of the minor. 6. Any person who is employed as the immediate or next higher level supervisor to or administrator of a person who is listed in paragraph 1, 2, 4 or 5 of this subsection and who develops the reasonable belief in the course of the supervisor’s or administrator’s employment, except that if the supervisor or administrator reasonably believes that the report has been made by a person who is required to report pursuant to paragraph 1, 2, 4 or 5 of this subsection, the supervisor or administrator is not required to report pursuant to this paragraph. <p>B. A report is not required under this section either:</p> <ol style="list-style-type: none"> 1. For conduct prescribed by sections 13-1404 and 13-1405 if the conduct involves only minors who are fourteen, fifteen, sixteen or seventeen years of age and there is nothing to indicate that the conduct is other than consensual. |
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| | <p>2. If a minor is of elementary school age, the physical injury occurs accidentally in the course of typical playground activity during a school day, occurs on the premises of the school that the minor attends and is reported to the legal parent or guardian of the minor and the school maintains a written record of the incident.</p> <p>C. If a physician, psychologist or behavioral health professional receives a statement from a person other than a parent, stepparent, guardian or custodian of the minor during the course of providing sex offender treatment that is not court ordered or that does not occur while the offender is incarcerated in the state department of corrections or the department of juvenile corrections, the physician, psychologist or behavioral health professional may withhold the reporting of that statement if the physician, psychologist or behavioral health professional determines it is reasonable and necessary to accomplish the purposes of the treatment.</p> |
| <p>ARKANSAS</p> | <p>A.C.A. § 9-6-112 9-6-112. Privileged communications made by victim of domestic violence – Definitions.</p> <p>(a) As used in this section:</p> <p>(1) “Advocate for victims of domestic violence” means an employee, supervisor, administrator, or volunteer of a shelter or center for victims of domestic violence authorized and regulated under this chapter;</p> <p>(2) “Communication” means verbal, written, or electronic communications of any kind;</p> <p>(3) “Deviate sexual activity” means the same as defined in § 5-14-101;</p> <p>(4) “Domestic violence” means:</p> <p>(A) Physical harm, bodily harm causing injury, or an assault against a person caused by:</p> <p>(i) A family or household member; or</p> <p>(ii) Another person with whom a person is in a dating relationship;</p> <p>(B) Mental or emotional harm to a person caused by:</p> <p>(i) A family or household member; or</p> <p>(ii) Another person with whom a person is in a dating relationship; or</p> <p>(C) Sexual abuse against a person by another person;</p> <p>(5) “Mentally defective” means the same as defined in § 5-14-101;</p> <p>(6) “Mentally incapacitated” means the same as defined in § 5-14-101;</p> <p>(7) “Physically helpless” means the same as defined in § 5-14-101;</p> <p>(8) “Sexual abuse” means:</p> <p>(A) Sexual intercourse, deviate sexual activity, or sexual contact by means of forcible compulsion; or</p> <p>(B) Sexual intercourse, deviate sexual activity, or sexual contact with a person who is:</p> <p>(i) Physically helpless;</p> <p>(ii) Mentally incapacitated;</p> <p>(iii) Mentally defective; or</p> <p>(iv) Less than sixteen (16) years of age, if the age of the other person committing the sexual intercourse, deviate sexual activity, or sexual contact is twenty (20) years of age or older;</p> <p>(9) “Sexual contact” means the same as defined in § 5-14-101;</p> <p>(10) “Sexual intercourse” means the same as defined in § 5-14-101;</p> |

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| | <p>(11) “Shelter or center for victims of domestic violence” means a domestic violence shelter that is authorized and regulated under this chapter; and</p> <p>(12) “Victim of domestic violence” means a person who has been subjected to domestic violence by another person and who has sought out an advocate for victims of domestic violence or a shelter or center for victims of domestic violence.</p> <p>(b)</p> <p>(1) Except as provided under subsection (e) of this section, communication between a victim of domestic violence and an advocate for victims of domestic violence is privileged and shall not be disclosed by the advocate for victims of domestic violence without the consent of the victim of domestic violence.</p> <p>(2) A victim of domestic violence or an advocate for victims of domestic violence may not be compelled to disclose the contents of any communication made to the advocate for victims of domestic violence by the victim of domestic violence.</p> <p>(c) The privilege under this section only applies when the communication was made to the advocate for victims of domestic violence while the victim of domestic violence was seeking or in the course of advocacy, help, refuge, treatment, housing, support, therapy, legal advice, counseling, medical advice, or any other assistance related to the domestic violence to which the victim of domestic violence was subjected.</p> <p>(d) The privilege under this section may be claimed by:</p> <p>(1) The victim of domestic violence, his or her attorney, or his or her parent or guardian if the victim of domestic violence is less than eighteen (18) years of age; and</p> <p>(2) An advocate for victims of domestic violence on behalf of the victim of domestic violence.</p> <p>(e) A communication privileged under this section may be disclosed if:</p> <p>(1) The communication is made to another person employed by or volunteering at a shelter or center for victims of domestic violence and the disclosure is for the purposes of furthering the advocacy process; or</p> <p>(2) A court compels disclosure after an in-camera hearing when the probative value of the evidence outweighs the effect on:</p> <p>(A) The victim of domestic violence;</p> <p>(B) The treatment relationship between the victim of domestic violence and the advocate for victims of domestic violence; and</p> <p>(C) Treatment services provided by a shelter or center for victims of domestic violence.</p> <p>(f) The privilege under this section is waived if:</p> <p>(1) The advocate for victims of domestic violence was a witness or a party to the incident that prompted the providing of assistance by the advocate for victims of domestic violence and the communication is required by law enforcement to investigate the incident;</p> <p>(2) The communication reveals the intended commission of a crime or harmful act and the disclosure is determined to be necessary by the advocate for victims of domestic violence to protect any person from a clear, imminent risk of serious mental or physical harm or injury or to forestall a serious threat to the public safety; or</p> <p>(3) The victim of domestic violence waives the privilege created under this section by voluntarily disclosing or consenting to disclosure of any significant part of the privileged communication.</p> <p>(g) A claim of privilege under this section is not defeated by a disclosure that was erroneously, unlawfully, or improperly compelled or made without opportunity to claim the privilege.</p> <p>Ark. Code Ann. § 9-4-106 Program requirements. Every shelter shall:</p> |

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| | <p>(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;</p> <p>(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;</p> <p>(3) Provide emergency housing and related supportive services in a safe, protective environment for victims of domestic abuse and their children;</p> <p>(4)</p> <p>(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.</p> <p>(B) The crisis telephone hotline shall not be answered by an answering machine, answering service, or mobile telephone;</p> <p>(5)</p> <p>(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:</p> <ul style="list-style-type: none"> (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. <p>(B) The confidentiality agreement shall not apply to advocates who testify in court.</p> <p>(C) The confidentiality agreement shall not prevent disclosure from federal grant review, audit, or reporting;</p> <p>(6) Develop and implement a written plan for outreach efforts to aid victims of domestic violence;</p> <p>(7) Provide peer support groups for victims;</p> <p>(8) Provide assistance and court advocacy for victims seeking orders of protection; and</p> <p>(9) Provide training and educational information on domestic violence for professionals, community organizations, and interested individuals.</p> <p>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.</p> |
| CALIFORNIA | <p>Cal Evid. Code § 912 § 912. Waiver of privilege</p> <p>(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</p> |

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| | <p>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.</p> <p>(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.</p> <p>(c) A disclosure that is itself privileged is not a waiver of any privilege.</p> <p>(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.</p> <p>Cal Evid. Code § 1035.2 “Sexual assault counselor”</p> <p>As used in this article, “sexual assault counselor” means any of the following:</p> <p>(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:</p> <p>(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.</p> <p>(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:</p> <ul style="list-style-type: none"> (A) Law. (B) Medicine. (C) Societal attitudes. (D) Crisis intervention and counseling techniques. (E) Role playing. (F) Referral services. (G) Sexuality. <p>(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:</p> |
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| | <p>(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.</p> <p>(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:</p> <ul style="list-style-type: none"> (A) Law. (B) Medicine. (C) Societal attitudes. (D) Crisis intervention and counseling techniques. (E) Role playing. (F) Referral services. (G) Sexuality. <p>(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:</p> <p>(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.</p> <p>(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:</p> <ul style="list-style-type: none"> (A) Law. (B) Victimology. (C) Counseling. (D) Client and system advocacy. (E) Referral services. <p>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.</p> <p>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</p> |
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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

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| | <p>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.</p> <p>Cal Evid. Code § 1036.2 "Sexual assault"</p> <p>As used in this article, "sexual assault" includes all of the following:</p> <ul style="list-style-type: none"> (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. <p>Cal Evid. Code § 1037.1 § 1037.1. "Domestic violence counselor"</p> <p>(a)</p> <ul style="list-style-type: none"> (1) As used in this article, "domestic violence counselor" means a person who is employed by a domestic violence victim service organization, as defined in this article, whether financially compensated or not, for the purpose of rendering advice or assistance to victims of domestic violence and who has 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 of experience counseling domestic violence victims for the domestic violence victim service organization. The training shall include, but need not be limited to, the following areas: history of domestic violence, civil and criminal law as it relates to domestic violence, the domestic violence victim-counselor privilege and other laws that protect the confidentiality of victim records and information, societal attitudes towards domestic violence, peer counseling techniques, housing, public assistance and other financial resources available to meet the financial needs of domestic violence victims, and referral 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 months shall be supervised by a domestic violence counselor who has at least one year of experience counseling domestic violence victims for the domestic violence victim service organization. <p>(b) As used in this article, "domestic violence victim service organization" means either of the following:</p> <ul style="list-style-type: none"> (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: <ul style="list-style-type: none"> (A) Domestic violence shelter-based programs, as described in Section 18294 of the Welfare and Institutions Code. |

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| | <p>(B) Other programs with the primary mission to provide services to victims of domestic violence whether or not that program exists in an agency that provides additional services.</p> <p>(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.</p> <p>Cal Evid. Code § 1037.2 “Confidential communication”; Compelling disclosure</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>Cal Evid Code § 1037.3 Effect of article on obligation to report child abuse</p> <p>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.</p> <p>Cal Evid Code § 1037.4 § 1037.4. "Holder of the privilege"</p> <p>As used in this article, "holder of the privilege" means:</p> <p>(a) The victim when he or she has no guardian or conservator.</p> |

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| | <p>(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.</p> <p>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:</p> <ul style="list-style-type: none"> (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. <p>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.</p> <p>Cal Evid Code § 1037.7 § 1037.7. “Domestic violence” As used in this article, “domestic violence” means “domestic violence” as defined in Section 6211 of the Family Code.</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> (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. |
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| | <p>(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.</p> <p>(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.</p> <p>Cal Evid Code § 1038.1 When court may compel disclosure; Ruling on claim of privilege</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> |
| <p>COLORADO</p> | <p>Colo. Rev. Stat. § 13-90-107(1)(k) Who may not testify without consent – definitions</p> <p>(k)</p> <p>(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.</p> <p>(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:</p> <p>(A) Whose primary function is to render advice, counsel, or assist victims of domestic or family violence or sexual assault; and</p> <p>(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</p> <p>(C) Who supervises employees of the program, administers the program, or works under the direction of a supervisor of the program.</p> <p>(l)</p> <p>(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</p> |

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| | <p>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.</p> <p>(II) This exception does not apply to:</p> <ul style="list-style-type: none"> (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 | <p>Conn. Gen. Stat. § 52-146k Sec. 52-146k. Privileged communications between victim and domestic violence counselor or sexual assault counselor.</p> <p>(a) As used in this section:</p> <ul style="list-style-type: none"> (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. |

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| | <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> |
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| <p>DELAWARE</p> | <p>No Statute but see, 11 Del. C. § 9403 § 9403. Nondisclosure of information about victim.</p> <p>(a) Unless a victim or witness waives confidentiality in writing, neither a law-enforcement agency, the prosecutor, nor the corrections department may disclose, except among themselves or as authorized by law, the residential address, telephone number or place of employment of the victim or a member of the victim’s family, or the identity, residential address, telephone number or place of employment of a witness or a member of the witness’s family, except to the extent that disclosure is of the site of the crime, is required by law or the Rules of Criminal Procedure, is necessary for law-enforcement purposes, or is permitted by the court for good cause.</p> <p>(b) A court may not compel a victim or witness or a member of the victim’s or witness’s family testifying in a criminal justice proceeding to disclose a residential address or place of employment on the record unless the court finds that disclosure of the information is necessary.</p> <p>(c) The victim’s address, place of employment and telephone number and any witness’s identity, address, place of employment and telephone number, maintained by a court, prosecutor or law-enforcement agency pursuant to this chapter is exempt from disclosure under the Freedom of Information Act [Chapter 100 of Title 29].</p> <p>(d) An exception to this section is whenever a “peace officer” as defined in § 1901 of this title or an “emergency-care provider” as defined in § 2503A of Title 16 alerts a school district or charter school about the presence of a minor child or a child that has reached the age of 18 that continues to be enrolled in high school that has been identified at the scene of a traumatic event. The peace officer or emergency-care provider may only release the student’s name directly to the school district or charter school and state that the student was present at the scene of a traumatic event.</p> |
| <p>DISTRICT OF COLUMBIA</p> | <p>D.C. Code § 14-310 § 14-310. Domestic violence counselors</p> <p>(a) For the purposes of this section, the term:</p> <p>(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.</p> <p>(2) “Domestic violence counselor” means an employee, contractor, or volunteer of a domestic violence program who:</p> <p>(A) Is rendering support, counseling, or assistance to a victim;</p> <p>(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</p> <p>(C)</p> <p>(i) Is or is under the supervision of a licensed social worker, nurse, physician, psychologist, or psychotherapist; or</p> <p>(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.</p> <p>(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.</p> |

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| | <p>(4) “Intrafamily offense” shall have the same meaning as provided in § 16-1001(8).</p> <p>(5) “Victim” means a person against whom severe emotional abuse or an intrafamily offense has been committed or is alleged to have been committed.</p> <p>(b)</p> <p>(1) A domestic violence counselor shall not disclose a confidential communication except:</p> <ul style="list-style-type: none"> (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. <p>(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.</p> <p>(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.</p> <p>(c)</p> <p>(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.</p> <p>(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.</p> <p>(d) The assertion of any privilege under this section is not admissible in evidence.</p> <p>D.C. Code § 14-307 § 14-307. Confidential information.</p> <p>(a) For the purposes of this section, the term:</p> <p>(1) “Health care benefit program” means any public or private plan or contract under which a medical benefit, item, or service is or may be provided to an individual, and includes an individual or entity who provides a medical benefit, item, or service for which payment may be made under the plan or contract.</p> <p>(2) “Injury” includes:</p> <ul style="list-style-type: none"> (A) Physical damage to the body; |
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| | <p>(B) A sexual act prohibited by Chapter 30 of Title 22 [§ 22-3001 et seq.]; and (C) Sexual contact prohibited by Chapter 30 of Title 22.</p> <p>(b) In the Federal courts in the District of Columbia and District of Columbia courts, the following individuals shall not be permitted, without the written consent of their client or of the client’s legal representative, to disclose any confidential information that the individual has acquired in attending the client in a professional capacity and that was necessary to enable the individual to act in that capacity, whether the information was obtained from the client, the client’s family, or the person or persons in charge of the client:</p> <p>(1) Physicians; (2) Surgeons; (3) Mental health professionals, as that term is defined in § 7-1201.01(11); (4) Domestic violence counselors, as that term is defined in § 14-310(a)(2); (5) Human trafficking counselors, as that term is defined in § 14-311(a)(2); (6) Sexual assault counselors, as that term is defined in § 23-1907(10); (7) HVIP members, as that term is defined in § 14-313(a)(4); and (8) Crime victim counselors, as that term is defined in § 14-314(a)(4).</p> <p>(c) This section shall not apply to evidence:</p> <p>(1) In a grand jury, criminal, delinquency, family, or domestic violence proceeding, where: (A) A person is targeted for or charged with causing the death of or injuring a human being, or with attempting or threatening to kill or injure a human being, or a report has been filed with the police pursuant to § 7-2601; and (B) The disclosure is required in the interests of justice;</p> <p>(2) Related to the mental competency or sanity of an accused in criminal trials where the accused raises the defense of insanity or where the court is required under prevailing law to raise the defense sua sponte, or in the pre-trial or post-trial proceedings involving a criminal case where a question arises concerning the mental condition of an accused or convicted person;</p> <p>(3) Related to the mental competency or sanity of a child alleged to be delinquent, neglected, or in need of supervision in any proceeding before the Family Division of the Superior Court;</p> <p>(4) In a grand jury, criminal, delinquency, or civil proceeding where a person is alleged to have defrauded: (A) The District of Columbia or federal government in relation to receiving or providing services under the District of Columbia medical assistance program authorized by title 19 of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 et seq.); (B) A health care benefit program; or (C) An elderly person or vulnerable adult, as those terms are defined in § 22-932(3) and (5)); or</p> <p>(5) In a criminal or delinquency proceeding where: (A) A person is charged with an impaired driving offense resulting in the death of or injury to another human being; and (B) The disclosure is required in the interest of justice.</p> <p>(d) (1) Before finding that the disclosure of confidential information is required in the interest of justice, as provided in subsection (c)(1)(B) and (5)(B) of this section, the court shall: (A) Serve the victim with notice of the potential disclosure of confidential information; and</p> |

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| | <p>(B) Provide the victim with 14 days from the date of service to object to the disclosure of confidential information and provide an explanation for why the disclosure is not in the interest of justice.</p> <p>(2) When determining whether the disclosure of confidential information is required in the interest of justice, as provided in subsection (c)(1)(B) and (5)(B) of this section, the court shall consider the rights of crime victims under § 23-1901 and 18 U.S.C. 3771.</p> <p>(e) If the victim’s ability to object pursuant to subsection (d)(1)(B) of this section is diminished because of minority, mental impairment, medical incapacity, or some other reason, the court:</p> <p>(1)</p> <p>(A) Shall provide notice to the victim’s parent, guardian, or custodian; or</p> <p>(B) May appoint an attorney to receive the notice on the victim’s behalf; and</p> <p>(2) Shall provide the victim’s parent, guardian, or custodian, or an attorney acting on the victim’s behalf, with 14 days from the date of service to object to the disclosure of confidential information and provide an explanation for why the disclosure is not in the interest of justice.</p> <p>D.C. Code § 14-312</p> <p>§ 14-312. Sexual assault counselors.</p> <p>(a) For the purposes of this section, the term:</p> <p>(1) “Confidential communication” means:</p> <p>(A) Information exchanged between a sexual assault victim 13 years of age or older and a sexual assault counselor during the course of the sexual assault counselor providing counseling, support, and assistance to the victim; and</p> <p>(B) Records kept by a community-based organization in the course of providing victim advocacy services pursuant to [§ 23-1909] for sexual assault victim 13 years of age or older.</p> <p>(2) “DC SANE Program” means the DC Sexual Assault Nurse Examiner Program that provides comprehensive medical forensic care to sexual assault victims including:</p> <p>(A) The DC Forensic Nurse Examiners;</p> <p>(B) The Child and Adolescent Protection Center; and</p> <p>(C) Any other entity within the District that is a member of the SART or the multidisciplinary investigation team, as described in [§ 4-1301.51].</p> <p>(3) “Intrafamily offense” shall have the same meaning as provided in § 16-1001(8).</p> <p>(4) “MPD” means the Metropolitan Police Department.</p> <p>(5) “Sexual assault” means any of the following offenses: §§ 22-1834 (sex trafficking of children); 22-2704 (abducting or enticing child from his or her home for the purposes of prostitution; harboring such child); 22-2705 (pandering; inducing or compelling an individual to engage in prostitution); 22-2706 (compelling an individual to live life of prostitution against his or her will); 22-2708 (causing spouse or domestic partner to live in prostitution); 22-2709 (detaining an individual in disorderly house for debt there contracted); 22-1901 (incest); 22-3002 (first degree sexual abuse); 22-3003 (second degree sexual abuse); 22-3004 (third degree sexual abuse); 22-3005 (fourth degree sexual abuse); 22-3006 (misdemeanor sexual abuse); 22-3008 (first degree child sexual abuse); 22-3009 (second degree child sexual abuse); 22-3009.01 (first degree sexual abuse of a minor); 22-3009.02 (second degree sexual abuse of a minor); 22-3009.03 (first degree sexual abuse of a secondary education student); 22-3009.04 (second degree sexual abuse of a secondary education student); 22-3010 (enticing a child or minor); 22-3010.01 (misdemeanor sexual abuse of a child or minor); 22-3010.02 (arranging for sexual contact with a real or fictitious child); 22-3013 (first degree sexual abuse of a ward, patient,</p> |
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| | <p>client, or prisoner); 22-3014 (second degree sexual abuse of a ward, patient, client, or prisoner); 22-3015 (first degree sexual abuse of a patient or client); 22-3016 (second degree sexual abuse of a patient or client); 22-3018 (attempts to commit sexual offenses); or 22-3102 (knowingly using a minor in a sexual performance or promoting a sexual performance by a minor).</p> <p>(5A) “Sexual assault counselor” shall have the same meaning as provided in § 23-1907(10).</p> <p>(6) “Sexual assault victim” means any individual against whom a sexual assault has been committed or is alleged to have been committed, including:</p> <ul style="list-style-type: none"> (A) Deceased individuals; and (B) Representatives appointed by the court to exercise the rights and receive services on behalf of sexual assault victims who are under 18 years of age, incompetent, incapacitated, or deceased. <p>(7) [Repealed].</p> <p>(b)</p> <p>(1) A sexual assault counselor shall not disclose a confidential communication except:</p> <ul style="list-style-type: none"> (A) As required by statute or by a court of law; (B) As voluntarily authorized in writing by the sexual assault victim; (C) To other individuals employed by the DC SANE Program and third party providers when and to the extent necessary to facilitate the delivery of services to the sexual assault victim; (D) To the MPD or other law enforcement agency to the extent necessary to protect the sexual assault 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 sexual assault victim files a lawsuit against a sexual assault counselor or the DC SANE Program. <p>(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.</p> <p>(3) The confidentiality of a confidential communication shall not be waived by the presence of, or disclosure to a:</p> <ul style="list-style-type: none"> (A) Sign language or foreign language interpreter; provided, that a sign language or foreign language interpreter shall be subject to the limitations and exceptions set forth in paragraph (1) of this subsection and the same privileges set forth in subsection (c) of this section; (B) Third party participating in group counseling with the sexual assault victim; or (C) Third party with the consent of the victim where reasonably necessary to accomplish the purpose for which the sexual assault counselor is consulted. <p>(4) [Repealed].</p> <p>(5) Notwithstanding any other law, sexual assault counselors shall report to the Metropolitan Police Department or the Child and Family Services Agency any crime disclosed in a confidential communication if the sexual assault counselor has actual knowledge that the crime disclosed to the sexual assault counselor involves:</p> <ul style="list-style-type: none"> (A) A victim under the age of 13; (B) A perpetrator or alleged perpetrator with whom the sexual assault victim has a significant relationship, as that term is defined in § 22-3001(10); or |

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| | <p>(C) A perpetrator or alleged perpetrator who is more than 4 years older than the sexual assault victim.</p> <p>(b-1) The presence of a sexual assault counselor shall not waive any privilege otherwise guaranteed by law.</p> <p>(c)</p> <p>(1) Except as provided in paragraph (2) of this subsection, when a sexual assault victim who is under 13 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 sexual assault victim’s parent, guardian, or personal representative may assert or waive the privilege.</p> <p>(2) If the parent, guardian, or personal representative of the sexual assault victim described in paragraph (1) of this subsection has been charged with an intrafamily offense, sexual assault, or has had a protection order or a neglect petition entered against him or her at the request of or on behalf of the sexual assault victim, or otherwise has interests adverse to those of the sexual assault 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.</p> <p>(d) The assertion of any privilege under this section is not admissible in evidence.</p> <p>D.C. Code § 14-311</p> <p>§ 14-311. Human trafficking counselors.</p> <p>(a) For the purposes of this section, the term:</p> <p>(1) “Confidential communication” means information exchanged between a victim and a human trafficking counselor during the course of the counselor providing counseling, support, and assistance to a victim, including all records kept by the counselor and the human trafficking program concerning the victim and services provided to the victim.</p> <p>(2) “Human trafficking counselor” means an employee, contractor, or volunteer of a human trafficking program who:</p> <p>(A) Is rendering support, counseling, or assistance to a victim;</p> <p>(B) Has undergone not less than 40 hours of human trafficking counselor training conducted by a human trafficking program that includes dynamics of human trafficking, trauma resulting from human trafficking, crisis intervention, personal safety, risk management, criminal and civil court processes, and resources available to victims; and</p> <p>(C)</p> <p>(i) Is or is under the supervision of a licensed social worker, nurse, physician, psychologist, or psychotherapist; or</p> <p>(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 human trafficking victims.</p> <p>(3) “Human trafficking offense” means abducting or enticing a child from his or her home for purposes of prostitution (§ 22-2704); harboring such child (§ 22-2704); pandering (§ 22-2705); inducing or compelling an individual to engage in prostitution (§ 22-2705); compelling an individual to live life of prostitution against his or her will (§ 22-2706); causing spouse to live in prostitution (§ 22-2708); sexual performance using minors (§ 22-3102); forced labor as prohibited by [§ 22-1832]; trafficking in labor or commercial sex as prohibited by [§ 22-1833]; sex trafficking of children as prohibited by [§ 22-1834]; unlawful conduct with respect to documents in furtherance of human trafficking as prohibited by [§ 22-1835]; or benefitting financially from human trafficking, as prohibited by [§ 22-1836].</p> <p>(4) “Human trafficking program” means a nonprofit, non-governmental organization that supports, counsels, and assists victims of human trafficking.</p> <p>(5) “Intrafamily offense” shall have the same meaning as provided in § 16-1001(8).</p> |

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| | <p>(6) “Victim” means a person against whom a human trafficking offense has been committed or is alleged to have been committed.</p> <p>(b)</p> <p>(1) A human trafficking counselor shall not disclose a confidential communication except:</p> <ul style="list-style-type: none"> (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 human trafficking 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 or kidnapping; (E) To compile statistical or anecdotal information, without personal identifying information, for research or public information purposes; <p>or</p> <ul style="list-style-type: none"> (F) For any confidential communications relevant to a claim or defense if the victim files a lawsuit against a human trafficking counselor or a human trafficking program. <p>(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.</p> <p>(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.</p> <p>(4) Notwithstanding any other law, human trafficking counselors shall report to the Metropolitan Police Department or the Child and Family Services Agency any crime disclosed in a confidential communication if the human trafficking counselor has actual knowledge that the crime disclosed to the human trafficking counselor involves:</p> <ul style="list-style-type: none"> (A) A victim under the age of 13; (B) A perpetrator or alleged perpetrator with whom the victim has a significant relationship, as that term is defined in § 22-3001(10); or (C) A perpetrator or alleged perpetrator who is more than 4 years older than the victim. <p>(c)</p> <p>(1) Except as provided in paragraph (2) of this subsection, when a victim is under 13 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.</p> <p>(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.</p> <p>(d) The assertion of any privilege under this section is not admissible in evidence.</p> <p>D.C. Code § 14-313 § 14-313. Hospital-based violence intervention programs.</p> <p>(a) For the purposes of this section, the term:</p> |

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| | <p>(1) “Confidential communication” means information exchanged between a victim and a HVIP member during the course of the HVIP member providing counseling, support, and assistance to a victim, including all records kept by the HVIP member and the hospital-based violence intervention program concerning the victim and services provided to the victim.</p> <p>(2) “Hospital” means a facility that provides 24-hour inpatient care, including diagnostic, therapeutic, and other health-related services, for a variety of physical or mental conditions, and may, in addition, provide outpatient services, particularly emergency care, from which a hospital-based violence intervention program operates.</p> <p>(3) “Hospital-based violence intervention program” means a non-governmental program that:</p> <ul style="list-style-type: none"> (A) Provides counseling, case management, and social services to victims at, or in conjunction with, a hospital to prevent retaliatory violence; and (B) Participates in, or is a member of, a coordinating body for similar programs, such as Project CHANGE or the Health Alliance for Violence Intervention. <p>(4) “HVIP member” means an employee, contractor, or volunteer of a hospital-based violence intervention program.</p> <p>(5) “Victim” means a person who suffered an intentionally inflicted gunshot or stabbing wound.</p> <p>(b)</p> <p>(1) An HVIP member shall not disclose a confidential communication except:</p> <ul style="list-style-type: none"> (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 hospital-based violence intervention 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 agencies, 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 hospital-based violence intervention program or HVIP members. <p>(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.</p> <p>(3) The confidentiality of a confidential communication shall not be waived by the presence of, or disclosure to, a:</p> <ul style="list-style-type: none"> (A) Sign language or foreign language interpreter, who shall be subject to the limitations and exceptions set forth in paragraph (1) of this subsection and the same privileges set forth in subsection (c) of this section; (B) Third party participating in group counseling with the victim; or (C) Third party with the consent of the victim where reasonably necessary to accomplish the purpose for which the HVIP member is consulted. <p>(c)</p> <p>(1) Except as provided in paragraph (2) of this subsection, when a victim is under 13 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.</p> |

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| | <p>(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 the parent, guardian, or personal representative 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.</p> <p>(d) The assertion of any privilege under this section is not admissible in evidence.</p> <p>D.C. Code § 14-314 § 14-314. Crime victim counselors.</p> <p>(a) For the purposes of this section, the term:</p> <p>(1) “Confidential communication” means information exchanged between a victim and a crime victim counselor during the course of the advocate providing counseling, support, and assistance to a victim, including all records kept by the crime victim counselor and the crime victim counselor program concerning the victim and services provided to the victim.</p> <p>(2) “Crime” means the following criminal offenses:</p> <ul style="list-style-type: none"> (A) Assault with intent to kill, rob, or poison, or to commit first degree sexual abuse, second degree sexual abuse or child sexual abuse, as provided in § 22-401; (B) Assault with intent to commit mayhem or with dangerous weapon, as provided in § 22-402; (C) Aggravated assault, as provided in § 22-404.01; (D) Murder in the first degree, as provided in § 22-2101; (E) Murder in the second degree, as provided in § 22-2103; and (F) Murder of a law enforcement officer, as provided in § 22-2106. <p>(3) “Crime victim counselor program” means a nonprofit, non-governmental organization that supports, counsels, and assists victims of crime.</p> <p>(4) “Crime victim counselor” means an employee, contractor, or volunteer of a crime victim counselor program who:</p> <ul style="list-style-type: none"> (A) Is rendering support, counseling, or assistance to a victim; (B) Has undergone at least 40 hours of training related to crime victim counseling that includes instruction on: <ul style="list-style-type: none"> (i) The dynamics and history of violent crime; (ii) Trauma resulting from violent crime; (iii) Responding to the specific needs of youth victims of violent crime; (iv) Trauma-informed care, crisis intervention, personal safety, and risk management; (v) Cultural humility; and (vi) Services available to victims of violent crime; and (C) Is supervised by an individual who has a minimum of: <ul style="list-style-type: none"> (i) Five years of experience rendering support, counseling, or assistance to victims of violent crime; or (ii) Three years of experience rendering support, counseling, or assistance victims of violent crime and an advanced degree in a related field. <p>(5) “Victim” means a person against whom a crime has been committed or attempted to be committed.</p> <p>(b)</p> <p>(1) A crime victim counselor shall not disclose a confidential communication except:</p> |

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| | <p>(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 crime victim counselor 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 agencies, 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 crime victim counselor program or its members.</p> <p>(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.</p> <p>(3) The confidentiality of a confidential communication shall not be waived by the presence of, or disclosure to, a:</p> <p>(A) Sign language or foreign language interpreter, who shall be subject to the limitations and exceptions set forth in paragraph (1) of this subsection and the same privileges set forth in subsection (c) of this section; (B) Third party participating in group counseling with the victim; or (C) Third party with the consent of the victim where reasonably necessary to accomplish the purpose for which the crime victim counselor is consulted.</p> <p>(c)</p> <p>(1) Except as provided in paragraph (2) of this subsection, when a victim is under 13 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.</p> <p>(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.</p> <p>(d) The assertion of any privilege under this section is not admissible in evidence.</p> <p>D.C. Code § 14-313 § 14-313. Hospital-based violence intervention programs.</p> <p>(a) For the purposes of this section, the term:</p> <p>(1) “Confidential communication” means information exchanged between a victim and a HVIP member during the course of the HVIP member providing counseling, support, and assistance to a victim, including all records kept by the HVIP member and the hospital-based violence intervention program concerning the victim and services provided to the victim.</p> <p>(2) “Hospital” means a facility that provides 24-hour inpatient care, including diagnostic, therapeutic, and other health-related services, for a variety of physical or mental conditions, and may, in addition, provide outpatient services, particularly emergency care, from which a hospital-based violence intervention program operates.</p> |

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| | <p>(3) “Hospital-based violence intervention program” means a non-governmental program that:</p> <ul style="list-style-type: none"> (A) Provides counseling, case management, and social services to victims at, or in conjunction with, a hospital to prevent retaliatory violence; and (B) Participates in, or is a member of, a coordinating body for similar programs, such as Project CHANGE or the Health Alliance for Violence Intervention. <p>(4) “HVIP member” means an employee, contractor, or volunteer of a hospital-based violence intervention program.</p> <p>(5) “Victim” means a person who suffered an intentionally inflicted gunshot or stabbing wound.</p> <p>(b)</p> <p>(1) An HVIP member shall not disclose a confidential communication except:</p> <ul style="list-style-type: none"> (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 hospital-based violence intervention 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 agencies, 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 hospital-based violence intervention program or HVIP members. <p>(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.</p> <p>(3) The confidentiality of a confidential communication shall not be waived by the presence of, or disclosure to, a:</p> <ul style="list-style-type: none"> (A) Sign language or foreign language interpreter, who shall be subject to the limitations and exceptions set forth in paragraph (1) of this subsection and the same privileges set forth in subsection (c) of this section; (B) Third party participating in group counseling with the victim; or (C) Third party with the consent of the victim where reasonably necessary to accomplish the purpose for which the HVIP member is consulted. <p>(c)</p> <p>(1) Except as provided in paragraph (2) of this subsection, when a victim is under 13 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.</p> <p>(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 the parent, guardian, or personal representative 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.</p> <p>(d) The assertion of any privilege under this section is not admissible in evidence.</p> |

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| <p>FLORIDA</p> | <p>Fla. Stat. Ann. § 90.5035 § 90.5035. Sexual assault counselor-victim privilege</p> <p>(1) For purposes of this section:</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <ol style="list-style-type: none"> 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. <p>(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.</p> <p>(3) The privilege may be claimed by:</p> <p>(a) The victim or the victim’s attorney on his or her behalf.</p> <p>(b) A guardian or conservator of the victim.</p> <p>(c) The personal representative of a deceased victim.</p> <p>(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.</p> <p>Fla. Stat. § 90.5036 § 90.5036. Domestic violence advocate-victim privilege.</p> <p>(1) For purposes of this section:</p> <p>(a) A “domestic violence center” is any public or private agency that offers assistance to victims of domestic violence, as defined in s. 741.28, and their families.</p> <p>(b) A “domestic violence advocate” means any employee or volunteer who has 30 hours of training in assisting victims of domestic violence and is an employee of or volunteer for a program for victims of domestic violence whose primary purpose is the rendering of advice, counseling, or assistance to victims of domestic violence.</p> <p>(c) A “victim” is a person who consults a domestic violence advocate for the purpose of securing advice, counseling, or assistance concerning a</p> |
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mental, physical, or emotional condition caused by an act of domestic violence, an alleged act of domestic violence, or an attempted act of domestic violence.

(d) A communication between a domestic violence advocate and a victim is “confidential” if it relates to the incident of domestic violence for which the victim is seeking assistance and 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, assessment, or interview.

2. Those persons to whom disclosure is reasonably necessary to accomplish the purpose for which the domestic violence advocate 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 domestic violence 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 domestic violence advocate and to records of those communications only if the advocate is registered under s. 39.905 at the time the communication is made. This privilege includes any advice given by the domestic violence advocate in the course of that relationship.

(3) The privilege may be claimed by:

(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 domestic violence advocate, but only on behalf of the victim. The authority of a domestic violence advocate to claim the privilege is presumed in the absence of evidence to the contrary.

Fla. Stat. § 90.5037

§ 90.5037. Human trafficking victim advocate-victim privilege.

(1) For purposes of this section, the term:

(a) “Anti-human trafficking organization” means a registered public or private agency that offers assistance to victims of the offense of human trafficking, as defined in s. 787.06(2).

(b) “Human trafficking victim” means a person who consults a human trafficking victim advocate or a trained volunteer for the purpose of securing advice, counseling, or services concerning a need arising from an experience of human trafficking exploitation.

(c) “Human trafficking victim advocate” means an employee of an anti-human trafficking organization whose primary purpose is to provide advice, counseling, or services to human trafficking victims and who complies with the training requirements under subsection (5).

(d) “Trained volunteer” means a person who volunteers with an anti-human trafficking organization and who complies with the training requirements under subsection (5).

(2) A communication between a human trafficking victim advocate or trained volunteer and a human trafficking victim is confidential if it is not intended to be disclosed to third persons other than:

(a) Those persons present to further the interest of the human trafficking victim in the consultation, examination, or interview.

(b) Those persons necessary for the transmission of the communication.

(c) Those persons to whom disclosure is reasonably necessary to accomplish the purposes for which the human trafficking victim advocate or trained volunteer is consulted.

(3) A human trafficking victim has a privilege to refuse to disclose, and to prevent any other person from disclosing, a confidential communication made by the human trafficking victim to a human trafficking victim advocate or trained volunteer or a record made in the course of advising, counseling, or providing services to the human trafficking victim. Such confidential communication or record may be disclosed only with the prior written consent of the human trafficking victim. This privilege includes any advice given by the human trafficking victim advocate or trained volunteer to the human trafficking

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| | <p>victim in the course of that relationship.</p> <p>(4) The privilege may be claimed by:</p> <ul style="list-style-type: none"> (a) The human trafficking victim or the human trafficking victim’s attorney on his or her behalf. (b) The guardian or conservator of the human trafficking victim. (c) The personal representative of a deceased human trafficking victim. (d) The human trafficking victim advocate or trained volunteer, but only on behalf of the human trafficking victim. The authority of a human trafficking victim advocate or trained volunteer to claim the privilege is presumed in the absence of evidence to the contrary. <p>(5) A human trafficking victim advocate or a trained volunteer shall:</p> <ul style="list-style-type: none"> (a) Complete 24 hours of human trafficking training delivered by the Office of the Attorney General, the Bureau of Criminal Justice Programs and Victim Services, and the Florida Crime Prevention Training Institute. (b) Within 3 years after completing the training required under paragraph (a), complete an 8-hour human trafficking update course. |
| <p>GEORGIA</p> | <p>O.C.G.A. § 24-5-509</p> <p>24-5-509. Communications between victim of family violence or sexual assault and agents providing services to such victim; termination of privilege.</p> <p>(a) As used in this Code section, the term:</p> <ul style="list-style-type: none"> (1) “Agent” means a current or former employee or volunteer of a program who has successfully completed a minimum of 20 hours of training in family violence and sexual assault intervention and prevention at a Criminal Justice Coordinating Council certified victim assistance program. (2) “Family violence” shall have the same meaning as provided in Code Section 19-13-1. (3) “Family violence shelter” means a program whose primary purpose is to provide services to family violence victims and their families that is not under the direct supervision of a law enforcement agency, prosecuting attorney’s office, or a government agency. (4) “Family violence victim” means a person who consults a family violence shelter for the purpose of securing advice or other services concerning an act of family violence, an alleged act of family violence, or an attempted act of family violence. (5) “Government agency” means any agency of the executive, legislative, or judicial branch of government or political subdivision or authority thereof of this state, any other state, the District of Columbia, the United States and its territories and possessions, or any foreign government or international governmental or quasi-governmental agency recognized by the United States or by any of the several states. (6) “Negative effect of the disclosure of the evidence on the victim” shall include the impact of the disclosure on the relationship between the victim and the agent and the delivery and accessibility of services. (7) “Program” means a family violence shelter or rape crisis center. (8) “Rape crisis center” means a program whose primary purpose is to provide services to sexual assault victims and their families that is not under the direct supervision of a law enforcement agency, prosecuting attorney’s office, or a government agency. (9) “Services” means any services provided to a victim by a program including but not limited to crisis hot lines, safe homes and shelters, assessment and intake, counseling, services for children who are victims of family violence or sexual assault, support in medical, administrative, and judicial systems, transportation, relocation, and crisis intervention. Such term shall not include mandatory reporting as required by Code Section 19-7-5 or 30-5-4. (10) “Sexual assault” shall have the same meaning as provided in Code Section 17-5-70. (11) “Sexual assault victim” means a person who consults a rape crisis center for the purpose of securing advice or other services concerning a sexual assault, an alleged sexual assault, or an attempted sexual assault. |

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| | <p>(12) “Victim” means a family violence victim or sexual assault victim.</p> <p>(b) No agent of a program shall be compelled to disclose any evidence in a judicial proceeding that the agent acquired while providing services to a victim, provided that such evidence was necessary to enable the agent to render services, unless the privilege has been waived by the victim or, upon motion by a party, the court finds by a preponderance of the evidence at a pretrial hearing or hearing outside the presence of the jury that:</p> <p>(1) In a civil proceeding:</p> <p>(A) The evidence sought is material and relevant to factual issues to be determined;</p> <p>(B) The evidence is not sought solely for the purpose of referring to the victim’s character for truthfulness or untruthfulness; provided, however, that this subparagraph shall not apply to evidence of the victim’s prior inconsistent statements;</p> <p>(C) The evidence sought is not available or already obtained by the party seeking disclosure; and</p> <p>(D) The probative value of the evidence sought substantially outweighs the negative effect of the disclosure of the evidence on the victim; or</p> <p>(2) In a criminal proceeding:</p> <p>(A) The evidence sought is material and relevant to the issue of guilt, degree of guilt, or sentencing for the offense charged or a lesser included offense;</p> <p>(B) The evidence is not sought solely for the purpose of referring to the victim’s character for truthfulness or untruthfulness; provided, however, that this subparagraph shall not apply to evidence of the victim’s prior inconsistent statements;</p> <p>(C) The evidence sought is not available or already obtained by the party seeking disclosure; and</p> <p>(D) The probative value of the evidence sought substantially outweighs the negative effect of the disclosure of the evidence on the victim.</p> <p>(c) If the court finds that the evidence sought may be subject to disclosure pursuant to subsection (b) of this Code section, the court shall order that such evidence be produced for the court under seal, shall examine the evidence in camera, and may allow disclosure of those portions of the evidence that the court finds are subject to disclosure under this Code section.</p> <p>(d) The privilege afforded under this Code section shall terminate upon the death of the victim.</p> <p>(e) The privilege granted by this Code section shall not apply if the agent was a witness or party to the family violence or sexual assault or other crime that occurred in the agent’s presence.</p> <p>(f) The mere presence of a third person during communications between an agent and a victim shall not void the privilege granted by this Code section, provided that the communication occurred in a setting when or where the victim had a reasonable expectation of privacy.</p> <p>(g) If the victim is or has been judicially determined to be incompetent, the victim’s guardian may waive the victim’s privilege.</p> <p>(h) In criminal proceedings, if either party intends to compel evidence based on this Code section, the party shall file and serve notice of his or her intention on the opposing party at least ten days prior to trial, or as otherwise directed by the court. The court shall hold a pretrial hearing in accordance with subsection (b) of this Code section and determine the issue prior to trial.</p> <p>O.C.G.A. § 46-5-7 46-5-7. Plan to ensure confidentiality of family violence shelters’ addresses and locations.</p> <p>(a) Prior to January 1, 2005, each person, corporation, or other entity that provides telephone service in this state and each person, corporation, or other entity that publishes, disseminates, or otherwise provides telephone directory information or listings of telephone subscribers in this state shall file a plan with the commission setting forth in detail how such person, corporation, or other entity will protect the confidentiality of the address or location of family violence shelters, as defined in Code Section 19-13-20, in this state. Such plan shall describe the manner in which the person, corporation, or other entity will identify all such shelters and the manner in which the person, corporation, or other entity will keep the location and address of such shelters confidential.</p> <p>(b) Such persons, corporations, and other entities shall update such plans at least every 24 months.</p> |
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| | <p>(c) Such original and updated plans shall be approved by the commission within a reasonable time upon a determination that the plans are reasonably effective in identifying the family violence shelters in the state and in maintaining the confidentiality of the location and address of such family violence shelters. If the commission determines that a plan is inadequate, it shall state the basis on which the plan was determined to be inadequate and shall allow the person, corporation, or other entity filing such plan a period of not more than 30 days to file a revised plan that is acceptable to the commission.</p> <p>(d) Such plans shall not be open to examination by the public and shall be exempt from disclosure under the provisions of Article 4 of Chapter 18 of Title 50.</p> <p>(e) Within three days of filing original plans or updates with the commission, each person, corporation, or other entity subject to this Code section shall submit a copy of all original plans, updated plans, and revised plans to the State Commission on Family Violence, which is authorized to provide comments concerning such plans to the commission in order to aid in review and approval of such plans.</p> <p>(f) The filing or approval of such plans shall not in any manner be a defense to any action or prosecution.</p> |
| <p>GUAM</p> | <p>6 Guam Code Ann. § 9102</p> <p>(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.</p> <p>(b) Victim-Advocate Privilege.</p> <p>(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.</p> <p>(2) The privilege may be claimed by the following:</p> <p>(A) The victim, or the victim's attorney on behalf of the victim.</p> <p>(B) A guardian or conservator of the victim.</p> <p>(C) The personal representative of a deceased victim.</p> <p>(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.</p> <p>(c) Consultation Between Crime Victim Advocate and Victim; Privileged Information; Exception.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> |

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| | <p>(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.</p> |
| <p>HAWAII</p> | <p>Haw. Rev. Stat. Ann. § Rule-505.5 Victim-counselor privilege.</p> <p>(a) Definitions. As used in this rule:</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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, dating violence, stalking, sexual harassment, or child abuse.</p> <p>(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.</p> <p>(7) A “victim counselor” is a sexual assault counselor, a domestic violence victims’ counselor, or confidential advocate. 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 thirty-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. A confidential advocate is a person who is designated by the University of Hawaii pursuant to section 304A-120 to confidentially discuss sexual assault, domestic violence, dating violence, stalking, sexual harassment, and related issues with victims, has undergone a minimum of thirty-five hours of training, and whose primary function is the rendering of advice, counseling, or assistance to victims.</p> <p>(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, dating violence, stalking, sexual harassment, 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.</p> <p>(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.</p> |

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| | <p>(d) Exceptions. There is no privilege under this rule:</p> <ul style="list-style-type: none"> (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 | <p>Idaho Code § 39-5211 39-5211. Qualifications of applicants. To qualify for domestic violence grants under the provisions of this chapter, an applicant must:</p> <ul style="list-style-type: none"> (1) Propose to operate and provide an eligible project; (2) Be a private, nonprofit corporation of the state of Idaho, or a public entity of the state of Idaho; (3) Provide matching moneys equal to twenty-five percent (25%) of the amount of the grant. The applicant 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 part of the local matching requirement; (4) Require persons employed by or volunteering services to the project to maintain the confidentiality of any information that would identify individuals served by the project; such information identifying individuals served by the project shall be subject to disclosure according to chapter 1, title 74, Idaho Code; (5) Require victims to reimburse the project monetarily or through volunteer efforts for services provided as they are able to do so. Minimum reimbursement may be established by the council, with a sliding scale of reimbursement based on the victim's ability to pay; |

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| | <p>(6) Provide a policy of nondiscrimination in its admissions and provision of services on the basis of race, religion, gender, color, age, marital status, national origin or ancestry.</p> <p>Idaho Code § 9-203 (9)-(10) 9-203. Confidential relations and communications.</p> <p>(9) A person employed by or volunteering at a nongovernmental domestic or sexual violence program shall not, without the written and signed consent of the recipient of services, be required to or compelled to disclose any communication made between the person in the course of employment or volunteer services for the domestic or sexual violence program and a recipient of the program’s services or to disclose information or records about a recipient of the services of a domestic or sexual violence program, provided that disclosure of communications during or as part of court proceedings is subject to the rules of the Idaho supreme court. The provisions of this subsection shall not apply to communications made to a provider or employee during medical services, medical procedures, medical exams, medical evaluations, or forensic interviews.</p> <p>(10) For purposes of this section:</p> <p>(a) “Recipient” means any individual who has received or inquired about receiving services or assistance from a domestic or sexual violence program, including shelter, advocacy, counseling, or other services offered by a domestic or sexual violence program.</p> <p>(b) “Domestic or sexual violence program” means any nonprofit organization, nongovernmental organization, private entity, or tribe or tribal organization that has as its primary purpose the operation of shelters or supportive services for victims of domestic or sexual violence and their dependents or counseling, advocacy, or self-help services to victims of domestic or sexual violence.</p> |
| ILLINOIS | <p>750 Ill. Comp. Stat. Ann. 60/227 § 750 ILCS 60/227. Privileged communications between domestic violence counselors and victims</p> <p>(a) As used in this Section:</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>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.</p> <p>(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.</p> |

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| | <p>(5) “Domestic violence” means abuse as defined in this Act.</p> <p>(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.</p> <p>(c) A domestic violence advocate or counselor who knowingly discloses any confidential communication in violation of this Act commits a Class A misdemeanor.</p> <p>(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.</p> <p>(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].</p> <p>(f) Nothing in this Section shall be construed to limit in any way any privilege that might otherwise exist under statute or common law.</p> <p>(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.</p> <p>750 ILCS 60/227.1 750 ILCS 60/227.1 Other privileged information Except as otherwise provided in this Section, no court or administrative or legislative body shall compel any person or domestic violence program to disclose the location of any domestic violence program or the identity of any domestic violence advocate or counselor in any civil or criminal case or proceeding or in any administrative or legislative proceeding. A court may compel disclosure of the location of a domestic violence program or the identity of a domestic violence advocate or counselor if the court finds, following a hearing, that there is clear and convincing evidence that failure to disclose would be likely to result in an imminent risk of serious bodily harm or death to a domestic violence victim or another person. If the court makes such a finding, then disclosure shall take place in camera, under a restrictive protective order that does not frustrate the purposes of compelling the disclosure, and the information disclosed shall not be made a part of the written record of the case.</p> <p>735 ILCS 5/8-802.1 735 ILCS 5/8-802.1 Confidentiality of Statements Made to Rape Crisis Personnel. (a) Purpose. This Section is intended to protect victims of rape from public disclosure of statements they make in confidence to counselors of organizations established to help them. On or after July 1, 1984, “rape” means an act of forced sexual penetration or sexual conduct, as defined in</p> |
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| | <p>Section 11-0.1 of the Criminal Code of 2012 [720 ILCS 5/11-0.1], including acts prohibited under Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 [720 ILCS 5/11-1.20 through 720 ILCS 5/11-1.60 or 720 ILCS 5/12-13 through 720 ILCS 5/12-16]. Because of the fear and stigma that often results from those crimes, many victims hesitate to seek help even where it is available at no cost to them. As a result they not only fail to receive needed medical care and emergency counseling, but may lack the psychological support necessary to report the crime and aid police in preventing future crimes.</p> <p>(b) Definitions. As used in this Act:</p> <p>(1) “Rape crisis organization” means any organization or association a major purpose of which is providing information, counseling, and psychological support to victims of any or all of the crimes of aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual assault, sexual relations between siblings, criminal sexual abuse and aggravated criminal sexual abuse. “Rape crisis organization” includes, but is not limited to, rape crisis centers certified by a statewide sexual assault coalition.</p> <p>(2) “Rape crisis counselor” means a person who is a psychologist, social worker, employee, or volunteer in any organization or association defined as a rape crisis organization under this Section, who has undergone 40 hours of training and is under the control of a direct services supervisor of a rape crisis organization.</p> <p>(3) “Victim” means a person who is the subject of, or who seeks information, counseling, or advocacy services as a result of an aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual assault, sexual relations within families, criminal sexual abuse, aggravated criminal sexual abuse, sexual exploitation of a child, indecent solicitation of a child, public indecency, exploitation of a child, promoting juvenile prostitution as described in subdivision (a)(4) of Section 11-14.4 [720 ILCS 5/11-14.4], or an attempt to commit any of these offenses.</p> <p>(4) “Confidential communication” means any communication between a victim and a rape crisis counselor in the course of providing information, counseling, and advocacy. The term includes all records kept by the counselor or by the organization in the course of providing services to an alleged victim concerning the alleged victim and the services provided.</p> <p>(c) Waiver of privilege.</p> <p>(1) The confidential nature of the communication is not waived by: the presence of a third person who further expresses the interests of the victim at the time of the communication; group counseling; or disclosure to a third person with the consent of the victim when reasonably necessary to accomplish the purpose for which the counselor is consulted.</p> <p>(2) The confidential nature of counseling records is not waived when: the victim inspects the records; or in the case of a minor child less than 12 years of age, a parent or guardian whose interests are not adverse to the minor inspects the records; or in the case of a minor victim 12 years or older, a parent or guardian whose interests are not adverse to the minor inspects the records with the victim’s consent, or in the case of an adult who has a guardian of his or her person, the guardian inspects the records with the victim’s consent.</p> <p>(3) When a victim is deceased, the executor or administrator of the victim’s estate may waive the privilege established by this Section, unless the executor or administrator has an interest adverse to the victim.</p> <p>(4) A minor victim 12 years of age or older may knowingly waive the privilege established in this Section. When 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, unless the parent or guardian has been charged with a violent crime against the victim or otherwise has any interest adverse to that of the minor with respect to the waiver of the privilege.</p> <p>(5) An adult victim who has a guardian of his or her person may knowingly waive the privilege established in this Section. When the victim is, in the opinion of the court, incapable of knowingly waiving the privilege, the guardian of the adult victim may waive the privilege on behalf of the</p> |
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| | <p>victim, unless the guardian has been charged with a violent crime against the victim or otherwise has any interest adverse to the victim with respect to the privilege.</p> <p>(d) Confidentiality. Except as provided in this Act, no rape crisis counselor shall disclose any confidential communication or be examined as a witness in any civil or criminal proceeding as to any confidential communication without the written consent of the victim or a representative of the victim as provided in subparagraph (c).</p> <p>(e) A rape crisis counselor 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 rape crisis counselor or rape crisis organization participating in good faith in the disclosing of records and communications under this Act 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 any rape crisis counselor or rape crisis organization who disclosed the confidential communication shall be presumed.</p> <p>(f) Any rape crisis counselor who knowingly discloses any confidential communication in violation of this Act commits a Class C misdemeanor.</p> <p>735 ILCS 5/8-802.2 735 ILCS 5/8-802.2 Confidentiality of statements made to personnel counseling victims of violent crimes</p> <p>(a) Purpose. This Section is intended to protect victims of violent crimes from public disclosure of statements they make in confidence to counselors of organizations established to help them. Because of the fear and trauma that often results from violent crimes, many victims hesitate to seek help even where it is available and may therefore lack the psychological support necessary to report the crime and aid police in preventing future crimes.</p> <p>(b) Definitions. As used in this Act, “violent crimes” include, but are not limited to, any felony in which force or threat of force was used against the victim or any misdemeanor which results in death or great bodily harm to the victim.</p> <p>(c) Confidentiality. Where any victim of a violent crime makes a statement relating to the crime or its circumstances during the course of therapy or consultation to any counselor, employee or volunteer of a victim aid organization, the statement or contents thereof shall not be disclosed by the organization or any of its personnel unless the maker of the statement consents in writing or unless otherwise directed pursuant to this Section. If in any judicial proceeding, a party alleges that such statements are necessary to the determination of any issue before the court and written consent to disclosure has not been given, the party may ask the court to consider the relevance and admissibility of the statements. In such a case, the court shall hold a hearing in camera on the relevance of the statements. If the court finds them relevant and admissible to the issue, the court shall order the statements to be disclosed.</p> <p>735 ILCS 5/8-804 735 ILCS 5/8-804 Confidential advisor.</p> <p>(a) This Section is intended to protect students at higher education institutions in this State who are survivors of sexual violence from public disclosure of communications they make in confidence to confidential advisors. Because of the fear, stigma, and trauma that often result from incidents of sexual violence, many survivors hesitate to report or seek help, even when it is available at no cost to them. As a result, they not only fail to receive needed medical care and emergency counseling, but may lack the psychological support necessary to report the incident of sexual violence to the higher education institution or law enforcement.</p> <p>(b) In this Section: “Confidential advisor” means a person who is employed or contracted by a higher education institution to provide emergency and ongoing support</p> |
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| | <p>to survivors of sexual violence with the training, duties, and responsibilities described in Section 20 of the Preventing Sexual Violence in Higher Education Act [110 ILCS 155/20].</p> <p>“Higher education institution” means a public university, a public community college, or an independent, not-for-profit or for-profit higher education institution located in this State.</p> <p>“Sexual violence” means physical sexual acts attempted or perpetrated against a person’s will or when a person is incapable of giving consent, including without limitation rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.</p> <p>“Survivor” means a student who has experienced sexual violence while enrolled at a higher education institution.</p> <p>(c) All communications between a confidential advisor and a survivor pertaining to an incident of sexual violence shall remain confidential, unless the survivor consents to the disclosure of the communication in writing, the disclosure falls within one of the exceptions outlined in subsection (d) of this Section, or failure to disclose the communication would violate State or federal law. Communications include all records kept by the confidential advisor in the course of providing the survivor with services related to the incident of sexual violence.</p> <p>(d) The confidential advisor may disclose confidential communications between the confidential advisor and the survivor if failure to disclose would result in a clear, imminent risk of serious physical injury to or death of the survivor or another person.</p> <p>The confidential advisor shall have no obligation to report crimes to the higher education institution or law enforcement, except to report to the Title IX coordinator, as defined by Title IX of the federal Education Amendments of 1972, on a monthly basis the number and type of incidents of sexual violence reported exclusively to the confidential advisor in accordance with the higher education institution’s reporting requirements under subsection (b) of Section 9.21 of the Board of Higher Education Act [110 ILCS 205/9.21] and under federal law.</p> <p>If, in any judicial proceeding, a party alleges that the communications are necessary to the determination of any issue before the court and written consent to disclosure has not been given, the party may ask the court to consider ordering the disclosure of the communications. In such a case, communications may be disclosed if the court finds, after in camera examination of the communication, that the communication is relevant, probative, and not unduly prejudicial or inflammatory or is otherwise clearly admissible; that other evidence is demonstrably unsatisfactory as evidence of the facts sought to be established by the communication or communications; and that disclosure is more important to the interests of substantial justice than protection from injury to the confidential advisor-survivor relationship, to the survivor, or to any other individual whom disclosure is likely to harm.</p> <p>(e) This privilege shall not preclude an individual from asserting a greater privilege under federal or State law that applies.</p> <p>735 ILCS 5/804.5 735 ILCS 5/[8-804.5] Parties to a restorative justice practice.</p> <p>(a) This Section is intended to encourage the use of restorative justice practices by providing a privilege for participation in such practices and ensuring that anything said or done during the practice, or in anticipation of or as a follow-up to the practice, is privileged and may not be used in any future proceeding unless the privilege is waived by the informed consent of the party or parties covered by the privilege. The General Assembly affords this privilege in recognition of restorative justice as a powerful tool in addressing the needs of victims, offenders, and the larger community in the process of repairing the fabric of community peace. The General Assembly encourages residents of this State to employ restorative justice practices, not only in justiciable matters, but in all aspects of life and law.</p> <p>(b) As used in this Section:</p> <p>“Circle” means a versatile restorative practice that can be used proactively, to develop relationships and build community, or reactively, to respond to wrongdoing, conflicts, and problems.</p> |

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| | <p>“Conference” means a structured meeting between offenders, victims, and both parties’ family and friends, in which they deal with the consequences of a crime or wrongdoing and decide how best to repair the harm.</p> <p>“Facilitator” means a person who is trained to facilitate a restorative justice practice.</p> <p>“Party” means a person, including a facilitator, an individual who has caused harm, an individual who has been harmed, a community member, and any other participant, who voluntarily consents to participate with others who have agreed to participate in a restorative justice practice.</p> <p>“Proceeding” means any legal action subject to this Code, including, but not limited to, civil, criminal, juvenile, or administrative hearings.</p> <p>“Restorative justice practice” or “practice” means a gathering, such as a conference or circle, in which parties who have caused harm or who have been harmed and community stakeholders collectively gather to identify and repair harm to the extent possible, address trauma, reduce the likelihood of further harm, and strengthen community ties by focusing on the needs and obligations of all parties involved through a participatory process.</p> <p>(c) Anything said or done during or in preparation for a restorative justice practice or as a follow-up to that practice, or the fact that the practice has been planned or convened, is privileged and cannot be referred to, used, or admitted in any civil, criminal, juvenile, or administrative proceeding unless the privilege is waived, during the proceeding or in writing, by the party or parties protected by the privilege. Privileged information is not subject to discovery or disclosure in any judicial or extrajudicial proceedings.</p> <p>Any waiver of privilege is limited to the participation and communication of the waiving party only, and the participation or communications of any other participant remain privileged unless waived by the other participant.</p> <p>(d) Evidence that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because it was discussed or used in a restorative justice practice.</p> <p>(e) The legitimacy of a restorative justice practice, if challenged in any civil, juvenile, criminal, or administrative proceeding, shall be determined by a judge. In a hearing conducted pursuant to this subsection, the judge may consider information that would otherwise be privileged to the extent that the information is probative of the issue.</p> <p>(f) The privilege afforded by this Section does not apply if:</p> <ol style="list-style-type: none"> (1) disclosure is necessary to prevent death, great bodily harm, or the commission of a crime; (2) necessary to comply with another law; or (3) a court, tribunal, or administrative body requires a report on a restorative justice practice, but such report shall be limited to the fact that a practice has taken place, an opinion regarding the success of the practice, and whether further restorative justice practices are expected. <p>(g) This Section applies to all restorative justice practices that are convened on or after the effective date of this amendatory Act of the 102nd General Assembly.</p> |
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| INDIANA | <p>Burns Ind. Code Ann. § 35-37-6-1 35-37-6-1. “Confidential communication” defined. (a) As used in this chapter, “confidential communication” means any information:</p> <ol style="list-style-type: none"> (1) exchanged between a victim and a victim advocate in the course of the relationship between the victim and the victim advocate; (2) exchanged or disclosed in a support group in which a victim is or was a participant; or (3) exchanged in the presence of a third person who facilitates or facilitated communication between a victim and a victim advocate. <p>(b) The term includes communication that is verbal or written and includes:</p> <ol style="list-style-type: none"> (1) advice; (2) notes; (3) reports; (4) statistical data; (5) memoranda; (6) working papers; (7) records; and (8) personally identifying information; produced in the course of advocating for a victim. <p>Burns Ind. Code Ann. § 35-37-6-1.5 35-37-6-1.5. “Confidential information” defined. (a) As used in this chapter, “confidential information” includes:</p> <ol style="list-style-type: none"> (1) personally identifying information; (2) descriptions of physical appearance; (3) the case file; and (4) the case history; <p>of a person who seeks, receives, or has received services from a victim advocate.</p> <p>(b) The term does not include:</p> <p>(1) information disclosed to a victim service provider or a victim advocate if the victim:</p> <p>(A) files criminal charges;</p> <p>(B) institutes a civil lawsuit; or</p> <p>(C) reports allegations of criminal conduct to a law enforcement agency; against the victim service provider or victim advocate; and</p> <p>(2) alleged child abuse or neglect that is required to be reported under IC 31-33.</p> <p>Burns Ind. Code Ann. § 35-37-6-2.5 35-37-6-2.5. “Personally identifying information” defined. (a) As used in this chapter, “personally identifying information” means information that identifies a victim or the location where domestic violence, dating violence, sexual assault, or stalking occurred, including the victim’s:</p> <ol style="list-style-type: none"> (1) name; |

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| | <p>(2) mailing and physical address; (3) electronic mail address; (4) Internet protocol address; (5) telephone numbers, including facsimile numbers; (6) Social Security number; (7) date of birth; (8) racial or ethnic background; and (9) religious affiliation.</p> <p>(b) The term includes any other information that, in combination with other nonpersonally identifying information, would identify an individual.</p> <p>Burns Ind. Code Ann. § 35-37-6-2.7 35-37-6-2.7. Student advocate office defined. As used in this chapter, “student advocate office” means a student services office, victim assistance office, or other victim counselor as designated by a state educational institution or an approved postsecondary educational institution.</p> <p>Burns Ind. Code Ann. § 35-37-6-3 35-37-6-3. “Victim” defined. As used in this chapter, “victim” means: (1) an individual against whom an act of: (A) domestic or family violence; (B) dating violence; (C) sexual assault (as defined in IC 5-26.5-1-8); (D) human and sexual trafficking (IC 35-42-3.5); or (E) stalking (IC 35-45-10-5); is committed; or (2) an individual: (A) who is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and (B) who: (i) is a member of the family of an individual described in subdivision (1); but (ii) is not a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).</p> <p>Burns Ind. Code Ann. § 35-37-6-3.5 35-37-6-3.5. “Victim advocate” defined. (a) As used in this chapter, “victim advocate” means an individual employed or appointed by or who volunteers for: (1) a victim services provider; or (2) the student advocate office of a state educational institution or an approved postsecondary educational institution, if the individual</p> |

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| | <p>provides services to a victim.</p> <p>(b) The term does not include:</p> <ul style="list-style-type: none"> (1) a law enforcement officer; (2) an employee or agent of a law enforcement officer; (3) a prosecuting attorney; or (4) an employee or agent of a prosecuting attorney’s office. <p>(c) The term includes an employee, an appointee, or a volunteer of a:</p> <ul style="list-style-type: none"> (1) victim services provider; (2) domestic violence program; (3) sexual assault program; (4) rape crisis center; (5) battered women’s shelter; (6) transitional housing program for victims of domestic violence; or (7) program that has as one (1) of its primary purposes to provide services to an individual: <ul style="list-style-type: none"> (A) against whom an act of: <ul style="list-style-type: none"> (i) domestic or family violence; (ii) dating violence; (iii) sexual assault (as defined in IC 5-26.5-1-8); (iv) human and sexual trafficking (IC 35-42-3.5); or (v) stalking (IC 35-45-10-5); <p>is committed; or</p> <p>(B) who:</p> <ul style="list-style-type: none"> (i) is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and (ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5). <p>Burns Ind. Code Ann. § 35-37-6-5 35-37-6-5. “Victim service provider” defined. As used in this chapter, “victim service provider” means a person:</p> <ul style="list-style-type: none"> (1) that is: <ul style="list-style-type: none"> (A) a public agency; (B) a unit of a public agency; or (C) an organization that is exempt from federal income taxation under Section 501 of the Internal Revenue Code; (2) that is not affiliated with a law enforcement agency; (3) that has, as one (1) of its primary purposes, to provide services for emotional and psychological conditions that occur to an individual: |

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| | <p>(A) against whom an act of:</p> <ul style="list-style-type: none"> (i) domestic or family violence; (ii) dating violence; (iii) sexual assault (as defined in IC 5-26.5-1-8); (iv) human and sexual trafficking (IC 35-42-3.5); or (v) stalking (IC 35-45-10-5); <p>is committed; or</p> <p>(B) who:</p> <ul style="list-style-type: none"> (i) is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and (ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5). <p>Burns Ind. Code Ann. § 35-37-6-7 35-37-6-7. Other testimonial privileges available. This chapter does not limit any other testimonial privilege available to a person.</p> <p>Burns Ind. Code Ann. § 35-37-6-8 35-37-6-8. Duty to report. This chapter does not relieve a victim advocate of any duty to report suspected abuse, neglect, battery, or exploitation under IC 12-10-3, IC 31-33, or IC 35-46-1-13.</p> <p>Burns Ind. Code Ann. § 35-37-6-9 Testimonial privileges.</p> <p>(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:</p> <ul style="list-style-type: none"> (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. <p>(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.</p> <p>(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.</p> <p>(d) This section does not prohibit a victim from providing testimony concerning an offense.</p> <p>(e) The consent to disclose information on behalf of:</p> |
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| | <p>(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.</p> <p>Burns Ind. Code Ann. § 35-37-6-10 35-37-6-10. Waiver by victim – Limitation. (a) A victim does not waive the protections afforded by this chapter by testifying in court about an offense. However, if the victim partially discloses the contents of a confidential communication in the course of testifying, either party may request the court to rule that justice requires the protections of this chapter to be waived, to the extent they apply to that portion of the communication. (b) A waiver under this section applies 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.</p> <p>Burns 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.</p> <p>Burns Ind. Code Ann. § 35-37-6-13 35-37-6-13. Authorization for victim advocate or victim service provider to release information. (a) Except as provided in subsection (d): (1) a victim; or (2) in the case of a deceased victim, the victim’s personal representative; may authorize a victim advocate or victim service provider to release confidential information or other information by signing a written authorization that specifies what information will be released and to whom the information will be released. (b) The authorization described in subsection (a) must include a date the authorization expires. (c) A victim advocate shall make reasonable attempts to notify a victim when a victim service provider or victim advocate is required to disclose confidential information or confidential communications. (d) A consent for release may not be given by a personal representative of the victim if the personal representative: (1) abused or killed the victim; (2) is alleged to have abused or killed the victim; or</p> |

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| | <p>(3) assisted another person in abusing or killing the victim.</p> <p>Burns Ind. Code Ann. § 35-37-6-14 35-37-6-14. Victim does not waive privileges or confidentiality protections by testifying about certain acts or revealing certain information. (a) This section does not: (1) relieve a prosecuting attorney of the constitutional and ethical obligation to disclose exculpatory evidence; and (2) prohibit impeachment of a victim as permitted by the Indiana Rules of Evidence. (b) A victim does not waive any privileges or confidentiality protections under this chapter if the victim: (1) testifies about underlying acts of domestic violence, dating violence, sexual assault, or stalking; or (2) reveals that he or she used or attempted to use the services of a victim service provider or victim advocate.</p> <p>Burns Ind. Code Ann. § 35-37-6-15 35-37-6-15. Partial disclosure does not waive privilege of confidential communication. The partial disclosure of a confidential communication under this chapter does not waive any privilege concerning the remainder of the confidential communication.</p> <p>Burns Ind. Code Ann. § 35-37-6-16 35-37-6-16. Exercise of privilege under chapter does not raise negative inferences or presumptions. The fact that a victim or victim advocate refuses to testify or disclose information because of a privilege under this chapter does not raise any negative inferences or presumptions.</p> <p>Burns Ind. Code Ann. § 35-37-6-17 35-37-6-17. Victim service provider may disclose information that does not identify victim to comply with federal or state data collection requirements. A victim service provider may disclose information in the aggregate that does not identify a victim regarding services and demographic information to comply with federal or state data collection requirements.</p> |
| IOWA | <p>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.</p> |

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| | <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> 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. <p>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,</p> |
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| | <p>shall adhere to the following procedure:</p> <ul style="list-style-type: none"> 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. <p>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.</p> |
| <p>KANSAS</p> | <p>No specific DV/SA privilege Kan. Stat. Ann. § 44-1132 Discrimination, retaliation prohibited; time off for certain purposes; documentation required; confidentiality of information; limitations on time off</p> <p>(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:</p> <p>(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.</p> <p>Kan. Stat. Ann. § 65-5810 Confidential communications; exceptions</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> |

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| KENTUCKY | <p>KRE Rule 506 Rule 506. Counselor-client privilege</p> <p>(a) Definitions. As used in this rule:</p> <p>(1) A "counselor" includes:</p> <ul style="list-style-type: none"> (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. <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(d) Exceptions. There is no privilege under this rule for any relevant communication:</p> <ul style="list-style-type: none"> (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: <ul style="list-style-type: none"> (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 |

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| | <p>(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.</p> <p>KRS § 209A.070 209A.070. Confidentiality of the identity of domestic violence program clients or former clients All information that identifies a current or former client of a domestic violence program is confidential and shall not be disclosed by any person except as provided by law. The cabinet shall have access to client information relating to any domestic violence program for the limited purpose of monitoring the program.</p> <p>KRS § 211.608 211.608. Confidentiality of rape crisis center clients' records. All client records, requests for services, and reports that directly or indirectly identify a client or former client of a rape crisis center are confidential and shall not be disclosed by any person except as provided by law. The cabinet shall have access to client records, requests for services, and reports relating to any rape crisis center for the limited purpose of monitoring the center, and the cabinet shall promulgate an administrative regulation in accordance with KRS Chapter 13A that will set forth the process by which access to these documents will be gained, the nature of the monitoring that will take place, and the measures to be used to ensure confidentiality of the people identified in the records.</p> <p>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.</p> <p>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.</p> |

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| LOUISIANA | <p>La. Rev. Stat. Ann. § 46:2124.1 § 46:2124.1. Privileged communications and records.</p> <p>A. As used in this Section, the following terms shall have the following meanings:</p> <p>(1) “Community shelter” means a community shelter or other program established in accordance with R.S. 46:2124.</p> <p>(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.</p> <p>(3) “Victim” means a victim or potential victim of an act of family or domestic violence and his or her children.</p> <p>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:</p> <p>(1) In connection with any civil or criminal case or proceeding.</p> <p>(2) By way of any discovery procedure.</p> <p>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.</p> <p>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.</p> <p>La. C.E. Art. 510 Art. 510. Health care provider-patient privilege</p> <p>A. Definitions. — The definitions of health care provider, physician, psychotherapist, and their representatives as provided in this Article include persons reasonably believed to be such by the patient or his representative. As used in this Article:</p> <p>(1)</p> <p>(a) “Confidential communication” is the transmittal or acquisition of information not intended to be disclosed to persons other than:</p> <p>(i) A health care provider and a representative of a health care provider.</p> <p>(ii) Those reasonably necessary for the transmission of the communication.</p> <p>(iii) Persons who are participating in the diagnosis and treatment under the direction of the physician or psychotherapist.</p> <p>(iv) A patient’s health care insurer, including any entity that provides indemnification to a patient.</p> <p>(v) When special circumstances warrant, those who are present at the behest of the patient, physician, or psychotherapist and are reasonably necessary to facilitate the communication.</p> <p>(b) “Confidential communication” includes any information, substance, or tangible object, obtained incidental to the communication process and any opinion formed as a result of the consultation, examination, or interview and also includes medical and hospital records made by health care providers and their representatives.</p> <p>(2) “Health care provider” is a person or entity defined as such in R.S. 13:3734(A), and includes a physician and psychotherapist as defined below,</p> |
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| | <p>and also includes a person who is engaged in any office, center, or institution referred to as a rape crisis center, who has undergone at least forty hours of sexual assault training and who is engaged in rendering advice, counseling, or assistance to victims of sexual assault.</p> <p>(3) “Health condition” is a physical, mental, or emotional condition, including a condition induced by alcohol, drugs, or other substance.</p> <p>(4) “Patient” is a person who consults or is examined or interviewed by another for the purpose of receiving advice, diagnosis, or treatment in regard to that person’s health.</p> <p>(5) “Physician” is a person licensed to practice medicine in any state or nation.</p> <p>(6) “Psychotherapist” is:</p> <p>(a) A physician engaged in the diagnosis or treatment of a mental or emotional condition, including a condition induced by alcohol, drugs, or other substance.</p> <p>(b) A person licensed or certified as a psychologist under the laws of any state or nation.</p> <p>(c) A person licensed as a licensed professional counselor or social worker under the laws of any state or nation.</p> <p>(7) “Representative” of a physician, psychotherapist, or other health care provider is:</p> <p>(a) A person acting under the supervision, direction, control, or request of a physician, psychotherapist, or health care provider engaged in the diagnosis or treatment of the patient.</p> <p>(b) Personnel of a “hospital”, as defined in R.S. 13:3734(A)(3), whose duties relate to the health care of patients or to maintenance of patient records.</p> <p>(8) “Representative of a patient” is any person who makes or receives a confidential communication for the purpose of effectuating diagnosis or treatment of a patient.</p> <p>B.</p> <p>(1) General rule of privilege in civil proceedings. — In a non-criminal proceeding, a patient has a privilege to refuse to disclose and to prevent another person from disclosing a confidential communication made for the purpose of advice, diagnosis or treatment of his health condition between or among himself or his representative, his health care provider, or their representatives.</p> <p>(2) Exceptions. — There is no privilege under this Article in a noncriminal proceeding as to a communication:</p> <p>(a) When the communication relates to the health condition of a patient who brings or asserts a personal injury claim in a judicial or worker’s compensation proceeding.</p> <p>(b) When the communication relates to the health condition of a deceased patient in a wrongful death, survivorship, or worker’s compensation proceeding brought or asserted as a consequence of the death or injury of the deceased patient.</p> <p>(c) When the communication is relevant to an issue of the health condition of the patient in any proceeding in which the patient is a party and relies upon the condition as an element of his claim or defense or, after the patient’s death, in any proceeding in which a party deriving his right from the patient relies on the patient’s health condition as an element of his claim or defense.</p> <p>(d) When the communication relates to the health condition of a patient when the patient is a party to a proceeding for custody or visitation of a child and the condition has a substantial bearing on the fitness of the person claiming custody or visitation, or when the patient is a child who is the subject of a custody or visitation proceeding.</p> <p>(e) When the communication made to the health care provider was intended to assist the patient or another person to commit or plan to commit what the patient knew or reasonably should have known to be a crime or fraud.</p> <p>(f) When the communication is made in the course of an examination ordered by the court with respect to the health condition of a patient, the fact that the examination was so ordered was made known to the patient prior to the communication, and the communication concerns the</p> |
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| | <p>particular purpose for which the examination was made, unless the court in its order directing the examination has stated otherwise.</p> <p>(g)</p> <p>(i) When the communication is made by a patient who is the subject of an interdiction or commitment proceeding to his current health care provider when such patient has failed or refused to submit to an examination by a health care provider appointed by the court regarding issues relating to the interdiction or commitment proceeding, provided that the patient has been advised of such appointment and the consequences of not submitting to the examination.</p> <p>(ii) Notwithstanding the provisions of Subitem (i) of this Item, in any commitment proceeding, the court-appointed physician may review the medical records of the patient or respondent and testify as to communications therein, but only those which are essential to determine whether the patient is dangerous to himself, dangerous to others, or unable to survive safely in freedom or protect himself from serious harm. However, such communications shall not be disclosed unless the patient was informed prior to the communication that such communications are not privileged in any subsequent commitment proceedings. The court-appointed examination shall be governed by Item B(2)(f).</p> <p>(h) When the communication is relevant in proceedings held by peer review committees and other disciplinary bodies to determine whether a particular health care provider has deviated from applicable professional standards.</p> <p>(i) When the communication is one regarding the blood alcohol level or other test for the presence of drugs of a patient and an action for damages for injury, death, or loss has been brought against the patient.</p> <p>(j) When disclosure of the communication is necessary for the defense of the health care provider in a malpractice action brought by the patient.</p> <p>(k) When the communication is relevant to proceedings concerning issues of child abuse, elder abuse, or the abuse of persons with disabilities or persons who are incompetent.</p> <p>(l) When the communication is relevant after the death of a patient, concerning the capacity of the patient to enter into the contract which is the subject matter of the litigation.</p> <p>(m) When the communication is relevant in an action contesting any testament executed or claimed to have been executed by the patient now deceased.</p> <p>C.</p> <p>(1) General rule of privilege in criminal proceedings. — In a criminal proceeding, a patient has a privilege to refuse to disclose and to prevent another person from disclosing a confidential communication made for the purpose of advice, diagnosis or treatment of his health condition between or among himself, his representative, and his physician or psychotherapist, and their representatives.</p> <p>(2) Exceptions. — There is no privilege under this Article in a criminal case as to a communication:</p> <p>(a) When the communication is relevant to an issue of the health condition of the accused in any proceeding in which the accused relies upon the condition as an element of his defense.</p> <p>(b) When the communication was intended to assist the patient or another person to commit or plan to commit what the patient knew or reasonably should have known to be a crime or fraud.</p> <p>(c) When the communication was made in the course of an examination ordered by the court in a criminal case to determine the health condition of a patient, provided that a copy of the order was served on the patient prior to the communication.</p> <p>(d) When the communication is a record of the results of a test for blood alcohol level or drugs taken from a patient who is under arrest, or who was subsequently arrested for an offense related to the test.</p> <p>(e) When the communication is in the form of a tangible object, including a bullet, that is removed from the body of a patient and which was in</p> |
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| | <p>the body as a result of the crime charged.</p> <p>(f) When the communication is relevant to an investigation of or prosecution for child abuse, elder abuse, or the abuse of persons with disabilities or persons who are incompetent.</p> <p>D. Who may claim the privilege. — In both civil and criminal proceedings, the privilege may be claimed by the patient or by his legal representative. The person who was the physician, psychotherapist, or health care provider or their representatives, at the time of the communication is presumed to have authority to claim the privilege on behalf of the patient or deceased patient.</p> <p>E. Waiver. — The exceptions to the privilege set forth in Paragraph B(2) shall constitute a waiver of the privilege only as to testimony at trial or to discovery of the privileged communication by one of the discovery methods authorized by Code of Civil Procedure Article 1421 et seq., or pursuant to R.S. 40:1165.1 or R.S. 13:3715.1.</p> <p>F. Medical malpractice.</p> <p>(1) There shall be no health care provider-patient privilege in medical malpractice claims as defined in R.S. 40:1231.1 et seq. as to information directly and specifically related to the factual issues pertaining to the liability of a health care provider who is a named party in a pending lawsuit or medical review panel proceeding.</p> <p>(2) In medical malpractice claims information about a patient’s current treatment or physical condition may only be disclosed pursuant to testimony at trial, pursuant to one of the discovery methods authorized by Code of Civil Procedure Article 1421 et seq., pursuant to R.S. 40:1165.1 or R.S. 13:3715.1.</p> <p>G. Sanctions. — Any attorney who violates a provision of this Article shall be subject to sanctions by the court.</p> <p>La. R.S. § 46:2187</p> <p>§ 46:2187. Privileged communications and records.</p> <p>A. For purposes of this Section:</p> <p>(1) “Privileged communication” means a communication made to a representative or employee of a sexual assault center by a victim. It also means a communication not otherwise privileged made by a representative or employee of a sexual assault center to a victim in the course of rendering services authorized by R.S. 46:2186.</p> <p>(2) “Sexual assault center” means a program established and accredited in accordance with the standards set by the Louisiana Foundation Against Sexual Assault.</p> <p>(3) “Victim” means a person against whom an act of attempted or perpetrated sexual assault was committed.</p> <p>B. Notwithstanding any other provision of law, no person shall be required to disclose, by way of testimony or otherwise, a privileged communication, or to produce any records, documentary evidence, opinions, or decisions relating to such privileged communication, in connection with any civil or criminal proceeding.</p> <p>C. Records relating to a privileged communication maintained by a sexual assault center shall not be public records, but such records may be used for the compilation of statistical data if the identity of the victim and the contents of any privileged communication are not disclosed.</p> |
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| MAINE | <p>Me. Rev. Stat. Ann. tit. 16, § 53-A § 53-A. Privileged communications to sexual assault counselors.</p> <p>1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.</p> <p>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.</p> <p>B. “Sexual assault counselor” means a person who</p> <ol style="list-style-type: none"> 1) 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; and 2) Is either a staff member, paid or unpaid, or under the supervision of a staff member of a rape crisis center. <p>C. “Confidential criminal history record information” has the same meaning as in section 703, subsection 2.</p> <p>D. “Criminal justice agency” has the same meaning as in section 703, subsection 4.</p> <p>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.</p> <p>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.</p> <p>Me. Rev. Stat. Ann. tit. 16, § 53-B § 53-B. Privileged communications to victim advocate; family violence.</p> <p>1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.</p> <p>A. “Advocate” means an employee of or volunteer for a nongovernmental or Maine tribal program for victims of domestic or family violence who:</p> <ol style="list-style-type: none"> (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. <p>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.</p> <p>A-2. “Confidential criminal history record information” has the same meaning as in section 703, subsection 2.</p> |

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| | <p>A-3. “Criminal justice agency” has the same meaning as in section 703, subsection 4.</p> <p>B. “Victim” means a victim of domestic or family violence.</p> <p>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.</p> <p>2. Privileged communication. Communications are privileged from disclosure as follows.</p> <p>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.</p> <p>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.</p> <p>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:</p> <p>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;</p> <p>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; or</p> <p>C. 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.</p> <p>16 M.R.S. § 53-C § 53-C. Privileged communications to governmental victim witness advocates or coordinators</p> <p>1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.</p> <p>A. “Crime” means a criminal offense in which there is a victim, as defined in this section.</p> <p>B. “Victim” means:</p> <p>(1) A person against whom a crime has been committed;</p> <p>(2) The immediate family of a victim of a crime if:</p> <p>(a) The underlying crime is one of domestic violence or sexual assault or one in which the family suffered serious physical trauma or serious financial loss; or</p> <p>(b) Due to death, age or physical or mental disease, disorder or defect, the victim is unable to participate as allowed under this chapter.</p> <p>C. “Victim witness advocate” or “victim witness coordinator” means an employee of or volunteer for a district attorney, the Attorney General or the United States Attorney whose primary job function is to advise, counsel or assist victims or witnesses of crimes, to supervise other employees or volunteers who perform that function or to administer the program.</p> <p>2. Privileged communications. Communications are privileged from disclosure as follows.</p> <p>A. A victim may refuse to disclose and may deny permission to a victim witness advocate or coordinator to disclose confidential written or oral communications between the victim and the advocate or coordinator and written records, notes, memoranda or reports concerning the victim.</p> |
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| | <p>B. Except as provided in subsection 3, a victim, advocate or coordinator or the victim advocate’s or coordinator’s employer 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 or coordinator.</p> <p>3. Exceptions. Privileged communications may be disclosed in the following cases:</p> <p>A. Disclosure may be made to the district attorney, Attorney General or the United States Attorney or their assistants;</p> <p>B. When disclosure is required under Title 22, chapter 958-A or 1071 and that disclosure is in accordance with either chapter;</p> <p>C. When a court in the exercise of its discretion determines the disclosure of 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;</p> <p>D. 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; or</p> <p>E. Evidence of an exculpatory nature must be disclosed to the criminal defendants pursuant to the Maine Rules of Unified Criminal Procedure, Rule 16.</p> |
| <p>MARYLAND</p> | <p>No DV/SA privilege But see: (1) Md. Courts and Judicial Proceedings Code Ann. § 9-121 (licensed social worker); (2) Md. Courts and Judicial Proceedings Code Ann. § 9 109.1 (client-and psychiatrist mental health)</p> |
| <p>MASSACHUSETTS</p> | <p>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.</p> <p>“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.</p> <p>“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.</p> <p>“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.</p> |

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| | <p>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.</p> <p>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.</p> <p>Mass. Ann. Laws ch. 233, § 20K § 20K. Domestic violence victims' counselors; confidential communications</p> <p>As used in this section the following words shall unless the context clearly requires otherwise have the following meanings: --</p> <p>“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.</p> <p>“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.</p> <p>“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.</p> <p>“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.</p> <p>“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.</p> <p>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.</p> <p>ALM GL ch. 233, § 20L § 20L. Locations of Domestic Violence Victims' Programs and Rape Crisis Centers Confidential.</p> <p>The location and street address of all domestic violence victims' programs, as defined in section twenty K and rape crisis centers, as defined in section twenty J, shall be absolutely confidential and shall not be required to be revealed in any criminal or civil proceeding.</p> <p>ALM GL ch. 233, § 20M § 20M. Confidential Communication between Human Trafficking Victim and Victim's Caseworker.</p> |

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| | <p>(a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings: - “Confidential communication”, information transmitted in confidence by and between a victim and a victim’s caseworker 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 confidential communication shall include all information received by a victim’s caseworker which arises out of and in the course of such counseling and assisting including, but not limited to, reports, records, working papers or memoranda. “Human trafficking victim” or “victim”, a person who is subjected to the conduct prohibited under sections 50 or 51 of chapter 265. “Human trafficking victims’ caseworker,” a person who is employed by or volunteers with a program serving human trafficking victims, who has undergone a minimum of 25 hours of training and who reports to and is under the direct control and supervision of a direct service supervisor of a human trafficking victim program, and whose primary purpose is the rendering of advice, counseling or assistance to human trafficking victims. “Human trafficking victims’ program”, any refuge, shelter, office, safe house, institution or center established for the purpose of offering assistance to human trafficking victims through crisis intervention, medical, legal or support counseling.</p> <p>(b) A human trafficking victims’ caseworker shall not disclose any confidential communication without the prior written consent of the victim, or the victim’s guardian in the case of a child, 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, or victim’s guardian in the case of a child, 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 contained in the communication before allowing such discovery or the introduction of such evidence.</p> <p>(c) During the initial meeting between a caseworker and victim, the caseworker shall inform the human trafficking victim and any guardian thereof of the confidentiality of communications between a caseworker and victim and the limitations thereto.</p> |
| <p>MICHIGAN</p> | <p>Mich. Comp. Laws Ann. § 600.2157a Definitions; consultation between victim and sexual assault or domestic violence counselor; admissibility.</p> <p>(1) For purposes of this section:</p> <p>(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.</p> <p>(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.</p> <p>(c) “Sexual assault” means assault with intent to commit criminal sexual conduct.</p> <p>(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.</p> |

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| | <p>(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.</p> <p>(f) “Victim” means a person who was or who alleges to have been the subject of a sexual assault or of domestic violence.</p> <p>(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.</p> |
| <p>MINNESOTA</p> | <p>Minn. Stat. Ann. § 595.02(k), (l) 595.02 Testimony of Witness. charged with a crime or act of delinquency committed against the person or property of a parent or a child of a parent, nor to an action or proceeding for termination of parental rights, nor any other action or proceeding on a petition alleging child abuse, child neglect, abandonment or nonsupport by a parent.</p> <p>(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.</p> <p>(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.</p> |
| <p>MISSISSIPPI</p> | <p>Miss. Code Ann. § 93-21-125 Communications of victims of domestic violence, sexual assault, stalking and human trafficking with advocates deemed confidential</p> <p>(1) Definitions. The following definitions apply in this section:</p> <p>(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</p> |

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| | <p>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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> |

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| | <p>(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.</p> <p>(2) Confidential victim communications protected from disclosure.</p> <p>(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.</p> <p>(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.</p> <p>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.</p> <p>(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.</p> <p>(d) A victim service program may not require consent to release of information as a condition of service to a victim.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> |

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| | <p>(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.</p> <p>(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.</p> <p>(7) Nothing in this section shall affect any confidentiality or privilege provisions established by law or court rule.</p> <p>(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.</p> <p>(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).</p> <p>(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.</p> <p>(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.</p> <p>Miss. Code Ann. § 93-21-109 § 93-21-109. Records withheld from public disclosure. Records maintained by domestic violence shelters, except the official minutes of the board of directors of the shelter, and financial reports filed as required by statute with the board of supervisors or municipal authorities or any other agency of government, shall be withheld from public disclosure under the provisions of the Mississippi Public Records Act of 1983.</p> <p>Miss. Code Ann. § 93-21-107 § 93-21-107. Eligibility for funds; requirements. (1) To qualify for funds under the provisions of Sections 93-21-101 through 93-21-113, a domestic violence shelter shall meet all the following requirements:</p> <p>(a) Be incorporated in the state or recognized by the Secretary of State as a private or public nonprofit corporation. Such corporation shall have a board of directors and/or an advisory committee who represents the racial, ethnic and social economic diversity of the area to be served, including, if possible, at least one (1) person who is or has been a victim of domestic violence.</p> <p>(b) Have designed and developed a program to provide the following basic services to victims of domestic violence and their children:</p> <ul style="list-style-type: none"> (i) Shelter on a twenty-four (24) hour a day, seven (7) days a week basis. (ii) A twenty-four (24) hour, seven (7) days a week switchboard for crisis calls. (iii) Temporary housing and food facilities. (iv) Group support and peer counseling. (v) Referrals to existing services in the community and follow-up on the outcome of the referrals. (vi) A method of referral for medical care, legal assistance and group support and counseling of victims of domestic violence. |
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| | <p>(vii) Information regarding reeducation, marriage and family counseling, job counseling, and training programs, housing referrals, and other available social services.</p> <p>(viii) A referral program of counseling for the victim and the offender.</p> <p>(2) Domestic violence shelters shall establish procedures for admission of victims of domestic violence who may seek admission to these shelters on a voluntary basis.</p> <p>(3) A domestic violence shelter shall 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.</p> <p>(4) A domestic violence shelter receiving state funding under the provisions of Sections 93-21-101 through 93-21-113 shall not be prohibited from accepting gifts, trusts, bequests, grants, endowments, federal funds, other special source funds or transfers of property of any kind for the support of that shelter program.</p> <p>(5) The OAIV shall ensure that no grant made with state funds is in an amount that would exceed One Hundred Thousand Dollars (\$100,000.00) inflated by a general CPI inflator to ensure that the grant offers shelters the same buying power that a grant of One Hundred Thousand Dollars (\$100,000.00) provided in 1983.</p> <p>(6) A domestic violence shelter shall 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.</p> <p>(7) A domestic violence shelter shall provide educational programs relating to battered spouses and domestic violence designed for both the community at large and/or specialized groups such as hospital personnel and law enforcement officials.</p> <p>(8) No child shall be placed in any domestic violence shelter that receives state funding under these provisions of Sections 93-21-101 through 93-21-113, and no domestic violence shelter that receives state funding under these provisions may admit or accept any child, unless the child is accompanied by his parent or guardian and such parent or guardian will remain with the child in the shelter until the child leaves or is released from the shelter. However, this subsection shall not prevent any rape crisis center from providing care, counseling and related services to any child who is a victim of rape, attempted rape, sexual battery or attempted sexual battery and who is not accompanied by his parent or guardian.</p> |
| <p>MISSOURI</p> | <p>Mo. Rev. Stat. § 455.220 Requirements for shelter to qualify for funds.</p> <p>1. To qualify for funds allocated and distributed pursuant to section 455.215 a shelter shall meet all of the following requirements:</p> <p>(1) Be incorporated in the state as a nonprofit corporation;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> |

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| | <p>(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.</p> <p>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.</p> <p>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.</p> <p>Mo. Ann. Stat. § 455.230 455.230. Annual reports by shelters, contents--confidentiality--child assessment center established by department</p> <p>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.</p> <p>2. The designated authority shall compile the reports filed pursuant to subsection 1 of this section annually.</p> <p>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.</p> <p>§ 455.003 R.S.Mo. § 455.003. Rape crisis centers, confidentiality of information – employee competency to testify – rape crisis center defined</p> <p>1. A rape crisis center shall:</p> <p>(1) Require persons employed by or volunteering services to the rape crisis center to maintain confidentiality of any information that would identify individuals served by the center and any information or records that are directly related to the advocacy services provided to such individuals; and</p> <p>(2) Prior to providing any advocacy services, inform individuals served by the rape crisis center of the nature and scope of the confidentiality requirements of subdivision (1) of this subsection.</p> <p>2. Any person employed by or volunteering services to a rape crisis center for victims of sexual assault shall be incompetent to testify concerning any confidential information in subsection 1 of this section, unless the confidentiality requirements are* waived in writing by the individual served by the center.</p> <p>3. As used in this section, the term “rape crisis center” shall mean any public or private agency that offers assistance to victims of sexual assault, as the term sexual assault is defined in section 455.010, who are adults, as defined by section 455.010, or qualified minors, as defined by section 431.056.</p> |
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| <p>MONTANA</p> | <p>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.</p> |
| <p>NEBRASKA</p> | <p>Neb. Rev. Stat. Ann. § 29-4302 § 29-4302. Terms, defined. For purposes of <u>sections 29-4301 to 29-4304</u>: (1) Advocate means any employee or supervised volunteer of a domestic violence and sexual assault victim assistance program or of any other agency, business, or organization that is not affiliated with a law enforcement or prosecutor’s office, whose primary purpose is assisting domestic violence and sexual assault victims; (2) Victim means a person who communicates with an advocate for assistance in overcoming the adverse effects of domestic violence or sexual assault; and (3) Confidential communication means any written or spoken information exchanged between a victim and an advocate in private or in the presence of a third party who is necessary to facilitate communication or further the advocacy process and which is disclosed to the advocate for the purposes of overcoming the adverse effects of domestic violence or sexual assault.</p> <p>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</p> |

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| | <p>willing to have present, to determine whether a failure to disclose the confidential communication would violate the constitutional rights of the party seeking disclosure.</p> <p>(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.</p> <p>Neb. Rev. Stat. Ann. § 29-4304 Confidential communications; waiver; sections, how construed.</p> <p>(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:</p> <ul style="list-style-type: none"> (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. <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>Neb. Rev. Stat. Ann. § 42-918 § 42-918. Contact with victims of spouse abuse and families; confidentiality; violation; penalty.</p> <p>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.</p> |
| NEVADA | <p>Nev. Rev. Stat. Ann. § 49.2541 49.2541. Definitions.</p> <p>As used in <u>NRS 49.2541 to 49.2549</u>, inclusive, and section 13.3 of this act, the words and terms defined in <u>NRS 49.2542 to 49.2545</u>, inclusive, and section 13.3 of this act have the meanings ascribed to them in those sections.</p> <p>Nev. Rev. Stat. Ann. § 49.2542 49.2542. “Domestic violence” defined.</p> <p>“Domestic violence” means an act described in <u>NRS 33.018</u>.</p> |

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| | <p>Nev. Rev. Stat. Ann. § 49.25425 49.25425. “Human trafficking” defined. “Human trafficking” means a violation of any provision of <u>NRS 200.463 to 200.468</u>, inclusive, 201.300, 201.320, 201.395 or <u>18 U.S.C. § 1589, 1590 or 1591</u>.</p> <p>Nev. Rev. Stat. Ann. § 49.2543 49.2543. “Sexual assault” defined. “Sexual assault” means a violation of <u>NRS 200.366</u> or an attempt to violate or conspiracy to violate <u>NRS 200.366</u>.</p> <p>Nev. Rev. Stat. Ann. § 49.2544 49.2544. “Victim” defined. “Victim” means a person who alleges that an act of domestic violence, human trafficking or sexual assault has been committed against the person.</p> <p>Nev. Rev. Stat. Ann. § 49.2545 49.2545. “Victim’s advocate” defined. “Victim’s advocate” means a person who has completed relevant training and who, with or without compensation:</p> <ol style="list-style-type: none"> 1. Works for: <ol style="list-style-type: none"> (a) A program of a university, state college or community college within the Nevada System of Higher Education which provides assistance to victims; (b) A program of a tribal organization which provides assistance to victims; (c) An organization which provides services to victims of domestic violence, sexual assault or human trafficking; or (d) A nonprofit organization which provides assistance to victims; or 2. Provides services to a victim of an alleged incident of sexual misconduct pursuant to NRS 396.125 to 396.1595, inclusive. <p>Nev. Rev. Stat. Ann. § 49.2546 49.2546. When communication deemed to be confidential; “communication” defined.</p> <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> (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: <ol style="list-style-type: none"> (a) The victim’s advocate; or |

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| | <p>(b) A program or organization described in paragraphs (a) to (d), inclusive, of subsection 1 of NRS 49.2545 for whom the victim's advocate works.</p> <p>Nev. Rev. Stat. Ann. § 49.2547 49.2547. General rule of privilege. Except as otherwise provided in NRS 49.2549, a victim who seeks advice, counseling or assistance from a victim's advocate has a privilege to refuse to disclose, and to prevent any other person from disclosing, confidential communications set forth in NRS 49.2546.</p> <p>Nev. Rev. Stat. Ann. § 49.2548 49.2548. Who may claim privilege.</p> <ol style="list-style-type: none"> 1. The privilege provided pursuant to NRS 49.2547 may be claimed by: <ol style="list-style-type: none"> (a) The victim; (b) The guardian or conservator of the victim; (c) The personal representative of a deceased victim; and (d) The victim's advocate, but only on behalf of the victim. 2. The authority of a victim's advocate to claim the privilege is presumed in the absence of evidence to the contrary. <p>Nev. Rev. Stat. Ann. § 49.2549 49.2549. Exceptions. There is no privilege pursuant to NRS 49.2547 if:</p> <ol style="list-style-type: none"> 1. The purpose of the victim in seeking services from a victim's advocate is to enable or aid any person to commit or plan to commit what the victim knows or reasonably should have known is a crime or fraud; 2. The communication concerns a report of abuse or neglect of a child, older person or vulnerable person in violation of NRS 200.508 or 200.5093, but only as to that portion of the communication; 3. The communication is relevant to an issue of breach of duty by the victim's advocate to the victim or by the victim to the victim's advocate; or 4. Disclosure of the communication is otherwise required by law. |
| NEW HAMPSHIRE | <p>N.H. Rev. Stat. Ann. § 173-C:2 Privilege.</p> <p>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.</p> <p>I-a. The privilege and confidentiality under paragraph I shall extend to:</p> <ol style="list-style-type: none"> (a) A third person present to assist communication with the victim. (b) A third person present to assist a victim who is physically challenged. |

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| | <p>(c) Co-participants in support group counseling of the victim.</p> <p>II. Persons prevented from disclosing a confidential communication or record pursuant to paragraph I shall be exempt from the provisions of RSA 631:6.</p> <p>N.H. Rev. Stat. Ann. § 173-C:1 Definitions. In this chapter:</p> <p>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.</p> <p>II. “Domestic violence center” means any organization or agency which would qualify as a direct service grantee under RSA 173-B:21.</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> (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. <p>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.</p> <p>+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.</p> |
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| | <p>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:</p> <ul style="list-style-type: none"> (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. <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> (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 |
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| | <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>RSA 173-C:6 173-C:6. Locations of Centers Privileged. Notwithstanding any other provisions of this chapter, the location and the street address of a rape crisis center or domestic violence center are absolutely privileged.</p> <p>RSA 173-C:7 173-C:7. Involuntary Waiver. The privilege established by this chapter shall not apply when the sexual assault counselor or the domestic violence counselor has knowledge that the victim has given perjured testimony and when the defendant has made an offer of proof that there is probable cause to believe that perjury has been committed.</p> <p>RSA 173-C:8 173-C:8. Failure to Testify. Failure of any person to testify as a witness pursuant to the provisions of this chapter shall not give rise to an inference unfavorable to the prosecution or the defense.</p> <p>RSA 173-C:9 173-C:9. Appeal. The victim shall have a right to interlocutory appeal to the supreme court from any decision by a court to require the disclosure of records or testimony of a rape crisis or domestic violence center or sexual assault or domestic violence counselor.</p> <p>RSA 173-C:10 73-C:10. Counselor's Duty to Report Child Abuse. The domestic violence or sexual assault counselor shall have the same reporting duties under RSA 169-C:29 as other professionals, providing that this duty shall not apply where a minor is seeking relief pursuant to RSA 173-B:3 for abuse by a spouse or former spouse of the minor, or by an intimate partner who is not related to the minor by consanguinity or affinity. As used in this section, "abuse" and "intimate partners" shall be as defined in RSA 173-B:1.</p> |

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| NEW JERSEY | <p>N.J. Stat. Ann. § 2A:84A-22.15 Victim counselor confidentiality privilege.</p> <p>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.</p> <p>N.J. Stat. Ann. § 2A:84A-22.14 Definitions</p> <p>As used in this act:</p> <ul style="list-style-type: none"> 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). <p>N.J. Stat. Ann. § 2A:84A-22.16 Where disclosure required</p> <p>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.</p> |

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| | <p>N.J. R. Evid. 517 Rule 517. Victim Counselor Privilege. (a) N.J.S.A. 2A:84A-22.13 provides: The Legislature finds and declares that:</p> <ul style="list-style-type: none"> a. The emotional and psychological injuries that are inflicted on victims of violence are often more serious than the physical injuries suffered; b. Counseling is often a successful treatment to ease the real and profound psychological trauma experienced by these victims and their families; c. In the counseling process, victims of violence openly discuss their emotional reactions to the crime. These reactions are often highly intertwined with their personal histories and psychological profile; d. Counseling of violence and victims is most successful when the victims are assured their thoughts and feelings will remain confidential and will not be disclosed without their permission; and e. Confidentiality should be accorded all victims of violence who require counseling whether or not they are able to afford the services of private psychiatrists or psychologists. <p>Therefore, it is the public policy of this State to extend a testimonial privilege encompassing the contents of communications with a victim counselor and to render immune from discovery or legal process the records of these communications maintained by the counselor.</p> <p>(b) N.J.S.A. 2A:84A-22.14 provides: As used in this act:</p> <ul style="list-style-type: none"> 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). <p>(c) N.J.S.A. 2A:84A-22.15 provides: Subject to Rule 37 [Rule 530] 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</p> |
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| | <p>administrator except when the guardian, executor or administrator is the defendant or has a relationship with the victim such that he 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.</p> <p>(d) N.J.S.A. 2A:84A-22.16 provides: 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.</p> |
| <p>NEW MEXICO</p> | <p>N.M. Stat. Ann. § 31-25-3 Confidential communications; information; privileged</p> <p>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.</p> <p>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.</p> <p>N.M. Stat. Ann. § 31-25-2 Definitions</p> <p>As used in the Victim Counselor Confidentiality Act [31-25-1 NMSA 1978]:</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>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; and</p> <p>E. “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</p> |

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| | <p>and whose duties include victim counseling.</p> <p>N.M. Stat. Ann. § 31-25-4 Waiver</p> <p>A. 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.</p> <p>B. 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.</p> <p>N.M. Stat. Ann. § 31-25-5 31-25-5. Interpretation.</p> <p>The Victim Counselor Confidentiality Act [31-25-1 NMSA 1978] shall not be construed to relieve a victim counselor of a duty to report suspected child abuse or neglect pursuant to Section 32-1-15 NMSA 1978 [repealed], to report any evidence that the victim is about to commit a crime or to limit any testimonial privileges available to any person pursuant to other provisions of law.</p> <p>N.M. Stat. Ann. § 31-25-6 31-25-6. Rules.</p> <p>The supreme court may adopt rules of procedure and evidence to govern and implement the provisions of the Victim Counselor Confidentiality Act [31-25-1 NMSA 1978].</p> |
| <p>NEW YORK</p> | <p>NY CLS CPLR § 4510 § 4510. Rape crisis counselor or domestic violence advocate.</p> <p>(a) Definitions. When used in this section, the following terms shall have the following meanings:</p> <ol style="list-style-type: none"> 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 |

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| | <p>(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</p> <p>(ii) any victim of domestic violence as defined in section four hundred fifty-nine-a of the social services law.</p> <p>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.</p> <p>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.</p> <p>(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:</p> <ol style="list-style-type: none"> 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. <p>(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.</p> <p>(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.</p> <p>NY CLS Family Ct Act § 1046 (a)(vii) § 1046. Evidence</p> <p>(a) In any hearing under this article and article ten-A of this act:</p> <p>(vii) neither the privilege attaching to confidential communications between husband and wife, as set forth in section forty-five hundred two of the civil practice law and rules, nor the physician-patient and related privileges, as set forth in section forty-five hundred four</p> |

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| | <p>of the civil practice law and rules, nor the psychologist-client privilege, as set forth in section forty-five hundred seven of the civil practice law and rules, nor the social worker-client privilege, as set forth in section forty-five hundred eight of the civil practice law and rules, nor the rape crisis counselor-client privilege, as set forth in section forty-five hundred ten of the civil practice law and rules, shall be a ground for excluding evidence which otherwise would be admissible.</p> |
| <p>NORTH CAROLINA</p> | <p>N.C. Gen. Stat. § 8-53.12 Communications with agents of rape crisis centers and domestic violence programs privileged</p> <p>(a) Definitions. — The following definitions apply in this section:</p> <p>(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.</p> <p>(2) Center. — A domestic violence program or rape crisis center.</p> <p>(3) Domestic violence program. — A nonprofit organization or program whose primary purpose is to provide services to domestic violence victims.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(9) Victim. — A sexual assault victim or a domestic violence victim.</p> |

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| | <p>(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.</p> <p>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.</p> <p>(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.</p> |
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| <p>NORTH DAKOTA</p> | <p>N.D. Cent. Code, § 14-07.1-18 Domestic violence or sexual assault program records – Confidentiality – Exceptions – Penalty.</p> <p>1. All agents, employees, and volunteers participating in a domestic violence or sexual assault program shall maintain the confidentiality of the:</p> <ul style="list-style-type: none"> 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; and c. Name, address, telephone number, and other identifying information of an agent, employee, or volunteer providing services under a domestic violence or sexual assault program. <p>2. The information described in subsection 1 is not subject to section 44-04-18 and may not be disclosed unless:</p> <ul style="list-style-type: none"> 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 |
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| | <p>need of protection;</p> <p>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; or</p> <p>d. 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.</p> <p>3. The address, telephone number, and other identifying information of a shelter are exempt records as defined in section 44-04-17.1.</p> <p>4. Any person who violates this section is guilty of an infraction.</p> <p>N.D. Sup. Ct. Admin. Rule 34 Rule 34. Advocates for Alleged Victims in Civil Protection Order Cases.</p> <p>Section 1. Statement of Policy. Under the authority of the supreme court in N.D. Const. art. VI, § 3, and N.D.C.C. §§ 27-02-07 and 27-02-08, it is the policy of the supreme court of North Dakota to provide opportunity for appropriate services to persons who are alleged victims of domestic violence or sexual assault in proceedings in the trial courts of North Dakota.</p> <p>Section 2. Definition of Certified Domestic Violence Sexual Assault Advocate. A certified domestic violence sexual assault advocate is defined as a person who:</p> <ul style="list-style-type: none"> (a) is certified by an approved certifying entity as a certified domestic violence sexual assault advocate to provide direct support services to alleged victims of domestic violence or sexual assault; (b) is affiliated with a domestic violence sexual assault program which is a member of an approved certifying entity; (c) has completed 42 hours of domestic violence training relating to the services and proceedings under N.D.C.C. ch. 14-07.1 and § 12.1-31-01.2, under a curriculum provided by an approved certifying entity subject to the approval of a committee of three consisting of the state health officer, the North Dakota attorney general and the president of the state bar association of North Dakota, or their designees; and (d) has completed, in each year following the year of certification, 12 additional hours of training in the areas set forth in subsection 2(a) and which are developed and approved by the committee of three identified in subsection 2(c). <p>Section 3. Definition of Approved Certifying Entity. An approved certifying entity is an organization determined by the supreme court or its designee to be qualified to train and certify domestic violence sexual assault advocates. To qualify to train and certify domestic violence sexual assault advocates an organization must file with the supreme court or its designee satisfactory proof that the organization:</p> <ul style="list-style-type: none"> (a) is capable of providing a 42-hour course of domestic violence and sexual assault training relating to the services and proceedings under N.D.C.C. ch. 14-07.1 and § 12.1-31-01.2, following a curriculum approved by the committee of three identified in subsection 2(c); (b) is capable of providing, in each year following the year of certification of a domestic violence sexual assault advocate, 12 additional hours of training in the areas set forth in subsection 2(a) and which are developed and approved by the committee of three identified in subsection 2(c); (c) provides affiliation and support to local domestic violence sexual assault programs in North Dakota; and (d) has established a grievance procedure as set forth in section 6. <p>Section 4. Lists of Certified Domestic Violence Sexual Assault Advocates. Each approved certifying entity must provide the state court</p> |
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| | <p>administrator with an annual list of certified domestic violence sexual assault advocates in North Dakota as may be revised by the entity from time to time. The state court administrator must provide copies of the current list to all judges presiding in proceedings under N.D.C.C. ch. 14-07.1 and § 12.1-31-01.2, and to any person, upon request.</p> <p>Section 5. The Role of Domestic Violence Sexual Assault Advocates in Court Proceedings. In all proceedings under N.D.C.C. ch. 14-07.1 and § 12.1-31-01.2, a certified domestic violence sexual assault advocate may:</p> <ul style="list-style-type: none"> (a) assist the petitioner in completing printed forms for proceedings under N.D.C.C. ch. 14-07.1 and § 12.1-31-01.2; and (b) sit with the petitioner during court proceedings. <p>Section 6. Grievance Procedure. The approved certifying entity must establish a grievance procedure, prepared in consultation with the president of the state bar association of North Dakota, or the president's designee, which must include provisions for universal standing to submit a complaint, due process, and prompt disposition of complaints.</p> <p>Section 7. Unauthorized Practice of Law. When providing services under section 5, a certified domestic violence sexual assault advocate is not engaged in the unauthorized practice of law.</p> <p>Section 8. Effective Date. The effective date of this rule, as amended, is August 11, 2021.</p> |
| <p>NORTHERN MARINA ISLANDS</p> | <p>7 N. Mar. I. Code § 3309 § 3309. Compulsory Disclosure of Communications Prohibited.</p> <p>(a) Except as provided in 7 CMC § 3310 or 7 CMC § 3311 below, 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</p> <ul style="list-style-type: none"> (1) The consent of the victim with respect to the testimony of <ul style="list-style-type: none"> (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 <ul style="list-style-type: none"> (A) Victim who is a minor or incompetent to testify; and (B) Victim counselor when the victim is a minor or incompetent to testify. <p>(b) Either party may apply for appointment of a guardian ad litem for purposes of (a)(2) of this section.</p> <p>(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.</p> <p>(d) Notwithstanding (a) of this section,</p> <ul style="list-style-type: none"> (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; |

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| | <p>(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</p> <p>(A) The parent or legal guardian has been charged with a crime against the minor,</p> <p>(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</p> <p>(C) The parent or legal guardian otherwise has an interest adverse to that of the minor with respect to the waiver of privilege.</p> <p>7 N. Mar. I. Code § 3310 § 3310. Exceptions. The privilege provided under 6 CMC § 3309 does not apply to</p> <p>(1) Reports of suspected child abuse or neglect under 6 CMC §§ 5311-5316;</p> <p>(2) Evidence that the victim is about to commit a crime;</p> <p>(3) A proceeding that occurs after the victim's death;</p> <p>(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;</p> <p>(5) A communication that is determined to be admissible hearsay as an excited utterance under the Commonwealth Evidence Rules;</p> <p>(6) Any court proceeding authorized under 6 CMC § 5323;</p> <p>(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</p> <p>(8) A criminal proceeding concerning criminal charges against a victim of domestic violence or sexual assault where the victim is charged with a crime</p> <p>(A) Under Commonwealth statutes dealing with crimes against a person, where the crime is committed against a minor; or</p> <p>(B) In which the physical, mental, or emotional condition of the victim is raised in defense of the victim.</p> <p>7 N. Mar. I. Code § 3311 § 3311. Waiver. (a) A victim does not waive the protections provided in 7 CMC § 3309 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 7 CMC § 3309 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.</p> <p>(b) A victim counselor may not waive the protections afforded to a victim under 7 CMC § 3309 without the consent of the victim or the consent of a parent, legal guardian, or guardian ad litem authorized to give consent under 7 CMC § 3309.</p> <p>7 N. Mar. I. Code § 3312 § 3312. Inference from Claim of Privilege; Instruction. (a) The claim of a privilege under 7 CMC § 3309, 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.</p> |

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| | <p>(b) In jury cases, proceedings shall be conducted, to the extent practicable, so as to facilitate the making of a claim of privilege under 7 CMC § 3309 without the knowledge of the jury.</p> <p>(c) Upon request, a party against whom a jury might draw an adverse inference from a claim of privilege under 7 CMC § 3309 is entitled to an instruction that an inference may not be drawn from the claim of privilege.</p> <p>7 N. Mar. I. Code § 3313 § 3313. Definitions. In §§ 3309-3312 of this chapter,</p> <p>(a) "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;</p> <p>(b) "Sexual assault" means sexual assault or sexual abuse of a minor in any degree, under 6 CMC §§ 1301-1309, or the former crimes of Rape, Rape of Spouse, Criminal Sodomy, Criminal Oral Copulation, Rape By Object, or Sexual Abuse of a Child, under former 6 CMC §§ 1301-1311, or an offense in another jurisdiction whose elements are similar to the elements of an offense listed in this subsection;</p> <p>(c) "Victim" means a person who consults a victim counselor for assistance in overcoming adverse effects of a sexual assault or domestic violence;</p> <p>(d) "Victim counseling" means support, assistance, advice, or treatment to alleviate the adverse effects of a sexual assault or domestic violence on the victim;</p> <p>(e) "Victim counseling center" means a private organization or a local government agency that</p> <ul style="list-style-type: none"> (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; and (B) Is not affiliated with a law enforcement agency or a prosecutor's office. <p>(f) "Victim counselor" means an employee or supervised volunteer of a victim counseling center that provides counseling to victims</p> <ul style="list-style-type: none"> (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; and (B) Whose duties include victim counseling. |
| OHIO | <p>No statute but see, ORC Ann. §3113.40, § 3113.40 Shelter to obtain last known residence information and ORC Ann. 3113.36, § 3113.36 Requirements for qualifying for funds; disqualification.</p> |
| OKLAHOMA | <p>No Statute but see, 4 Okl. St. § 18p-3 § 18p-3. Contracts for Services for Victims of Domestic Abuse or Sexual Assault—Confidentiality of Records and 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</p> |

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| | <p>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.</p> <p>B.</p> <ol style="list-style-type: none"> 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. <p>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.</p> <p>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.</p> <p>See also, 74 Okl. St. § 18p-6, § 18p-6. Certification of Domestic Violence Programs and Organizations Offer Domestic and Sexual Assault Services</p> |
| <p>OREGON</p> | <p>ORS § 40.264 40.264 Rule 507-1. Certified advocate-victim privilege.</p> <p>(1) As used in this section:</p> <p>(a) “Certified advocate” means a person who:</p> <p>(A) Has completed at least 40 hours of training in advocacy for victims of domestic violence, sexual assault or stalking, approved by the Attorney General by rule; and</p> <p>(B) Is an employee or a volunteer of a qualified victim services program.</p> <p>(b) “Confidential communication” means a written or oral communication that is not intended for further disclosure, except to:</p> <p>(A) Persons present at the time the communication is made who are present to further the interests of the victim in the course of seeking safety planning, counseling, support or advocacy services;</p> <p>(B) Persons reasonably necessary for the transmission of the communication; or</p> <p>(C) Other persons, in the context of group counseling.</p> <p>(c) “Qualified victim services program” means:</p> |

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| | <p>(A) A nongovernmental, nonprofit, community-based program receiving moneys administered by the state Department of Human Services or the Oregon or United States Department of Justice, or a program administered by a tribal government, that offers safety planning, counseling, support or advocacy services to victims of domestic violence, sexual assault or stalking; or</p> <p>(B) A sexual assault center, victim advocacy office, women’s center, student affairs center, health center or other program providing safety planning, counseling, support or advocacy services to victims that is on the campus of or affiliated with a two- or four-year post-secondary institution that enrolls one or more students who receive an Oregon Opportunity Grant.</p> <p>(d) “Victim” means a person seeking safety planning, counseling, support or advocacy services related to domestic violence, sexual assault or stalking at a qualified victim services program.</p> <p>(2) Except as provided in subsection (3) of this section, a victim has a privilege to refuse to disclose and to prevent any other person from disclosing:</p> <p style="padding-left: 40px;">(a) Confidential communications made by the victim to a certified advocate in the course of safety planning, counseling, support or advocacy services.</p> <p style="padding-left: 40px;">(b) Records that are created or maintained in the course of providing services regarding the victim.</p> <p>(3) The privilege established by this section does not apply to the disclosure of confidential communications, only to the extent disclosure is necessary for defense, in any civil, criminal or administrative action that is brought against the certified advocate, or against the qualified victim services program, by or on behalf of the victim.</p> <p>(4) The privilege established in this section is not waived by disclosure of the communications by the certified advocate to another person if the disclosure is reasonably necessary to accomplish the purpose for which the certified advocate is consulted.</p> <p>(5) This section does not prohibit the disclosure of aggregate, nonpersonally identifying data.</p> <p>(6) This section applies to civil, criminal and administrative proceedings and to institutional disciplinary proceedings at a two-year or four-year post-secondary institution that enrolls one or more students who receive an Oregon Opportunity Grant.</p> <p>ORS § 40.280 40.280 Rule 511. Waiver of privilege by voluntary disclosure. A person upon whom ORS 40.225 to 40.295 confer a privilege against disclosure of the confidential matter or communication waives the privilege if the person or the person’s predecessor while holder of the privilege voluntarily discloses or consents to disclosure of any significant part of the matter or communication. This section does not apply if the disclosure is itself a privileged communication. Voluntary disclosure does not occur with the mere commencement of litigation or, in the case of a deposition taken for the purpose of perpetuating testimony, until the offering of the deposition as evidence. Voluntary disclosure does not occur when representatives of the news media are allowed to attend executive sessions of the governing body of a public body as provided in ORS 192.660 (4), or when representatives of the news media disclose information after the governing body has prohibited disclosure of the information under ORS 192.660 (4). Voluntary disclosure does not occur when a public body, as defined in ORS 192.311, discloses information or records in response to a written request for public records made under ORS 192.311 to 192.478. Voluntary disclosure does occur, as to psychotherapists in the case of a mental or emotional condition and physicians in the case of a physical condition upon the holder’s offering of any person as a witness who testifies as to the condition.</p> <p>ORS § 40.285 40.285 Rule 512. Privileged matter disclosed under compulsion or without opportunity to claim privilege. Evidence of a statement or other disclosure of privileged matter is not admissible against the holder of the privilege if the disclosure was:</p> |
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| | <p>(1) Compelled erroneously; or (2) Made without opportunity to claim the privilege.</p> <p>ORS § 40.290 40.290 Rule 513. Comment upon or inference from claim of privilege.</p> <p>(1) The claim of a privilege, whether in the present proceeding or upon a prior occasion, is not a proper subject of comment by judge or counsel. No inference may be drawn from a claim of privilege. (2) In jury cases, proceedings shall be conducted, to the extent practicable, so as to facilitate the making of claims of privilege without the knowledge of the jury. (3) Upon request, any party against whom the jury might draw an adverse inference from a claim of privilege is entitled to an instruction that no inference may be drawn therefrom.</p> <p>Or. Rev. Stat. Ann. § 409.273 Funding of sexual assault crisis centers and crisis lines; rulemaking.</p> <p>(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</p> <p>Or. Rev. Stat. Ann. § 409.292 Funding of programs relating to family violence; rules.</p> <p>(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</p> |

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| | <p>treatment of family, domestic and teen dating violence and training programs in methods of preventing family, domestic and teen dating violence.</p> <p>(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.</p> <p>(3) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478 and 192.610 to 192.810:</p> <p>(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.</p> <p>(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.</p> |
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| <p>PENNSYLVANIA</p> | <p>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.</p> <p>23 Pa. Stat. Ann. § 6102 § 6102. Definitions. (§ 6102(a)(5)(1)(2)) <i>“Domestic violence counselor/advocate.”</i> 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. ***</p> <p><i>“Victim.”</i> —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.</p> <p>42 Pa.C.S. § 5945.1 § 5945.1. Confidential communications with sexual assault counselors.</p> |
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| | <p>(a) Definitions. — As used in this section, the following words and phrases shall have the meanings given to them in this subsection: “Confidential communication.” —All information, oral or written, transmitted between a victim of sexual assault and a sexual assault counselor in the course of their relationship, including, but not limited to, any advice, reports, statistical data, memoranda, working papers, records or the like, given or made during that relationship, including matters transmitted between the sexual assault counselor and the victim through the use of an interpreter. “Coparticipant.” —A victim participating in group counseling. “Interpreter.” —A person who translates communications between a sexual assault counselor and a victim through the use of sign language, visual, oral or written translation. “Rape crisis center.” —Any office, institution or center offering assistance to victims of sexual assault and their families through crisis intervention, medical and legal accompaniment and follow-up counseling. “Sexual assault counselor.” —A person who is engaged in any office, institution or center defined as a rape crisis center under this section, who has undergone 40 hours of sexual assault 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. “Victim.” —A person who consults a sexual assault counselor for the purpose of securing advice, counseling or assistance concerning a mental, physical or emotional condition caused or reasonably believed to be caused by a sexual assault. The term shall also include those persons who have a significant relationship with a victim of sexual assault and who seek advice, counseling or assistance from a sexual assault counselor concerning a mental, physical or emotional condition caused or reasonably believed to be caused by a sexual assault of a victim.</p> <p>(b) Privilege. (1) No sexual assault counselor or an interpreter translating the communication between a sexual assault counselor and a victim may, without the written consent of the victim, disclose the victim’s confidential oral or written communications to the counselor nor consent to be examined in any court or criminal proceeding. (2) No coparticipant who is present during counseling may disclose a victim’s confidential communication made during the counseling session nor consent to be examined in any civil or criminal proceeding without the written consent of the victim.</p> <p>42 Pa.C.S. § 5945.3 § 5945.3. Confidential communications with human trafficking caseworkers. (a) Sexual assault counselors. — An individual qualified as a sexual assault counselor under section 5945.1(a)(relating to confidential communications with sexual assault counselors) may serve as a human trafficking counselor under this section. (b) Privilege. (1) This subsection applies to all of the following: (i) A human trafficking caseworker. (ii) An interpreter. (2) An individual designated in paragraph (1) may not disclose a confidential communication without the written consent of the victim of human trafficking who made the confidential communication.</p> |
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| | <p>(c) Definitions. — As used in this section, the following words and phrases shall have the meanings given to them in this subsection:</p> <p>“Confidential communication.” —All information, oral or written, transmitted between a victim of human trafficking and a human trafficking caseworker in the course of their relationship. The term includes advice, reports, statistical data, memoranda, working papers and records, given or made during that relationship, including matters transmitted between the human trafficking caseworker and the victim through the use of an interpreter.</p> <p>“Human trafficking caseworker.” —An individual:</p> <p>(1) who is engaged by any organization whether financially compensated or not;</p> <p>(2) whose primary purpose is the rendering of advice or assistance to a victim of human trafficking, as defined in 18 Pa.C.S. § 3001 (relating to definitions); and</p> <p>(3) who:</p> <p>(i) holds a master’s degree or higher in counseling or a related field;</p> <p>(ii) has an undergraduate degree or equivalent in a human services profession; or</p> <p>(iii) is supervised by an individual qualified under subparagraph (i) or (ii) and has at least 80 hours of training received under that supervision in:</p> <p>(A) the history of human trafficking;</p> <p>(B) civil law and criminal law as they relate to human trafficking;</p> <p>(C) societal attitudes toward human trafficking;</p> <p>(D) peer counseling techniques;</p> <p>(E) housing, public assistance and other financial resources available to meet the needs of victims of human trafficking;</p> <p>(F) referral services available to victims of human trafficking;</p> <p>(G) privileged communications; or</p> <p>(H) human trauma therapy counseling.</p> <p>“Interpreter.” —An individual who translates communications between a human trafficking caseworker and a victim of human trafficking through the use of sign language, visual, oral or written translation.</p> <p>42 Pa.C.S. § 5948 § 5948. Confidential communications to qualified professionals. Communications of a confidential character made by a spouse to a qualified professional as defined in 23 Pa.C.S. § 3103 (relating to definitions) shall be privileged and inadmissible in evidence in any matter under 23 Pa.C.S. Pt. IV (relating to divorce) or VI (relating to children and minors) unless the party concerned waives this privilege.</p> |
| PUERTO RICO | <p>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,</p> |

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| | 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 But see Advisory Opinion to House of Representatives, 469 A.2d 1161 (R.I. 1983) opinion https://casetext.com/case/advisory-opinion-to-the-house-of-represent |
| SOUTH CAROLINA | No statute but see, 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. |
| TENNESSEE | No but see, 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. |
| 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. |

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| | <p>Tex. Gov't Code § 420.072 Sec. 420.072. Disclosure of Confidential Communication or Record.</p> <p>(a) A communication or record that is confidential under Section 420.071 may only be disclosed if:</p> <ul style="list-style-type: none"> (1) the communication or record is relevant to the claims or defense of an advocate or sexual assault program in a proceeding brought by the survivor against the advocate or program; (2) the survivor has waived the privilege established under Section 420.071(c) with respect to the communication or record; (3) the survivor or other appropriate person consents in writing to the disclosure as provided by Section 420.073; (4) an advocate determines that, unless the disclosure is made, there is a probability of: <ul style="list-style-type: none"> (A) imminent physical danger to any person; or (B) immediate mental or emotional injury to the survivor; (5) the disclosure is necessary: <ul style="list-style-type: none"> (A) to comply with: <ul style="list-style-type: none"> (i) Chapter 261, Family Code; or (ii) Chapter 48, Human Resources Code; or (B) for a management audit, a financial audit, a program evaluation, or research, except that a report of the audit, evaluation, or research may not directly or indirectly identify a survivor; (6) the disclosure is made to an employee or volunteer of the sexual assault program after an advocate or a person under the supervision of a counseling supervisor who is participating in the evaluation or counseling of or the provision of services to the survivor determines that the disclosure is necessary to facilitate the provision of services to the survivor; or (7) the communication or record is in the possession, custody, or control of the state and a court, after conducting an in camera review of the communication or record, determines the communication or record is exculpatory, provided that the disclosure is limited to the specific portion of the communication or record that was determined to be exculpatory in relation to a defendant in a criminal case. <p>(b) Regardless of whether written consent has been given by a parent or legal guardian under Section 420.073(a), a person may not disclose a communication or record that is confidential under Section 420.071 to a parent or legal guardian of a survivor who is a minor or to a guardian appointed under Title 3, Estates Code, of an adult survivor, if applicable, if the person knows or has reason to believe that the parent or guardian of the survivor is a suspect or accomplice in the sexual assault of the survivor.</p> <p>(c) Notwithstanding Subsections (a) and (b), the Texas Rules of Evidence govern the disclosure of a communication or record that is confidential under Section 420.071 in a criminal or civil proceeding by an expert witness who relies on facts or data from the communication or record to form the basis of the expert's opinion.</p> <p>Tex. Gov't Code § 420.073 Sec. 420.073. Consent for Release of Certain Confidential Information.</p> |

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| | <p>(a) Consent for the release of confidential information other than evidence contained in an evidence collection kit must be in writing and signed by the survivor, a parent or legal guardian if the survivor is a minor, an attorney ad litem appointed for the survivor, or a personal representative if the survivor is deceased. The written consent must specify:</p> <ol style="list-style-type: none"> (1) the information or records covered by the release; (2) the reason or purpose for the release; (3) the person to whom the information is to be released; and (4) a reasonable time limitation during which the information or records may be released. <p>(b) A survivor or other person authorized to consent may withdraw consent to the release of information by submitting a written notice of withdrawal to the person or sexual assault program to which consent was provided. Withdrawal of consent does not affect information disclosed before the date written notice of the withdrawal was received.</p> <p>(c) A person who receives information made confidential by this chapter may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the person obtained the information.</p> <p>(d) For purposes of Subsection (a), a written consent signed by an adult survivor with a guardian appointed under Title 3, Estates Code, is effective regardless of whether the adult survivor’s guardian, guardian ad litem, or other legal agent signs the release. If the adult survivor agrees to the release but is unable to provide a signature and the guardian, guardian ad litem, or other legal agent is unavailable or declines to sign the release, the person seeking the release of confidential information may petition a court with probate jurisdiction in the county in which the adult survivor resides for an emergency order authorizing the release of the information, in the manner provided by Section 48.208, Human Resources Code.</p> <p>Tex. Gov’t Code § 420.074 Sec. 420.074. Disclosure of Privileged Communications or Other Information in Criminal Proceeding.</p> <p>(a) Subject to the provisions of this chapter, not later than the 30th day before the date of the trial, a defendant in a criminal proceeding may make a motion for disclosure of a communication or record that is privileged under this chapter. The motion must include a supporting affidavit showing reasonable grounds to believe the privileged communication or record contains exculpatory evidence.</p> <p>(b) The defendant shall serve the motion on the attorney representing the state and the person who holds the privilege with regard to the communication or record at issue.</p> <p>(c) The court shall order the privileged communication or record to be produced for the court under seal and shall examine the communication or record in camera if the court finds by a preponderance of the evidence that:</p> <ol style="list-style-type: none"> (1) there is a good-faith, specific, and reasonable basis for believing that the privileged communication or record is relevant, material, and exculpatory upon the issue of guilt for the offense charged; and (2) the privileged communication or record would not be duplicative of other evidence or information available or already obtained by the defendant. <p>(d) The court shall disclose to the defendant and to the state only the evidence that the court finds to be exculpatory on the issue of guilt for the offense charged.</p> |
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Tex. Gov't Code § 420.075**Sec. 420.075. Offense.**

A person commits an offense if the person intentionally or knowingly discloses a communication, a record, or evidence that is confidential under this chapter, except as provided by this chapter. An offense under this section is a Class C misdemeanor.

See also,

Tex. Gov't Code § 420.0735**Sec. 420.0735. Consent for Release of Certain Evidence.**

(a) Consent for the release of evidence contained in an evidence collection kit must be in writing and signed by:

- (1) the survivor, if the survivor is 14 years of age or older;
- (2) the survivor's parent or guardian or an employee of the Department of Family and Protective Services, if the survivor is younger than 14 years of age; or
- (3) the survivor's personal representative, if the survivor is deceased.

(b) For purposes of Subsection (a)(1), a written consent signed by an adult survivor with a guardian appointed under Title 3, Estates Code, is effective regardless of whether the adult survivor's guardian, guardian ad litem, or other legal agent signs the release. If the adult survivor with an appointed guardian agrees to the release but is unable to provide a signature and the guardian, guardian ad litem, or other legal agent is unavailable or declines to sign the release, then the investigating law enforcement officer may sign the release.

(c) Consent for release under Subsection (a) applies only to evidence contained in an evidence collection kit and does not affect the confidentiality of any other confidential information under this chapter.

(d) The written consent must specify:

- (1) the evidence covered by the release;
- (2) the reason or purpose for the release; and
- (3) the person to whom the evidence is to be released.

(e) A survivor or other person authorized to consent may withdraw consent to the release of evidence by submitting a written notice of withdrawal to the person or sexual assault program to which consent was provided. Withdrawal of consent does not affect evidence disclosed before the date written notice of the withdrawal was received.

(f) A person who receives evidence made confidential by this chapter may not disclose the evidence except to the extent that disclosure is consistent with the authorized purposes for which the person obtained the evidence.

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| <p>UTAH</p> | <p>Utah Code Ann. § 77-38-203 § 77-38-203. Definitions. As used in this part:</p> <ul style="list-style-type: none"> (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. <p>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:</p> <ul style="list-style-type: none"> (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. <p>Utah Code Ann. § 78B-1-137 (6) 78B-1-137. Witnesses – Privileged communications. There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate. Therefore, a person cannot be examined as a witness in the following cases:</p> <ul style="list-style-type: none"> (6) <ul style="list-style-type: none"> (a) A sexual assault counselor as defined in Section 77-38-203 cannot, without the consent of the victim, be examined in a civil or criminal proceeding as to any confidential communication as defined in Section 77-38-203 made by the victim. (b) A victim advocate as defined in Section 77-38-403 may not, without the written consent of the victim, or the victim’s guardian or conservator if the guardian or conservator is not the accused, be examined in a civil or criminal proceeding as to a confidential communication, as defined in Section 77-38-403, unless the victim advocate is a criminal justice system victim advocate, as defined in Section 77-38-403, and is examined in camera by a court to determine whether the confidential communication is privileged. |
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| | <p>Utah Code Ann. § 53B-28-202 53B-28-202. Confidentiality of information – Disclosure of confidential communication. (1) Except as provided in Subsection (2), and notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a person may not disclose a confidential communication. (2) A person may disclose a confidential communication if:</p> <ul style="list-style-type: none"> (a) the victim gives written and informed consent to the disclosure; (b) the person has an obligation to disclose the confidential communication under Section 26B-6-205, 80-2-602, or 78B-3-502; (c) the disclosure is required by federal law; or (d) a court of competent jurisdiction orders the disclosure. |
| <p>VERMONT</p> | <p>Vt. Stat. Ann. tit. 12, § 1614 § 1614. Victim and crisis worker privilege. (a) (1) "Crisis worker" means an employee or volunteer who:</p> <ul style="list-style-type: none"> (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. <p>(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.</p> <p>(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.</p> |
| <p>VIRGIN ISLANDS</p> | <p>No Statute</p> |
| <p>VIRGINIA</p> | <p>No but see, 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.</p> |

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| | <p>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:</p> <ol style="list-style-type: none"> 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; or 2. 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. <p>C. If release of information described in subsection B is compelled by statutory or court mandate, the program or individual providing services shall:</p> <ol style="list-style-type: none"> 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. <p>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:</p> <ol style="list-style-type: none"> 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. <p>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.</p> <p>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.</p> |
| <p>WASHINGTON</p> | <p>Rev. Code Wash. (ARCW) § 70.123.075 70.123.075. Client records.</p> <p>(1) Client records maintained by domestic violence programs shall not be subject to discovery in any judicial proceeding unless:</p> <ol style="list-style-type: none"> (a) A written pretrial motion is made to a court stating that discovery is requested of the client’s domestic violence records; (b) The written motion is accompanied by an affidavit or affidavits setting forth specifically the reasons why discovery is requested of the domestic violence program’s records; (c) The court reviews the domestic violence program’s records in camera to determine whether the domestic violence program’s records are relevant and whether the probative value of the records is outweighed by the victim’s privacy interest in the confidentiality of such |

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| | <p>records, taking into account the further trauma that may be inflicted upon the victim or the victim’s children by the disclosure of the records; and</p> <p>(d) The court enters an order stating whether the records or any part of the records are discoverable and setting forth the basis for the court’s findings. The court shall further order that the parties are prohibited from further dissemination of the records or parts of the records that are discoverable, and that any portion of any domestic violence program records included in the court file be sealed.</p> <p>(2) For purposes of this section, “domestic violence program” means a program that provides shelter, advocacy, or counseling services for domestic violence victims.</p> <p>(3) Disclosure of domestic violence program records is not a waiver of the victim’s rights or privileges under statutes, rules of evidence, or common law.</p> <p>(4) If disclosure of a victim’s records is required by court order, the domestic violence program shall make reasonable attempts to provide notice to the recipient affected by the disclosure, and shall take steps necessary to protect the privacy and safety of the persons affected by the disclosure of the information.</p> <p>Rev. Code Wash. (ARCW) § 70.125.065 70.125.065. Records of community sexual assault program and underserved populations provider not available as part of discovery – Exceptions. Records maintained by a community sexual assault program and underserved populations provider shall not be made available to any defense attorney as part of discovery in a sexual assault case unless:</p> <p>(1) A written pretrial motion is made by the defendant to the court stating that the defendant is requesting discovery of the community sexual assault program or underserved populations provider records;</p> <p>(2) The written motion is accompanied by an affidavit or affidavits setting forth specifically the reasons why the defendant is requesting discovery of the community sexual assault program or underserved populations provider records;</p> <p>(3) The court reviews the community sexual assault program or underserved populations provider records in camera to determine whether the community sexual assault program or underserved populations provider records are relevant and whether the probative value of the records is outweighed by the victim’s privacy interest in the confidentiality of such records taking into account the further trauma that may be inflicted upon the victim by the disclosure of the records to the defendant; and</p> <p>(4) The court enters an order stating whether the records or any part of the records are discoverable and setting forth the basis for the court’s findings.</p> <p>Wash. Rev. Code § 5.60.060 (7)-(8) 5.60.060. Who is disqualified – Privileged communications. (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.</p> <p>(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.</p> |
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| | <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>Rev. Code Wash. (ARCW) § 28B.112.030 28B.112.030. Campus-affiliated advocates — Confidentiality of records.</p> <p>(1) Survivor communications with, and records maintained by, campus-affiliated advocates, shall be confidential.</p> <p>(2) Records maintained by a campus-affiliated advocate are not subject to public inspection and copying and are not subject to inspection or copying by an institution of higher education unless:</p> <ul style="list-style-type: none"> (a) The survivor consents to inspection or copying; (b) There is a clear, imminent risk of serious physical injury or death of the survivor or another person; (c) Inspection or copying is required by federal law; or (d) A court of competent jurisdiction mandates that the record be available for inspection or copying. <p>(3) The definitions in this subsection apply throughout this section and RCW 42.56.240(16) unless the context clearly requires otherwise.</p> <ul style="list-style-type: none"> (a) “Campus-affiliated advocate” means a “sexual assault advocate” or “domestic violence advocate” as defined in RCW 5.60.060 or a victim advocate, employed by or volunteering for an institution of higher education. (b) “Survivor” means any student, faculty, staff, or administrator at an institution of higher education that believes they were a victim of a sexual assault, dating or domestic violence, or stalking. |
| WEST VIRGINIA | W. Va. Code § 48-26-701 § 48-26-701. Confidentiality. |

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(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.

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 her or his 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 her or his 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.

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| | <p>(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).</p> <p>(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.</p> <p>(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.</p> |
| <p>WISCONSIN</p> | <p>Wis. Stat. Ann. § 905.045 Domestic violence or sexual assault advocate-victim privilege.</p> <p>(1) Definitions. In this section:</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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</p> |

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| | <p>concerning a threat of violence in or targeted at a school that a victim advocate is required to make under s. 175.32.</p> <p>(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.</p> <p>Wis. Stat. § 905.11 905.11. Waiver of privilege by voluntary disclosure. A person upon whom this chapter confers a privilege against disclosure of the confidential matter or communication waives the privilege if the person or his or her predecessor, while holder of the privilege, voluntarily discloses or consents to disclosure of any significant part of the matter or communication. This section does not apply if the disclosure is itself a privileged communication.</p> <p>Wis. Stat. § 905.12 905.12. Privileged matter disclosed under compulsion or without opportunity to claim privilege. Evidence of a statement or other disclosure of privileged matter is not admissible against the holder of the privilege if the disclosure was (a) compelled erroneously or (b) made without opportunity to claim the privilege.</p> <p>Wis. Stat. § 905.13 905.13. Comment upon or inference from claim of privilege; instruction. (1) Comment or inference not permitted. The claim of a privilege, whether in the present proceeding or upon a prior occasion, is not a proper subject of comment by judge or counsel. No inference may be drawn therefrom. (2) Claiming privilege without knowledge of jury. In jury cases, proceedings shall be conducted, to the extent practicable, so as to facilitate the making of claims of privilege without the knowledge of the jury. (3) Jury instruction. Upon request, any party against whom the jury might draw an adverse inference from a claim of privilege is entitled to an instruction that no inference may be drawn therefrom. (4) Application; self-incrimination. Subsections (1) to (3) do not apply in a civil case with respect to the privilege against self-incrimination.</p> <p>Wis. Stat. § 905.14 905.14. Privilege in crime victim compensation proceedings. (1) Except as provided in sub. (2), no privilege under this chapter exists regarding communications or records relevant to an issue of the physical, mental or emotional condition of the claimant or victim in a proceeding under ch. 949 in which that condition is an element. (2) The lawyer-client privilege applies in a proceeding under ch. 949.</p> |
| WYOMING | <p>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</p> |

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| | <p>relationship and includes all information received by, and any report, working paper or document prepared by the advocate in the course of that relationship;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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).</p> <p>(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:</p> <p>(i) An advocate shall not testify concerning a confidential communication made by a victim in the course of that relationship, except the advocate:</p> <ul style="list-style-type: none"> (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. <p>(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.</p> <p>Wyo. Stat. Ann. § 14-3-210 § 14-3-210. Admissibility of evidence constituting privileged communications.</p> <p>(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:</p> <ul style="list-style-type: none"> (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. |

TECHNICAL ASSISTANCE

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