

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege



Confidentiality
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Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege



Protecting privacy, Securing safety.

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Nothing in this summary is intended to provide legal advice nor does it substitute for the advice of a licensed attorney. This summary is intended to facilitate, not replace, the user's independent review of the existing local law and updates or changes that might have been implemented since the summary was updated.

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ALABAMA**SUMMARY****PRIVILEGE****DEFINITIONS**

<p>Crime Counselor Confidentiality Act Ala. Code 1975 §§15-23-40 To 46</p> <p>See also Ala. R. Evid. 503A.</p> <p>Coalition Resources:</p> <p>Alabama Coalition Against Domestic Violence: www.acadv.org</p> <p>Alabama Coalition Against Rape: www.AlabamaCoalitionAgainstRape.org</p>	<p>Privilege between sexual assault or family violence victim and victim counselor.</p> <p>Limited to criminal proceedings only.</p> <p>Shelter name, address, location and phone number cannot be compelled in any civil or criminal proceeding unless the facility is a party.</p>	<p>Victim or victim counselor cannot be compelled to give testimony or to produce records concerning confidential communications for any purpose in any criminal proceeding.</p>	<p>Victim Counselor: Any employee or supervised volunteer of victim counseling center who is not affiliated with law enforcement or prosecutor and whose duties include treating victims for any emotional or psychological condition resulting from sexual assault or family violence.</p> <p>Confidential Communication: 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 conditions resulting from a sexual assault or family violence.</p>
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ALABAMA**SUMMARY****PRIVILEGE****DEFINITIONS**

Ala. Code 1975 §30-6-8
(funding for domestic
violence facilities)

Privilege between domestic
violence survivors and
advocates for oral and written
information, in both civil and
criminal proceedings.

30-6-8 applies to any criminal
or civil proceeding. Does not
apply to child abuse
proceedings.

Coalition Resources:

Alabama Coalition Against
Domestic Violence:
www.acadv.org

Alabama Coalition Against
Rape:
[www.AlabamaCoalition
AgainstRape.org](http://www.AlabamaCoalition
AgainstRape.org)

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 mandated reporting of
child abuse/neglect and
aged adults or adults with
disabilities. The privilege
applies in civil and criminal
proceedings, but not in
proceedings concerning
child abuse. This privilege
expires upon the death of
the victim.

Advocate: An employee or
volunteer of a program for
victims of domestic
violence receiving funds
under this chapter who has
a primary function of
rendering advice,
counseling, or assistance
to victims of domestic
violence; who supervises
the employees or
volunteers of the program;
or who administers the
program.

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ALASKA

SUMMARY

PRIVILEGE

DEFINITIONS

Compulsory disclosure of communications prohibited. Alaska Stat. §§18.66.200-250

See also Alaska Stat. § 24.65.100-200 (Re: office of victim’s rights powers of investigations and duties to protect confidential information.)

Absolute Privilege between sexual assault or domestic violence victim and victim counselor.

Consent required before counselor may testify or produce records for any purpose in any criminal, civil, legislative or administrative proceeding.

Unless court finds necessary and relevant to facts of case, name address, location and phone number of shelter or victim counselor are privileged.

Victim or victim counselor may not be compelled to give testimony or to produce records concerning confidential communications for any purpose in any civil, criminal, legislative or administrative proceeding.

Statute contains eight exceptions to privilege, including reports of child abuse and neglect, evidence victim is about to commit a crime, proceedings after a victim’s death, communication that is excited utterance, a child-in-need-of-aid proceeding, and three others.

Victim Counselor: Any employee or supervised volunteer of a victim counseling center who has undergone 40 hour training or whose duties include victim counseling.

Confidential Communication: Information exchanged between a victim and a private counselor in private, which is disclosed in the course of victim counseling.

Victim counseling: support, assistance, advice, or treatment to alleviate the adverse effects of a sexual assault or domestic violence on the victim.

Coalition Resources

Alaska Coalition Against Domestic Violence & Sexual Assault:
www.andvsa.org

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ARIZONA

SUMMARY

PRIVILEGE

DEFINITIONS

Communication by domestic violence victim to domestic violence advocate privileged in civil action.

Arizona Rev. Stat. §12-2239 (Domestic violence advocates)
 Arizona Rev. Stat. §12-2240 (Sexual assault advocates) (statutes are substantially same)

Coalition Resources:

Arizona Coalition Against Sexual and Domestic Violence: www.acesdv.org

Privilege applies to civil actions and communications by the domestic violence/sexual assault victim to a domestic violence/sexual assault advocate. Exceptions do apply, and a party can move for in camera review and disclosure.

In a civil action, a domestic violence/sexual assault victim advocate shall not be examined as to any communication made by the victim to the advocate.

Exceptions include mandated reporting of abuse and neglect of children; when the victim advocate knows the victim will or has given perjurious statements or statements that tend to disprove the existence of domestic violence/sexual assault.

Privilege does not apply in civil commitment of sexually violent persons.

Domestic Violence/Sexual Assault Victim Advocate: employee or volunteer at a domestic violence shelter or service provider for victims of domestic violence/sexual assault who has 30 hours of training in compliance with statutory requirements.

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ARIZONA

SUMMARY

PRIVILEGE

DEFINITIONS

Consultation between crime victim advocate and victim; privileged information; exception.

Arizona Rev. Stat. §§ 13-4401, 13-4430 and 8-409 (juvenile offenses)

Coalition Resources:

Arizona Coalition Against Sexual and Domestic Violence: www.acesdv.org

Privilege applies to communications between crime victim advocate and crime victim. Evidence of perjury and exculpatory evidence may be disclosed even without consent.

Rights and status as “crime victim” are based on assessment of law enforcement or prosecutor probable cause and charging crime.

State v. Forde, 233 Ariz. 543, 315 P.3d 1200 (Ariz.), cert. denied, 134 S. Ct. 2876, 189 L. Ed. 2d 839 (U.S. 2014). Application of the crime victim advocate privilege did not violate defendant’s confrontation and due process rights; precluding the advocate’s testimony did not impede defendant from cross-examining the victim or arguing that the victim’s identification was unreliable.

Crime victim advocate shall not disclose as a witness or otherwise any communication between the advocate and the victim (even communications made in the presence of others), including reports, records, notes or other documents, which contain opinions, theories or other information, made while advising, counseling, or assisting the victim.

Exception exists for information regarding perjured testimony by the victim and exculpatory evidence.

Victim consent to a disclosure must be in writing.

Procedure for motion and in camera review to identify and disclose exculpatory evidence.

Crime Victim Advocate: Person employed or authorized by a public or private entity to provide counseling, treatment or other supportive assistance to crime victims.

Victim: Person against whom the criminal offense has been committed.

Criminal Offense: conduct that gives peace officer or prosecutor probable cause to believe crime has occurred.

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ARKANSAS

SUMMARY

PRIVILEGE

DEFINITIONS

Privileged communications made by victim of domestic violence.

Arkansas Code § 9-6-112
[newly enacted in 2019]

See Also:

Arkansas Domestic Peace Act, Program Requirements, Arkansas Code § 9-4-106 (requiring confidentiality agreements for advocates and volunteers at funded programs.)

Coalition Resources:
Arkansas Coalition Against Domestic Violence:
www.domesticpeace.com

Arkansas Coalition Against Sexual Assault:
www.acasa.us

Communication between a victim of domestic violence and the personnel of a domestic violence center are privileged.

Covers acts of domestic violence and sexual assault. Allows for in camera review.

Statute allows for in camera review by court, and deems privilege waived if:

- advocate is witness to incident,
- advocate determines disclosure is necessary to protect any person from serious harm
- victim consents to disclosure of any significant part of communication.

[see statute for precise waiver circumstances]

A victim of domestic violence or an advocate for victims 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.

The privilege under this section only applies when the communication was made to the advocate 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[.]

A court can compel disclosure after an in-camera hearing when the probative value of the evidence outweighs: the effect on A) the victim, B) the treatment relationship between victim & advocate, and C) Treatment services provided by shelter/domestic violence center.

Advocate for victims of domestic violence: an employee, supervisor, administrator, or volunteer of a shelter or center for victims of domestic violence authorized and regulated under this chapter.

Communication: verbal, written, or electronic communications of any kind.

Victim of Domestic Violence: 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.

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CALIFORNIA**SUMMARY****PRIVILEGE****DEFINITIONS**

Article 8.5, Sexual Assault Victim-Counselor Privilege
Cal. Evid. Code §§ 1035-1035.8; 1036 and 1036.2

See also Cal. Evid. Code §912 (discussing standards for waiver and disclosure that does not waive privilege.)

Coalition Resources:

ValorUS: www.valor.us

California Partnership to End Domestic Violence:
www.cpedv.org

Privilege between sexual assault counselor and victim.

Court can compel disclosure after an in camera review if the probative value of the evidence outweighs the effect on the victim, the treatment relationship and the treatment services.

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 the counselor.

Holder of Privilege: Victim, victim's guardian or conservator, or personal representative if victim is dead.

Confidential Communication: Information transmitted between the victim and the counselor in the course of their relationship by a means which discloses to no third persons except those present to further the interests of the victim or reasonably necessary to accomplish counselor's purpose.

Sexual Assault Victim Counselor: a person who has completed 40 hours of certified training and is supervised by a masters level counselor that works at an office, hospital, institution or rape crisis center, whose primary purpose is rendering advice or assistance to victims of sexual assault.

Reports to campus advocates are not confidential unless those advocates are certified sexual assault counselors who are employed by a rape crisis center, or are certified as domestic violence counselors, as defined by California law. (Evid. Code, §§ 1035.4, 1037.1.)

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

CALIFORNIA**SUMMARY****PRIVILEGE****DEFINITIONS**

Article 8.7, Domestic Violence Victim-Counselor Privilege, Cal. Evid. Code §§ 1037-1037.8

Privilege between domestic violence counselor and victim.

Court can compel disclosure after an in camera review in some circumstances. Court can also compel when victim is dead or not complaining witness in criminal matter.

Coalition Resources:

ValorUS: www.valor.us

California Partnership to End Domestic Violence:
www.cpedv.org

Victim of domestic violence, 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 the counselor.

The court may compel disclosure after in camera review when the probative value of the evidence outweighs the effect on the victim, the treatment relationship, and treatment services in the following circumstances:

- 1) a criminal proceeding regarding a crime allegedly perpetrated against the victim or another household member, or
- 2) a proceeding related to child abuse.

Holder of Privilege: Victim or victim's guardian or conservator or personal representative if victim is dead unless the guardian or conservator is accused of perpetrating the domestic violence against the victim.

Confidential Communication: Information transmitted between the victim and the domestic violence counselor in the course of their relationship by a means which discloses to no third persons except those present to further the interests of the victim or reasonably necessary to accomplish counselor's purpose.

Domestic Violence Counselor: Person engaged in a domestic violence organization that is certified. 40 hours of specified training or master's degree in counseling, psychotherapist, or one year counseling experience (6 months of which is in domestic violence counseling).

Includes 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.

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COLORADO

SUMMARY

PRIVILEGE

DEFINITIONS

Who May not Testify Without Consent, Colo. Rev. Stat. §13-90-107 (1)(k)

Privilege: A victim’s advocate (domestic violence and sexual assault) shall not be examined by testimony or through records without the victim’s consent.

Separate privilege in same statute applies to licensed psychologists, professional counselors, marriage and family therapists, social workers, or unlicensed psychotherapists including group therapies

A victim’s advocate shall not be examined as to any communication made to such advocate by a victim of domestic violence or sexual assault, in person or through written records or reports without the victim’s consent

Victim’s Advocate: Person at a battered women’s shelter or rape crisis organization or a comparable community based advocacy program (not including any advocate employed by any law enforcement agency), whose primary function is to render advice, counsel or assistance, and who has 15 hours of training (for domestic violence advocates) or 30 hours of training (for sexual assault advocates). Includes supervisor or persons who meet requirements and must work under a supervisor.

Coalition Resources:

Colorado Coalition Against Sexual Assault: www.ccasa.org

Violence Free Colorado (f/k/a Colorado Coalition Against Domestic Violence): www.violencefreecolorado.org

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CONNECTICUT

SUMMARY

PRIVILEGE

DEFINITIONS

Privileged Communications Between Battered Women's or Sexual Assault Counselor and Victim, Conn. Gen. Stat. § 52-146k

Domestic violence or sexual assault counselor shall not disclose any confidential communication in any civil or criminal case or in any legislative or administrative proceeding unless the victim waives the privilege. Under no circumstances shall the location of the domestic violence center or rape crisis center be disclosed in any civil or criminal proceeding.

State v. Norman P., 329 Conn. 440 (2018), Connecticut Supreme Court affirmed the trial court's duty to conduct an in camera review of the counseling records when the defendant established that there was a reasonable ground to believe that the failure to produce the information is likely to impair the defendant's right of confrontation. If the in camera inspection reveals relevant material the witness should be given an opportunity to decide whether to consent to re-lease the records or have her testimony stricken.

State v. Santiago, 318 Conn. 1, 122 A.3d 1 (2015). The court directed that a counselor's identity be disclosed to the defendants for purposes of cross-examination concerning her statutory qualifications, concluding the statute contained conflicting language in prohibiting the identity of the sexual assault counselor to be disclosed, while also requiring determination whether someone was in fact a sexual assault counselor and covered by the privilege.

Coalition Resources:

Connecticut Coalition Against Domestic Violence:
www.ctcadv.org

Connecticut Alliance to End Sexual Violence:
www.endsexualviolencect.org

Domestic violence or sexual assault counselor shall not disclose any confidential communication in any civil or criminal case or in any legislative or administrative proceeding unless the victim waives the privilege.

Under no circumstances shall the location of the domestic violence agency or rape crisis center be disclosed in any civil or criminal proceeding.

The privilege established by this section shall not apply: (1) to proof of chain of custody of evidence; (2) to proof concerning the physical appearance of the victim at the time of the injury; or (3) where 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.

Confidential Communication: Information transmitted between a victim and a domestic violence or sexual assault counselor in the course of that relationship and in confidence, and includes all information received by, and any advice, report or working paper given or made by such counselor.

Sexual assault or domestic violence counselors must complete 20 hours of certified training and be providing services under the control of a DV or SA Agency whose primary purpose is supporting victims.

Covers any member of armed forces that has been trained in sexual assault victim advocacy.

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DELAWARE

SUMMARY

PRIVILEGE

DEFINITIONS

No law that directly addresses domestic violence or sexual assault victims. But see:

11 Del. C. § 9403

Non-disclosure of information about crime victim (protects contact information about victim and victim’s family, and for witnesses of crimes)

Coalition Resources:

Delaware Coalition Against Domestic Violence: www.dcadv.org

Sexual Assault Network of Delaware: www.contactlifeline.org

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DISTRICT OF COLUMBIA**SUMMARY****PRIVILEGE****DEFINITIONS**

Physicians and Mental Health Professionals, D.C. Code Ann. §§ 14.307
 § 14-310. Domestic violence counselors
 § 14-311. Human Trafficking counselors
 § 14-312. Sexual assault counselors
 § 7-1201.01(11). Mental Health professionals

Privilege: A domestic violence, human trafficking, or sexual assault counselor, or mental health professional (which includes sexual assault counselors) shall not disclose any confidential communications, with few exceptions.

Privilege for sexual assault counselors who are or are supervised by licensed mental health professionals.

Brown v. United States, 567 A.2d 426, 428 (D.C. 1989) outlines the procedure for compelling disclosure of privileged information covered by § 14.307.

Coalition Resources:

DC Coalition Against Domestic Violence:
www.dccadv.org

DC Coalition To End Sexual Violence:
www.dccesv.org

A sexual assault or domestic violence counselor may only disclose confidential communications (1) when it is required by statute or state law; (2) when the victim provides written consent; (3) when the third party is a person working in the domestic violence program or the police to the extent necessary to protect the victim or another individual from a substantial risk of imminent and serious physical injury; or (4) when the victim files a lawsuit against a sexual assault domestic violence counselor or a sexual assault program, domestic violence program or DC SANE Program.

Additional Sexual Assault Counselor Exception: Sharing information to others employed by the DC SANE Program and third party provider to the extent necessary to facilitate the delivery of services to the sexual assault victim does not act as a waiver.

Also, 5 specific exceptions applying to both domestic violence and mental health professional qualified sexual assault counselors are listed in § 14.307. No sexual assault counselor who qualifies as a mental health

Confidential Communication: 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.

Domestic violence counselor: employee, contractor, or volunteer of a domestic violence program who is rendering support, counsel, or assistance to a victim; must have at least 40 hours of training; must be licensed or working under supervision of someone with specified license.

Sexual assault counselor: employee, contractor, or volunteer of a community-based organization serving sexual assault victims 13 years of age or older who renders

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DISTRICT OF COLUMBIA

SUMMARY

PRIVILEGE

DEFINITIONS

<p>Coalition Resources:</p> <p>DC Coalition Against Domestic Violence: www.dccadv.org</p> <p>DC Coalition To End Sexual Violence: www.dccesv.org</p>		<p>professional or employee or agent of a mental health professional shall disclose or permit the disclosure of mental health information to any person, including an employer. Exceptions, details of waiver, penalties, and procedures laid out in statute.</p>	<p>support, counseling, or assistance to a victim; has undergone 40 hours of approved training; and is supervised by someone with 5 years experience or 3 years experience + advanced degree</p> <p>[Following category still exists in statute, but may be not in use because of "sexual assault counselor" above]</p> <p>Rape crisis or sexual abuse counselor: undergone at least 40 hours of training and is under the supervision of a licensed social worker, nurse, psychiatrist, psychologist, or psychotherapist.</p>
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FLORIDA

SUMMARY

PRIVILEGE

DEFINITIONS

Sexual Assault Counselor-Victim Privilege, Fla. Stat. Ann. § 90.5035

Victim has privilege on a confidential communication made by the victim to a sexual assault counselor or any record made in the course of the counseling.

In camera review not allowed unless defendant first establishes reasonable probability that privileged matters contain material information to his defense. State v. Pinder, 678 So.2d 410 (App. 4 Dist. 1996)

Victim has 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 and any record made in the course of counseling. Privilege also includes any advice given by the counselor in the course of the relationship.

Written consent required for disclosure.

Confidential Communication: Is one between counselor and victim, which is not intended to be disclosed to third persons, with some third person exceptions defined in the statute such as:

1. those present to further the interest of the victim in the consultation, examination, or interview;
2. those necessary for transmission of the communication and
3. those to whom disclosure is reasonably necessary to accomplish the purpose for which the sexual assault counselor or volunteer is consulted.

Sexual Assault Counselor: Employee of a rape crisis center whose primary purpose is the rendering of advice, counseling or assistance to sexual assault victims.

Trained Volunteer: Has 30 hours of required training, is supervised by staff, and is on a list of volunteers maintained at the program.

Coalition Resources:

Florida Council Against Sexual Violence: www.fcasv.org

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FLORIDA

SUMMARY

PRIVILEGE

DEFINITIONS

Domestic Violence Advocate-Victim Privilege,
Fla. Stat. Ann. § 90.5036

Victim has privilege on a confidential communication made by the victim to a domestic violence advocate or any record made in the course of counseling.

See above, State v. Pinder likely to apply here as well.

Victim has 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 counseling.

Privilege also includes any advice given by the advocate in the course of the relationship.

Advocate must be registered at the time the communication is made.

Confidential Communication:
Is one between advocate and victim, which relates to the domestic violence incident and is not intended to be disclosed to third parties, with some third party exceptions defined in the statute such as:
1. those present to further the interest of the victim in the consultation, assessment or interview;
2. those to whom disclosure is reasonably necessary to accomplish the purpose for which advocate is consulted.

Domestic Violence Advocate:
Employee or volunteer who had 30 hours of training in assisting victims of DV and who is an employee or volunteer of a DV center whose primary purpose is the rendering of advice, counseling, or assistance to domestic violence victims.

Coalition Resources:

Florida Council Against Sexual Violence: www.fcasv.org

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GEORGIA**SUMMARY****PRIVILEGE****DEFINITIONS**

Communications between victims of family violence or sexual assault and agents providing services to such victims; termination of privilege Ga. Code Ann., §24-5-509

See also
OCGA § 46-5-7 (phone service providers required to keep shelter locations confidential)

Coalition Resources:

Georgia Coalition Against Domestic Violence: www.gcadv.org

Georgia Network to End Sexual Assault: www.gnesa.org

Victim has privilege to prevent disclosure of any evidence by an agent of family violence shelter or rape crisis center. Statute does allow for motion to disclose under limited circumstances and in camera review by court.

Privilege terminates upon death of the victim.

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 [circumstances outlined in the statute which differ for criminal and civil court] by a preponderance of the evidence.

Mere presence of a third person does not void privilege if it was in a setting where the victim had a reasonable expectation of privacy .

Agent: An employee or volunteer of a program who has completed requisite 20 hours of certified training.

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HAWAII

SUMMARY

PRIVILEGE

DEFINITIONS

Victim-Counselor Privilege, Hawaii Rev. Stat., Rules of Evid., Rule 505.5

Privilege covers domestic violence, sexual assault, or child abuse or neglect counseling, as well as the name, location or telephone number of a shelter.

State v. Peseti, 65 P.3d 119 (Haw. 2004) creates procedure for in camera review in criminal prosecutions:
 (1) there is a legitimate need to disclose the protected information; (2) the information is relevant and material to the issue before the court; and (3) the party seeking to pierce the privilege shows by a preponderance of the evidence that no less intrusive source for that information exists.

Coalition Resources:

Hawaii State Coalition Against Domestic Violence:
www.hscadv.org

Kapi'olani Sex Abuse Treatment Center: www.satchawaii.com

After Peseti, the confrontation right in Hawai'i Const. art. I, § 14 was amended to allow legislature to provide for privilege between alleged crime victims and physician, psychologist, counselor or licensed mental health professional.

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 and psychological effects of domestic violence, sexual assault, or child abuse or neglect, or the name, location or telephone number of a shelter.

[The statute includes numerous exceptions including perjury, proceedings for hospitalization for mental illness or substance abuse, if the court orders an examination of the physical, mental, or emotional condition of a victim and others.]

Confidential Communication: Not intended to be disclosed to third persons.

Victim Counselor means:

Sexual Assault: Employed by or volunteer in a sexual assault crisis center, 35 hours of training required; reports to a social worker, nurse, psychiatrist or psychotherapist. Primary function is giving advice, counseling or assistance to victims.

Domestic Violence: Employed by or volunteer in domestic violence program; 25 hours of training required; reports to a direct service supervisor of victims' program. Primary function is giving advice, counseling or assistance to victims.

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IDAHO

SUMMARY

PRIVILEGE

DEFINITIONS

No specific domestic violence or sexual assault counselor privilege, but see Idaho Code § 39-5211 (staff and volunteers of domestic violence programs that receive state funds must maintain confidentiality of any identifying information of those who use services).

Idaho Rule of Evid. 517
(licensed professional counselor privilege).

Coalition Resources:

Idaho Coalition Against Sexual and Domestic Violence: www.idvsa.org

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ILLINOIS

SUMMARY

PRIVILEGE

DEFINITIONS

Privileged Communications Between Domestic Violence Counselors and Victims, 750 Ill. Comp. Stat. 60/227

Absolute privilege against disclosure of confidential communication between victim and domestic violence advocate or counselor.

No domestic violence advocate or counselor shall disclose any confidential communication or be examined as a witness in any civil or criminal case or in any legislative or administrative proceeding without written consent of the victim.

Domestic Violence Advocate or Counselor: Any person who provides services through a domestic violence program (including a government program), either as a volunteer or employee, 40 hours of training required.

See also: 750 Ill. Comp. Stat. 60/227.1 (DV program location & identity of DV advocate or counselor are protected)

People v. Sevedo 74 N.E.3d 529 (IL App.1st 2017). The court held that circuit courts have the authority to conduct in camera reviews of documents claimed to be protected by the advocate-victim privilege, which is absolute in nature, when the privileged nature of the communication is not evident on its face.

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 counselor or advocate.

Confidential Communication: Any communication between victim and advocate or counselor in the course of providing information, counseling or advocacy. Includes records.

Coalition Resources:

Illinois Coalition Against Domestic Violence: www.ilcadv.org

Illinois Coalition Against Sexual Assault: www.icasa.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

ILLINOIS

SUMMARY

PRIVILEGE

DEFINITIONS

Confidentiality of Statements Made to Rape Crisis Personnel, 735 Ill. Comp. Stat. 5/8-802.1

Absolute privilege against disclosure of confidential communication between victim and rape crisis counselor.

In camera inspection not allowed, and not inconsistent with defendant's right to confrontation. *People v. Foggy*, 521 NE2d 86 (Ill. 1988), cert. den. 486 US 1047 (1988). See also *People v. Harlacher*, 634 NE2d 366 (Ill. App. 2d. District 1994).

People v Sevedo (prior page) may also apply.

No rape counselor shall disclose any confidential communication or be examined as a witness in any civil or criminal case without the written consent of the victim or the victim's representative.

Rape Counselor: Any person who provides services through a rape crisis organization (the definition does not include a government program), either as a volunteer or employee. 40 hours of training and supervision by direct services supervisor required.

Confidential Communication: Any communication between victim and counselor in the course of providing information, counseling or advocacy. Includes records.

Coalition Resources:

Illinois Coalition Against Domestic Violence: www.ilcadv.org

Illinois Coalition Against Sexual Assault: www.icasa.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

ILLINOIS

SUMMARY

PRIVILEGE

DEFINITIONS

Confidentiality of Statements Made to Personnel Counseling Victims of Violent Crime, 735 Ill. Comp. Stat. 5/8-802.2

Victim who consults with any counselor regarding a violent crime or its circumstances has privilege against disclosure, unless waived in writing.

Victim of violent crime who makes a statement relating to the crime or its circumstances during the course of therapy or consultation with any counselor, employee or volunteer of a victim aid organization, the statement or contents shall not be disclosed unless the victim consents in writing.

Violent crimes include, but are not limited to, any felony in which force or threat of force was used, or any misdemeanor which results in death or great bodily harm to the victim.

In camera review and a court order requiring disclosure may be given where a party alleges that such statements are necessary to the determination of any issue before the court, and the court finds the statements to be relevant and admissible.

Coalition Resources:

Illinois Coalition Against Domestic Violence: www.ilcadv.org

Illinois Coalition Against Sexual Assault: www.icasa.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

ILLINOIS**SUMMARY****PRIVILEGE****DEFINITIONS**

Confidential Advisor 735 ILCS 5/8-804
(Part of the Illinois Preventing Sexual Violence In Higher Education Act)

Communications between a confidential advisor and a survivor of sexual violence is confidential, unless the survivor consents to the disclosure of the communication in writing. The confidential advisor may disclose confidential communications between them 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. The confidential advisor on a monthly basis must report an aggregate number of the type of incidents of sexual violence reported exclusively to the confidential advisor to the Title IX Coordinator of the Higher Education Institution Section 9.21 of the Board of Higher Education Act and under federal law.

Written consent is required before confidential communications may be released to any third party. 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.

Confidential Advisor: Employed or contracted by a higher education institution to provide emergency and ongoing support to survivors of sexual violence with the training, duties, and responsibilities described in Section 20 of the Preventing Sexual Violence in Higher Education Act. Must complete 40 hours of training on sexual violence.

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.

Survivor: means a student who has experienced sexual violence while enrolled at a higher education institution.

Coalition Resources:

Illinois Coalition Against Domestic Violence: www.ilcadv.org

Illinois Coalition Against Sexual Assault: www.icasa.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

INDIANA

SUMMARY

PRIVILEGE

DEFINITIONS

Privileged Communications and Victim Counselors, Burns Ind. Code Ann. 35-37-6-1 to -11

Victim, victim counselor, or child (unless parent or guardian consents) may not be compelled to give testimony or produce records, or to disclose any information concerning confidential communications and confidential information to anyone or in any judicial, legislative or administrative proceeding.

Victim, victim counselor, or child (unless parent or guardian consents) may not be compelled to give testimony or produce records, or to disclose any information concerning confidential communications and confidential information to anyone or in any judicial, legislative or administrative proceeding. Victim advocate, victim service provider, or victim may not be compelled to identify the name, address, location or telephone number of any shelter, unless the shelter is a party.

Confidential Communication: Means any information exchanged between victim and a victim advocate in the course of the relationship between the victim and the victim advocate.

Victim Counseling Center: Includes public agencies and private non-profits, which are not affiliated with a law enforcement agency, and has one purpose, the treatment of victims for emotional and psychological conditions.

Victim Advocate: means an individual employed or appointed by or who volunteers for a victim services provider.

Coalition Resources:

Indiana Coalition Against Domestic Violence: www.icadvinc.org

Indiana Coalition To End Sexual Assault & Human Trafficking: www.icesaht.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

IOWA

SUMMARY

PRIVILEGE

DEFINITIONS

Victim Counselor Privilege, Iowa Code Ann. § 915.20A (NOTE: former section 236A.1 is similar; repeal of former section probably intended).

Military Victim Advocate Privilege, Iowa Code Ann. § 916.2 (statutory protections identical to Victim Counselor Privilege)

Coalition Resources:

Iowa Coalition Against Domestic Violence:
www.icadv.org

Iowa Coalition Against Sexual Assault:
www.iowacasa.org

A victim counselor/military victim advocate shall not be examined or required to give evidence in civil or criminal proceeding as to any confidential communication made by a crime victim to a counselor/advocate. Exceptions for chain of custody, allegations of perjury, and physical appearance of victim at time of injury or first contact after the injury

In camera review procedure may compel disclosure in a criminal case.

Location of crime victim center and identity of crime victim counselor/military victim advocate also protected from disclosure.

A victim counselor/military victim advocate shall not be examined or required to give evidence in any civil or criminal proceeding as to any confidential communication made by victim to a counselor, unless waived or compelled by the court. Under no circumstances is location of crime victim center or the identity of the counselor/advocate to be disclosed in any civil or criminal proceeding. Upon death or incompetence, a personal representative or guardian may waive.

Court may compel if, upon motion and written offer of proof, the information sought is relevant and material evidence of the facts and circumstances involved in the alleged criminal act which is subject to a criminal proceeding; the probative value outweighs the harmful effects of disclosure, and the information can't be obtained by reasonable means from other sources. In camera review and/or out of jury hearing procedure to determine whether to disclose.

Victim Counselor: Certified as a counselor by a crime victim center, whose primary purpose is the rendering of advice, counseling and assistance to victims of crime. 20 hours of relevant, specified training is required.

Confidential Communication: Means information shared between a crime victim and a victim counselor within the counseling relationship. Records and advice are included. Some communication in presence of or to third party who furthers interests of victim or purposes of consultation still confidential.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

KANSAS

SUMMARY

PRIVILEGE

DEFINITIONS

No specific domestic violence or sexual assault counselor privilege, but see Ks. Stat. Ann. § 65-5810 (licensed professional counselor privilege), and 65-6315 (licensed social worker confidentiality)

Coalition Resources:

Kansas Coalition Against Sexual and Domestic Violence:
www.kcsdv.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

KENTUCKY**SUMMARY****PRIVILEGE****DEFINITIONS**

Counselor Client Privilege,
Kentucky Rule of Evid. 506

Confidentiality of rape crisis center
clients' records,
KY Rev. Stat. § 211.608

Coalition Resources:

Kentucky Coalition Against
Domestic Violence:
www.kcadv.org

Kentucky Association of Sexual
Assault Programs:
www.kasap.org

Client can refuse to disclose or
prevent others from disclosing
confidential communication
given to a sexual assault
counselor, crisis response
worker, certified professional
counselor or a victim advocate.

Court can order disclosure after
in camera review, on minimal
finding.

Client can refuse to disclose
or prevent others from
disclosing confidential
communication 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. There are exceptions
to the privilege when the
client is asserting her
physical, mental, or
emotional condition as an
element of a claim or
defense, any party is relying
upon a deceased client's
physical, mental, or
emotional condition as an
element of a claim or defense
or there is a judicial finding
of need.

Court can order disclosure if
it finds: the substance of the
confidential communication is
relevant to an essential
issue, there is no available
alternative means to obtain
the information, and the
need for the information
outweighs the privilege
interest.

Sexual Assault Counselor: 40
hours of training required,
and must be under the
control of a direct services
supervisor of a rape crisis
center, whose primary
purpose is advice and
counseling of victims of
sexual assault.

Victim advocate does not
include a prosecutor's
employee.

Confidential Communication:
Is not intended to be
disclosed to third persons.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

KENTUCKY

SUMMARY

PRIVILEGE

DEFINITIONS

Confidentiality of the identity of domestic violence program clients or former clients.

KY Rev. Stat. § 209A.070

Identity of clients of domestic violence programs cannot be disclosed, except for limited purpose of “the cabinet” to monitor programs
 [NOTE: Federal VAWA/VOCA/FVPSA grant conditions might prohibit disclosure to Kentucky cabinet]

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.

Coalition Resources:

Kentucky Coalition Against Domestic Violence:

www.kcadv.org

Kentucky Association of Sexual Assault Programs:

www.kasap.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

LOUISIANA**SUMMARY****PRIVILEGE****DEFINITIONS**

Family Violence Shelters: Privileged Communications and Records, La. Rev. Stat. Ann. 46:2124.1

No person shall be required to disclose a privileged communication or produce records in any civil or criminal case or in discovery.

Prosecuting attorney or any party in a civil case or a defendant in a criminal case may petition for in camera review of records.

No person shall be required to disclose, by way of testimony or otherwise, a privileged communication or produce, under subpoena, any records documentary evidence, opinions or decisions relating to such privileged communication in any civil or criminal case or in discovery.

Prosecuting attorney or any party in a civil case or a defendant in a criminal case may petition for in camera review of records. Petition must 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.

Privileged Communication: Is one made to a representative or employee of a community domestic violence shelter by a victim, and a communication not otherwise privileged made by a representative or employee of the shelter to a victim in the course of rendering services.

Victim: Is a victim or potential victim of family or domestic violence and his or her children.

Coalition Resources:

Louisiana Coalition Against Domestic Violence: www.lcadv.org

Louisiana Foundation Against Sexual Assault:
www.lafasa.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

LOUISIANA

SUMMARY

PRIVILEGE

DEFINITIONS

Healthcare provider-patient privilege (applies to rape crisis centers in civil proceedings)
La. Rev. Code Evid. Art. 510

In civil court, sexual assault victim has privilege to refuse to disclose and prevent disclosure of confidential communication with persons at rape crisis center.

Exceptions outlined in the statute, including but not limited to where health condition is at issue in the case, including custody or visitation matter, and proceedings related to child abuse, elder abuse or abuse of people with disabilities.

State v. Smith, 2001-1027 (La. App. 1 Cir 02/15/02), 809 So. 2d 556. The criminal cases in which the exception of communication that is relevant to an investigation or prosecution of child abuse has been applied in cases where the defendant was the patient and was the party claiming the privilege.

In Civil: 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 care condition between or among himself or his representative, his health care provider, or their representatives.

In Criminal: privilege only applies to physician and psychotherapist (and by implication not to persons at rape crisis center.)

13 exceptions outlined in the rule, including but not limited to personal injury claims, visitation and custody hearings for fitness assessment, malpractice suits against a providers and in the child abuse, elder abuse, or the abuse of persons with disabilities or persons who are incompetent.

Health care provider 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.

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.

Coalition Resources:

Louisiana Coalition Against Domestic Violence: www.lcadv.org

Louisiana Foundation Against Sexual Assault: www.lafasa.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

MAINE

SUMMARY

PRIVILEGE

DEFINITIONS

Privileged Communications to Sexual Assault Counselors, 16 Maine Rev. Stat. Ann. §53-A

No sexual assault counselor may be required to testify in any civil or criminal action, or provide records as to any privileged communication.

However, court can order disclosure under broad guidelines, which may essentially eliminate the privilege.

Additionally, under the statute, a criminal justice agency 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 shall use it solely for the purpose authorized by this subsection and may not further disseminate the information.

Coalition Resources:

Maine Coalition to End Domestic Violence: www.mcedv.org

Maine Coalition Against Sexual Assault: www.mecasa.org

Except with regard to reporting, cooperating in an investigation or giving evidence in a child abuse or neglect case, or with the victim’s consent, no sexual assault counselor may be required to testify in any civil or criminal action about any information which she may have acquired in providing sexual assault counseling services, Privilege includes records, notes, memoranda or documents containing confidential communications.

However, court, in the exercise of sound discretion, can order disclosure when necessary to the proper administration of justice.

Sexual Assault Counselor: Is a paid or unpaid staff member or under the supervision of a staff member of a rape crisis center, and has undergone a program of specified training.

Rape Crisis Center: Is any publicly or privately funded agency whose purpose is to reduce the trauma of sexual assault, by, among other things, counseling.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

MAINE

SUMMARY

PRIVILEGE

DEFINITIONS

Privileged Communications to Victim Advocate; Family Violence, 16 Maine Rev. Stat. Ann. § 53-B

No victim, advocate or advocate’s agency may be required to testify in any civil or criminal action, or provide records as to any privileged communication.

However, court can order disclosure under broad guidelines, which may essentially eliminate the privilege.

Coalition Resources:

Maine Coalition to End Domestic Violence: www.mcedv.org

Maine Coalition Against Sexual Assault: www.mecasa.org

Except with regard to
 a) disclosure required under Adult Protective Services Act and Child and Family Services and Child Protection Act and
 b) disclosure required for law enforcement to investigate death of incapacitation of an adult, no domestic violence advocate may be required to testify in any civil or criminal action or to give information to any other agency or person about any information which she may have acquired in providing domestic violence counseling services. Privilege includes records, notes, memoranda or reports concerning the victim.

However, court, in the exercise of sound discretion, can order disclosure when necessary to the proper administration of justice and information is relevant. In camera process is suggested.

Advocate: Is an employee or volunteer of a non-governmental program for victims of domestic violence who has undergone at least 30 hours of training and as a primary function with the program gives advice to, counsels or assists victims, or a supervisor or administrator of the program.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

MAINE

SUMMARY

PRIVILEGE

DEFINITIONS

Privileged Communications to Governmental Victim Witness Advocates or Coordinators, 16 Maine Rev. Stat. Ann. § 53-C

Coalition Resources:

Maine Coalition to End Domestic Violence: www.mcedv.org

Maine Coalition Against Sexual Assault: www.mecasa.org

No victim, victim witness advocate or advocate’s employer may be required to testify in any civil or criminal action, or provide records as to any privileged communication.

However, court can order disclosure under broad guidelines, which may essentially eliminate the privilege, and disclosure may be made to the prosecutor and exculpatory evidence must be disclosed to criminal defendants.

Except with regard to a) disclosure required under Adult Protective Services Act and Child and Family Services and Child Protection Act, b) disclosure required for law enforcement to investigate death or incapacitation of an adult, or c) disclosure to the district attorney, Attorney General or U.S. attorney and mandatory disclosure of exculpatory evidence to criminal defendants, no victim witness advocate may be required to testify in any civil or criminal action or to give information to any other agency or person about any information which she may have acquired in providing victim witness advocacy services. Privilege includes records, notes, memoranda or reports concerning the victim.

However, court, in the exercise of sound discretion, can order disclosure when necessary to the proper administration of justice

Victim Witness Advocate: Is an employee or volunteer of a governmental program for victims of crime and as a primary function with the prosecutor’s office gives advice to, counsels or assists victims, or a supervisor or administrator of the program.

Victim includes the immediate family of a victim of crime if the underlying crime is one of domestic violence or sexual assault or due to death, age or physical or mental disease, the victim is unable to participate as allowed under this chapter.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

MARYLAND

SUMMARY

PRIVILEGE

DEFINITIONS

No specific domestic violence or sexual assault counselor privilege, but see Md. Code, Courts and Judicial Procedure, § 9-109.1 (professional counselor privilege) and Md. Code, Courts and Judicial Procedure § 9-121 (licensed social worker)

Coalition Resources:

Maryland Coalition Against Sexual Assault: www.mcasa.org

Maryland Network Against Domestic Violence: www.mnadv.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

MASSACHUSETTS

SUMMARY

PRIVILEGE

DEFINITIONS

Sexual Assault;
Confidential Communication
With Sexual Assault Counselor,
Mass. Gen. L. Ann., Ch. 233,
§ 20J

Sexual assault counselor shall not disclose confidential communication without written consent of victim

Case law in criminal cases qualifies the absolute privilege; Commonwealth v. Dwyer, 859 N.E.2d 400 (2006); Commonwealth v. Fuller, 667 NE2d 847 (1996); US v. Lowe, 948 F. Supp. 97 (1996). Commonwealth v. Howard, 677 NE2d 233 (Mass. App. 1997).

Established in Dwyer: The party moving to subpoena documents to be produced must establish good cause, satisfied by a showing that the documents are evidentiary and relevant; that they are not otherwise procurable reasonably in advance of trial by exercise of due diligence; that the party cannot properly prepare for trial without inspection of these records and that the failure to obtain such inspection may tend unreasonably to delay the trial; and that the application is made in good faith and is not intended as a general "fishing expedition".

Coalition Resources:

Massachusetts Coalition Against Sexual Assault and Domestic Violence: www.janedoe.org

Sexual assault counselor shall not disclose confidential communication without written consent of victim. Nothing in statute shall be construed to limit the defendant's right to cross-examine such counselor in a civil or criminal case if counselor testifies with consent.

Confidential communication not subject to discovery, and inadmissible in any criminal or civil proceeding without written consent. Includes records.

But, see case law setting out procedure for criminal defendants to establish constitutional right to view records and procedure for gaining access.

Confidential Communication: Information transmitted in confidence by and between a victim of sexual assault and a sexual assault counselor by a means which does not disclose the information to a person other than a person present for the benefit of the victim. Includes all information received by the sexual assault counselor, including reports, records, working papers or memoranda.

Sexual Assault Counselor: Employed by or is a volunteer in a rape crisis center. 35 hours of training required. Must be under supervision of licensed social worker, nurse, psychiatrist, psychologist or psychotherapist, and whose primary purpose is to give advice, counsel or assist victims of sexual assault.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

MASSACHUSETTS

SUMMARY

PRIVILEGE

DEFINITIONS

<p>Domestic Violence Victims' Counselors; Confidential Communications Mass. Gen. L. Ann., Ch. 233, § 20K</p> <p>See also: Mass. Gen. L. Ann., Ch. 233, § 20L (location of dv victims' programs and rape crisis centers are confidential)</p> <p>Coalition Resources: Massachusetts Coalition Against Sexual Assault and Domestic Violence: www.janedoe.org</p>	<p>Domestic violence counselor shall not disclose confidential communication without written consent of victim.</p> <p>Statute provides for in camera review and discovery of exculpatory information in criminal actions.</p>	<p>Domestic violence counselor shall not disclose confidential communication without written consent of victim.</p> <p>Confidential communication not subject to discovery in any civil, legislative or administrative proceeding. It shall be discoverable and admissible in any criminal proceeding only to the extent the information is exculpatory to defendant. Court to review before disclosure or introduction into evidence. Includes records.</p>	<p>Confidential Communication: Information transmitted in confidence by and between a victim of domestic violence and a domestic violence counselor by a means which does not disclose the information to a person other than a person present for the benefit of the victim. Includes all information received by the domestic violence counselor, including reports, records, working papers or memoranda.</p> <p>Domestic Violence Counselor: Employed by or is a volunteer in a domestic violence victims' program. 25 hours of training required. Must be under the supervision of direct service supervisor of a domestic violence program.</p>
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Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

MASSACHUSETTS

SUMMARY

PRIVILEGE

DEFINITIONS

An Act Relative to Sexual Violence on Higher Education Campuses, Mass. Gen. L. Ann., Ch. 6, §168E(I) [letter I]

Creates the position of “confidential advisor” for sexual violence victims at higher education institutions in Massachusetts and prohibits disclosure of confidentiality information without written consent – including no disclosure to campus officials or law enforcement officers.

Unless otherwise required by state or federal law, a confidential resource provider shall not disclose confidential information without the prior written consent of the reporting party who shared the information. Information provided to the confidential resource provider shall not be released to a campus official or law enforcement officer or agency unless written consent has been given by the reporting party.

The privileges available under chapter 233 shall apply to all information received by a confidential resource provider.

Confidential resource provider may have another role at the institution; provided, however, that the confidential resource provider shall not be a student, a Title IX coordinator or an employee who is required by Title IX to report to the Title IX coordinator.

An institution may partner with an outside victim support services organization to provide a confidential resource provider under this section.

Coalition Resources:

Massachusetts Coalition Against Sexual Assault and Domestic Violence: www.janedoe.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

MICHIGAN**SUMMARY****PRIVILEGE****DEFINITIONS**

Evidence, Mich. Comp. L. Ann., § 600.2157a (2013) See also, Mich. R. Crim. Pro. 6.201 (C)

Confidential communication between a domestic violence or sexual assault counselor and victim shall not be admissible in evidence in any civil or criminal proceeding without consent.

But see, *People v. Stanaway*, 521 NW2d 557 (Mich. 1994) and MCR 6.201(c) creating procedure for in camera review and possible disclosure.

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.

In camera review and disclosure may be ordered if defendant shows good faith belief grounded on some demonstrable fact that there is reasonable probability that the records are likely to contain material information essential to the defense. Procedure set out in Mich. R. Crim. Pro. 6.201 (C) (2) (2005).

Confidential Communication: Information transmitted between a victim and a sexual assault or domestic violence counselor. Includes records.

Sexual Assault or Domestic Violence Counselor: Person who is employed at or who volunteers service at a sexual assault or domestic violence crisis center and who provides advice, counseling or other assistance to sexual assault or domestic violence victims.

Coalition Resources:

Michigan Coalition to End Sexual and Domestic Violence:
www.mcedsv.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

MINNESOTA**SUMMARY****PRIVILEGE****DEFINITIONS**

Testimony of Witness, Minn. Stat. Ann. § 595.02(k)
[sexual assault counselors]

Sexual assault counselor may not be compelled to testify without consent of victim.

Sexual assault counselor may not be compelled to testify about any opinion or information received from or about the victim without consent of the victim, except for information in investigations or proceedings regarding child neglect where the court determines that good cause exists. Court is to weigh the public interest and need for disclosure against the effect on the victim, the treatment relationship, and the treatment services if disclosure occurs.

Sexual Assault Counselor:
Must have 40 hours of training and work under the direction of a supervisor in a crisis center.

Coalition Resources:

Minnesota Coalition Against Sexual Assault: www.mncasa.org

Violence Free Minnesota:
www.vfmn.org

Nothing in this paragraph exempts advocates from abuse reporting duties in Section 626.557 (abuse of vulnerable adults) & Chapter 260E (abuse of children).

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

MINNESOTA**SUMMARY****PRIVILEGE****DEFINITIONS**

Testimony of Witness, Minn. Stat. Ann 595.02(I)
[domestic abuse advocates]

Domestic abuse advocate may not be compelled to testify unless so ordered by the court.

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.

Domestic Abuse Advocate: an employee or supervised volunteer from a community-based battered women's shelter and domestic abuse program eligible to receive grants under state law funding sources; that provides information, advocacy, crisis intervention, emergency shelter, or support to victims of domestic abuse. Does not apply to law enforcement or prosecution-based advocate.

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 violence advocates from abuse reporting provisions in Section 626.557 (abuse of vulnerable adults) & Chapter 260E (abuse of children).

Coalition Resources:

Minnesota Coalition Against Sexual Assault: www.mncasa.org

Minnesota Coalition For Battered Women: www.mcbw.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

MISSISSIPPI**SUMMARY****PRIVILEGE****DEFINITIONS**

No specific domestic violence or sexual assault counselor privilege, but see Miss. Stat. Ann. 73-30-17 (licensed professional counselor privilege)

See also:

Miss. Stat. Ann. § 93-21-109 (domestic violence shelter program records withheld from public disclosure. Address of shelter program also confidential.)

Miss. Stat. Ann. § 93-21-107 State funded DV programs required to maintain confidentiality of any client identifying information.

Miss. Code Ann. § 93-21-109 (2013 Victim's address or the address of a shelter for DV victims may be omitted from a petition for a domestic abuse protection order)

Coalition Resources:

Mississippi Coalition Against Domestic Violence:
www.mcadv.org

Mississippi Coalition Against Sexual Assault: www.msCasa.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

MISSOURI**SUMMARY****PRIVILEGE****DEFINITIONS**

Requirements for Shelter to Qualify for Funds, Mo. Stat. Ann. § 455.220

Any person employed by or volunteering services to a shelter for victims of domestic violence are incompetent to testify concerning confidential information, unless individual signs written waiver.

See also, State ex rel. Hope House, Inc. v. Commissioner Molly M. Merrigan, 133 SW3d 44 (MO 2004). The court concluded that the confidentiality requirements of section 455.220 establish a state statutorily mandated confidentiality policy and does not establish legally privileged communications. There is an important distinction between privilege and protection of documents, the former operating to shield the documents from production in the first instance, with the latter operating to preserve confidentiality when produced. An appropriate protective order can alleviate problems and concerns regarding both confidentiality and scope of the discovery material produced in a particular case.

Coalition Resources:

Missouri Coalition Against Domestic and Sexual Violence:
www.mocadsv.org

1. To qualify for funds, a shelter shall require persons employed or volunteering to maintain 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.

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 unless confidentiality is waived in writing.

Confidentiality does not apply to situations involving known or suspected child abuse or neglect and shall not constitute grounds for failure to report, cooperate with investigation or to give or accept evidence in any judicial proceeding relating to child abuse or neglect.

Confidential Information:
Includes identifying information and any information or records directly related to the advocacy services provided by the shelter.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

MISSOURI**SUMMARY****PRIVILEGE****DEFINITIONS**

Rape Crisis Centers, confidentiality of information—employee competency to testify—rape crisis center defined. Mo. St. §455.003

Persons employed or volunteering in rape crisis center required to maintain confidentiality and incompetent to testify about identifying information and information related to services provided.

State ex rel. Hope House, Inc. v. Commissioner Molly M. Merrigan, 133 SW3d 44 (MO 2004), discussed above, may also apply to rape crisis centers

1. A rape crisis center shall require persons employed or volunteering services 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;

2. Any person employed by or volunteering services to a rape crisis center shall be incompetent to testify concerning confidential information unless the confidentiality requirements are waived in writing.

Rape crisis center: any public or private agency that offers assistance to victims of sexual assault

Coalition Resources:

Missouri Coalition Against Domestic and Sexual Violence:
www.mocadsv.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

MONTANA

SUMMARY

PRIVILEGE

DEFINITIONS

Advocate Privilege Mont. Code Ann. § 26-1-812

Advocate may not be examined as to any communication made to the advocate by a victim without consent.

Unless a report is otherwise required by law, an advocate may not, without express 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.

Advocate: 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.

Victim: A person seeking assistance because of partner of family member assault, any sexual assault, or stalking, whether or not the victim seeks or receives services within the criminal justice system.

Coalition Resources:

Montana Coalition Against Domestic and Sexual Violence:
www.mcadsv.com

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

NEBRASKA**SUMMARY****PRIVILEGE****DEFINITIONS**

R.R.S. Neb. § 29-4301 to 4304

See also R.R.S. Neb. § 42-918 confidentiality of information shared in context of domestic abuse protection act.

Coalition Resources:

Nebraska Coalition Against Sexual and Domestic Violence:
www.nebraskacoalition.org

Victim or advocate without consent of the victim shall not be compelled to give testimony or compelled to produce records concerning a confidential communication in any proceeding except when court orders after in camera review.

Includes exception for reports of child abuse and neglect and other legal duty to report unlawful acts.

A victim, an advocate without the consent of the victim, a third party without the consent of the victim, or a minor without the consent of a custodial guardian or GAL, 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 if a party seeking disclosure files a motion which is specific as to information sought and reasons why, the court conducts an in camera review, and the court concludes that failure to disclose would violate constitutional rights of the party seeking disclosure.

If a victim testifies to confidential communications, parties to the case may ask the court to waive the privilege so that other witnesses may testify to what was shared by the victim.

Advocate: any employee or supervised volunteer of a domestic violence or sexual assault victim assistance program; non-law enforcement or prosecutor based, whose primary purpose is to assist domestic violence or sexual assault victims.

Victim: any person who communicates with an advocate for assistance in overcoming the adverse effects of domestic violence or sexual assault.

Confidential communication: any written or spoken information exchanged between a victim and an advocate in private or in the presence of a third party facilitator.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

NEVADA

SUMMARY

PRIVILEGE

DEFINITIONS

Privileged Communication Between Victims of Domestic Violence or Sexual Assault and Their Advocates, N.R.S. 49.2541 to 2549

Victim has a privilege to refuse to disclose confidential communications with a domestic violence or sexual assault advocate.

Victim has a privilege to refuse to disclose confidential communications with a domestic violence or sexual assault advocate, with specified exceptions (including 1) where victim seeking help to commit crime or fraud, 2) report of abuse or neglect of child, older person or vulnerable adult, but only as to that portion of the communication, 3) relevant to breach of duty by advocate to victim or victim to advocate, 4) or otherwise required by law.)

Confidential Communication: Is not intended to be disclosed to third persons.

Victim: A person who alleges that an act of domestic violence or sexual assault has been committed against the person.

Victim Advocate: Works or volunteers for non-profit program and has 20 hours of training.

Coalition Resources:

Nevada Coalition to End Domestic and Sexual Violence:
www.ncedsv.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

NEW HAMPSHIRE**SUMMARY****PRIVILEGE****DEFINITIONS**

Confidential Communication Between Victims and Counselors, N.H. Rev. Stat. Ann. §173-C:1 to C:10

Victim has a privilege to refuse to disclose confidential communications made to sexual assault or domestic violence counselor.

In camera review and court ordered disclosure may be made in a criminal proceeding.

Statute includes exception for mandated reports of child abuse

Coalition Resources:

New Hampshire Coalition Against Domestic and Sexual Violence:
www.nhcadv.org

Victim has a privilege to refuse to disclose confidential communications made to a sexual assault or domestic violence counselor, except with prior written consent of victim. The privilege can be claimed in all legal proceedings & discovery.

Location and street address of rape crisis center and domestic violence center are absolutely privileged.

The court may make in camera review of statements related to a criminal case. [Statute sets a procedure: written pretrial motion and affidavit plus a showing of substantial likelihood that favorable, admissible information would be obtained.] Defendant must prove by preponderance that probative value outweighs prejudice, information is not available from another source, and a substantial probability that failure to disclose will interfere with right to confrontation.

Sexual Assault Counselor: Is any person employed or appointed or who volunteers in a rape crisis center who renders support, counseling or assistance to victims of sexual assault. 30 hours of training required

Domestic Violence Counselor: Is any person employed or appointed or who volunteers in a domestic violence center that renders support, counseling or assistance to victims of domestic violence. 30 hours of training required.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

NEW JERSEY**SUMMARY****PRIVILEGE****DEFINITIONS**

Victim Counselor's Privilege, N.J.
Stat. Ann. 2A:84A-22.13 to 22.16

N.J. Evid. Rule 517

Counselor is not to be examined as a witness in any civil or criminal proceeding without victim's written consent to waive the privilege.

Address, location and phone number of shelter is absolutely privileged, unless the shelter is a party.

No in camera review or disclosure ordered, absent compelling circumstances in *State v. J.G.* 619 A.2d 232 (N.J. Super. 1993), cert. den. 627 A2d 1142 (N.J. 1993).

Coalition Resources:

New Jersey Coalition Against Sexual Assault: www.njcasa.org

New Jersey Coalition to End Domestic Violence:
www.njcedv.org

Victim counselor has a privilege not to be examined as a witness in any civil or criminal proceeding with regard to any confidential communication, without prior written consent of the victim. 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.

Nothing in this act prevents disclosure to defendant in criminal matter of information given to county victim-witness coordinator where disclosure is required by constitution.

Confidential Communication: Is any information exchanged between a victim and a victim counselor in private. 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.

Victim: Includes victims of domestic violence and sexual assault, plus other violent crimes.

Victim Counselor: Is person engaged in any office, institution or victim counseling center. 40 hours training and under control of direct services supervisor.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

NEW MEXICO**SUMMARY****PRIVILEGE****DEFINITIONS**

Victim Counselor Confidentiality Act, N.M. Stat. Ann. 1978 § 31-25-1 to -6

Victim counselor privilege against providing testimony or producing records for any purpose in any criminal or other proceeding. Privilege against providing name, address, location and telephone number of a shelter.

Victim or victim counselor, without consent of victim shall not be compelled to provide testimony or to produce records concerning confidential communication for any purpose in any criminal action or other judicial, legislative or administrative proceeding. Victim or victim counselor 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 shelter.

Confidential Communication: Any information exchanged between a victim and a victim counselor in private, 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.

Victim Counselor: Employee or supervised volunteer of a victim counseling center or other agency, which is not affiliated with a law enforcement agency of district attorney's office. 40 hours of training required, or minimum of one year of experience in victim counseling.

Coalition Resources:

New Mexico Coalition Against Domestic Violence: www.nmcadv.org

New Mexico Coalition Against of Sexual Assault Programs: www.nmcsap.org

If the victim testifies to the confidential communication, either party in the case may request that justice requires the court to waive the privilege to the extent needed to apply to that portion of the communication and to allow any witness to respond to questions concerning the confidential communication that are relevant to the facts and circumstances of the case.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

NEW YORK**SUMMARY****PRIVILEGE****DEFINITIONS**

Rape Crisis Counselor or Domestic Violence Advocate, N.Y. Civ. Prac. L. & R. § 4510

See also: N.Y. Family Court Act § 1046 (a)(vii) and N.Y. Crim. Pro. § 60.76

Coalition Resources:

New York State Coalition Against Domestic Violence:
www.nyscadv.org

New York State Coalition Against Sexual Assault: www.nyscasa.org

Neither rape crisis counselor nor domestic violence advocate shall be required to disclose a confidential communication made by his or her client or disclose any advice given by the counselor.

Under N.Y. Crim. Pro. § 60.76, criminal defendant can move for disclosure; in camera review procedure.

This privilege explicitly does not apply in proceedings under Family Court Act § 1046.

Rape crisis counselor or a domestic violence advocate shall not be required to disclose a confidential communication made by his or her client to him or her, or advice given by the counselor or advocate. Records also privileged.

A criminal defendant can move for disclosure by filing a written motion and affidavit that state the specific factual allegations providing grounds that disclosure is required. Court is to do in camera review upon filing of motion.

Not required to treat as confidential if client reveals intent to commit crime or harmful act, or communication by client which reveals suspected child abuse.

Confidential communication not specifically defined; statute protects any communication made by client and any advice given thereon, including records.

Rape Crisis Counselor: Must be certified by the program and meet the training requirement set out in statutes. Can be paid or unpaid.

Domestic violence advocate: 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.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

NORTH CAROLINA**SUMMARY****PRIVILEGE****DEFINITIONS**

NC Gen. Stat. 8-53.12

Privilege between domestic violence or sexual assault agency employee or volunteer and a domestic violence or sexual assault victim.

Court can compel disclosure in a civil or criminal case; in camera review procedure.

In 2019, statute amended to provide that victims need to get notice of request for disclosure and an opportunity to be heard before the court makes a decision.

Coalition Resources:

North Carolina Coalition Against Domestic Violence:
www.nccadv.org

North Carolina Against Sexual Assault: www.nccasa.org

No agent (employee or volunteer) shall be required to disclose any information which the agent acquired during the provision of services to a (domestic violence or sexual assault) victim and which information was necessary to render the services. If agent receives request, must make effort to provide victim notice and copy of the request.

Victim can waive the privilege.

Court can compel disclosure in a civil or criminal case after an in camera review where the court determines that specific basis to believe records are likely to contain information subject to disclosure, records are not being sought merely for character impeachment, records are not cumulative of other evidence, and the material is relevant or, in a criminal proceeding, exculpatory. As of 2019, statute contains procedure for victim to be heard before the court makes a determination. Before requiring production of records, the court must find that the party seeking disclosure has made a sufficient showing by preponderance of evidence standard, that the records are likely to contain the information subject to disclosure above.

Domestic Violence Victim:
Any person alleging domestic violence as defined by state law, who consults an agent of a domestic violence program for the purpose of obtaining advice, counseling, or other services concerning mental, emotional or physical injuries suffered as a result of the domestic violence. Also includes those persons who have a significant relationship with a victim and who have sought aid for themselves.

Sexual Assault Victim:
Similar language to the domestic violence victim.

Agent: Employee or volunteer of sexual assault center or domestic violence program; must have undergone 20 hours of training; center determines what training should be.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

OHIO

SUMMARY

PRIVILEGE

DEFINITIONS

No specific domestic violence or sexual assault counselor privilege, see Shelter requirements for qualifying for funds, ORC Ann. § 3113.36 (employees or volunteers at a domestic violence shelter must maintain confidentiality of victim identifying information.)

See also ORC Ann. §3113.40 (shelter required to provide last known address/county of residence to child protective services.)

Coalition Resources:

Ohio Domestic Violence Network:
www.odvn.org

Ohio Alliance to End Sexual Violence: www.oaesv.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

OKLAHOMA

SUMMARY

PRIVILEGE

DEFINITIONS

Contracts for shelter and services – Disclosure of case records, shelter locations, or board member information, Title 74 Okl. St. Ann. § 18p-3

See also: Oversight by Attorney General – Collection and Confidentiality of Information Records, Title 74 Okl. St. Ann. § 18p-8 (Attorney general has authority to collect information regarding domestic violence and sexual assault services. Records collected are not subject to open records act, and are to be created and maintained by anonymous datasets for statistical reporting and data analysis only.)

Coalition Resources:

Oklahoma Coalition Against Domestic and Sexual Violence:
www.ocadvsa.org

Client case records of certified domestic violence or sexual assault program shall be confidential and shall not be disclosed.

Court can order disclosure in camera “for good cause shown.”

Case records, case files, case notes, client records, or similar records of a certified domestic violence or sexual assault program shall be confidential and shall not be disclosed.

The court shall not order the disclosure of the address 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.

Client Records: Include but are not limited to, all communications, records and information regarding clients of domestic violence and sexual assault programs.

Programs are certified by the Attorney General

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

OREGON**SUMMARY****PRIVILEGE****DEFINITIONS**

Certified Advocate-Victim Privilege
Oregon Rev. Stat. 507-1

Communications of a victim and certified victim advocates are privileged; qualified victim services programs include campus-based programs.

Privilege applies to any 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.

Coalition Resources:

Oregon Coalition Against Domestic Violence and Sexual Assault:
www.ocadsv.org

A victim has a privilege to refuse to disclose and to prevent any other person from disclosing (1) confidential communications made by the victim to a certified advocate in the course of safety planning, counseling, support or advocacy services (2) records that are created or maintained in the course of providing services regarding the victim.

Does not apply to the disclosure of confidential communications necessary for defense, in any action brought against the certified advocate, or against the qualified victim services program, by or on behalf of the victim.

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.

Certified advocate: a person who has completed at least 40 hours of approved training & is an employee or volunteer of a qualified victim services program. [See statute for definition of qualified victim services program]

Confidential communication: a written or oral communication that is not intended for further disclosure, except to (1) 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 (2) persons reasonably necessary for the transmission of the communication; or (3) other persons, in the context of group counseling.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

OREGON

SUMMARY

PRIVILEGE

DEFINITIONS

Funding sexual assault crisis centers and crisis lines; rulemaking, Oregon Rev. Stat. 409.273

State funding condition: All information maintained by the sexual assault crisis center or crisis line relating to clients is confidential.

Programs that receive funding from Human Services are subject to grant conditions that require confidentiality

Except for the names of clients, necessary information may be disclosed to the director.

Funding of programs related to family violence; rulemaking, Oregon Rev. Stat. 409.292

State funding condition: Location of premises utilized for family violence shelter and all information maintained by a shelter home, safe house or crisis line relating to clients is confidential.

Crisis lines specifically funded to provide services for victims of child abuse are subject to child abuse reporting.

Coalition Resources:

Oregon Coalition Against Domestic Violence and Sexual Assault:
www.ocadsv.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

PENNSYLVANIA**SUMMARY****PRIVILEGE****DEFINITIONS**

Protection From Abuse:
Confidentiality, 23 Pa. Cons. Stat.
Ann. § 6116

See 23 Pa. Cons. Stat. Ann. § 6102
for definitions

See also, 23 Pa. Cons. Stat. Ann.
§ 5309 (shelter address
confidentiality)

Coalition Resources:

Pennsylvania Coalition Against
Domestic Violence:
www.pcadv.org

Pennsylvania Coalition Against Rape:
www.pcar.org

Domestic violence counselor/
advocate or a co-participant
may not testify as to
confidential communication.

VBT, et al v. Family Services of
Western Pennsylvania, et al.,
705 A2d 1325 (Pa. Super.
1998) aff'd 728 A.2d 953
(1999).

Court ruled the privilege
protecting confidential
communications between a
domestic violence counselor/
advocate and a victim of
domestic violence, created by
the Protection from Abuse Act,
23 Pa.C.S. §§ 6101-6117 is
absolute.

Sec. 5309 provides that
address of shelter shall not be
disclosed or otherwise
confidential information of the
domestic violence counselor
shall not be disclosed in
custody proceeding.

Unless a victim waives the
privilege in a signed writing
before testimony or
disclosure, a domestic
violence counselor/advocate
or a co-participant who is
present during domestic
violence counseling advocacy
shall not be competent nor
permitted to testify or to
otherwise disclose
confidential communication
made to or by the counselor/
advocate by or to a victim.

Address of shelter shall not
be disclosed or otherwise
confidential information of
the domestic violence
counselor shall not be
disclosed.

Confidential Communication:
Includes statements by and
to counselor and by and to
victim.

Effective May 9, 2006,
includes communications
made by or to a linguistic
interpreter assisting the
victim, counselor or advocate
in the course of the
relationship.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

PENNSYLVANIA**SUMMARY****PRIVILEGE****DEFINITIONS**

Confidential Communications to Sexual Assault Counselors, 42 Pa. Cons. Stat. Ann. § 5945.1

Privilege applies to sexual assault counselor and victim confidential communications, includes if an interpreter is assisting in the communication

Commonwealth v. Davis, 674 A.2d 214, 215 (Pa. 1996), the Pennsylvania Supreme Court held that the sexual assault counselor privilege is waived if prosecutors are allowed access to records

Coalition Resources:

Pennsylvania Coalition Against Domestic Violence:
www.pcadv.org

Pennsylvania Coalition Against Rape:
www.pcar.org

No sexual assault counselor 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. Privilege also applies to any co-participant who is present during counseling. Includes child abuse mandatory reporting exception.

Confidential Communication: All information, oral or written, transmitted between a sexual assault victim 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 the relationship.

Co-participant: Victim participating in group counseling.

Sexual Assault Counselor: Person engaged in a rape crisis center and who is under the control of a direct services supervisor of the center. 40 hours of training required.

Victim: Includes direct victims and those who have a significant relationship with the sexual assault victim.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

PENNSYLVANIA

SUMMARY

PRIVILEGE

DEFINITIONS

Confidential Communications with Human Trafficking Caseworkers, 42 Pa. Cons. Stat. Ann. § 5945.3

Privilege applies to human trafficking caseworkers (which includes qualified sexual assault counselors) and victim confidential communications, includes if an interpreter is assisting in the communication

No human trafficking counselor may, without the written consent of the victim, disclose the victim’s confidential oral or written communications to the counselor

Confidential Communication:
All information, oral or written, transmitted between a victim and a human trafficking 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 the relationship.

Human Trafficking Counselor:
Person engaged in an organization to give assistance to victims of human trafficking and has requisite degree or is supervised and has 80 hours of training. Sexual Assault Counselors can also serve in this role

Coalition Resources:

Pennsylvania Coalition Against Domestic Violence:
www.pcadv.org

Pennsylvania Coalition Against Rape:
www.pcar.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

RHODE ISLAND

SUMMARY

PRIVILEGE

DEFINITIONS

No relevant statute, but see Advisory Opinion to House of Representatives, 469 A.2d 1161 (R.I. 1983)

Advisory Opinion to House of Representatives, 469 A.2d 1161 (R.I. 1983) allows in camera review of sexual assault counselor records and sexual assault counselor’s confidential communications with sexual assault victim. The Rhode Island Supreme Court determined that an absolute privilege protecting communications between sexual assault counselors and victims would be unconstitutional and that, if enacted, a sexual assault counselor-victim privilege must include the possibility of in camera review.

Coalition Resources:

Rhode Island Coalition Against Domestic Violence: www.ricadv.org

Day One: Sexual Violence and Trauma Center: www.dayoneri.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

SOUTH CAROLINA

SUMMARY

PRIVILEGE

DEFINITIONS

No relevant statute, but see *State v. Trotter*, 473 S.E.2d 452 (S.C. 1996) holding “reports of physical or mental examinations” under South Carolina Rule of Criminal Procedure 5(a)(1)(D) do not include rape crisis counselor records because a rape crisis counselor provides only supportive counseling, which does not constitute a physical or mental examination of sexual assault victims.

Coalition Resources:

South Carolina Coalition Against Domestic Violence and Sexual Assault:
www.sccadvasa.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

SOUTH DAKOTA

SUMMARY

PRIVILEGE

DEFINITIONS

Minimum requirements for domestic or sexual abuse shelters or service programs S.D. Codified Laws § 25-10-28

See also S.D. Codified Laws § 36-32-27 (licensed professional counselor privilege).

Any shelter or service programs established pursuant to this chapter shall have as its primary purpose the provision of services to victims of domestic violence or sexual assault, or both, and shall include confidentiality of identity, location, records, and information pertaining to any person to whom services are or were provided.

Coalition Resources:

South Dakota Coalition Ending Domestic and Sexual Violence:
www.sdcedsv.org

South Dakota Network Against Family Violence and Sexual Assault:
www.sdnafvsa.com

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

TENNESSEE**SUMMARY****PRIVILEGE****DEFINITIONS**

Confidentiality of Records of Centers,
Tenn. Code Ann. § 36-3-623

Public Records: Confidential Records,
Tenn. Code Ann. § 10-7-504 (17)

Records of domestic violence shelters and rape crisis centers shall be treated as confidential by the records custodian of such shelters or centers, unless client authorizes their release.

Telephone number, address and any other information which could be used to locate a domestic violence shelter or rape crisis center may be treated as confidential by a government entity and shall be treated as confidential by a utility provider.

Coalition Resources:

Tennessee Coalition to End Domestic
and Sexual Violence:
www.tncoalition.org

Records of domestic violence shelters and rape crisis centers shall be treated as confidential by the records custodian of such shelters or centers, unless client authorizes their release. The court may approve a subpoena for the records. If this is done the court can impose restrictions on disclosure, including in camera review.

Information about a program participant can be disclosed without prior written consent under four conditions: (1) disclosure for medical emergency; (2) disclosure to legal guardian of a program participant who has been legally declared incompetent; (3) disclosure for reporting of child abuse or adult abuse; and (4) disclosure is required by subpoena or for monitoring and auditing purposes.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

TEXAS

SUMMARY

PRIVILEGE

DEFINITIONS

Protective Orders and Family Violence: Confidential and Privileged Communications, Vernon’s Tex. Govt Ann § 93.001-93.004

Oral communication of a victim of family violence and a family violence center is confidential.

In very limited circumstance of “forfeiture by wrongdoing”, statute may allow an in camera review of records.

A written or oral communication between an advocate and a victim made in the course of advising, advocating, counseling or assisting the victim is confidential and may not be disclosed.

A victim has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication. The privilege may be claimed by: (1) a victim or a victim's attorney on a victim's behalf; (2) a parent, guardian, or conservator of a victim under 18 years of age; or (3) an advocate or a family violence center on a victim's behalf.

A communication that is confidential may be disclosed 1) within center to further advocacy, 2) after in camera review when determined admissible, 3) in support group, or 4) when making child and elderly abuse and neglect reports. [See statute for exact exception language.]

Advocate means a person who has at least 20 hours of training in assisting victims of family violence and is an employee or volunteer of a family violence center.

Family violence center: means a public or private nonprofit organization that provides, as its primary purpose, services to victims of family violence.

Family violence means: (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (2) related to Article 38.49 claim after in camera review

Coalition Resources:

Texas Council of Family Violence:
www.tcfv.org

Texas Association Against Sexual Assault:
www.taasa.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

TEXAS

SUMMARY

PRIVILEGE

DEFINITIONS

Sexual Assault Prevention and Crisis Services: Confidential Communications, Vernon's Tex. Govt Ann § 420.071-420.075

Victim's confidential communications with sexual assault advocate are confidential and may not be disclosed except as provided by the statute, which includes a requirement that there be full disclosure in response to a subpoena in a criminal case.

A communication between a victim and a sexual assault advocate is confidential and may not be disclosed except as provided by this statute. Includes protection that communication and records regarding minor clients may not be disclosed to a parent or legal guardian of a survivor who is a minor if an advocate or a sexual assault program knows or has reason to believe that the parent or legal guardian of the survivor is a suspect in the sexual assault of the survivor.

Record of the identity, personal history or background information or information concerning the victimization of a survivor that is created by or provided to an advocate or maintained by a program may not be disclosed except as provided by this statute.

Consent: Must be in writing and signed by the survivor, her parent or guardian if a minor, guardian ad litem or personal representative. Consent must state the information covered by the release, the purpose of the release, and the person to whom the information is to be released.

Sexual Assault Advocate: An individual who has completed a sexual assault training program certified by the Texas Attorney General and is an employee or volunteer of a sexual assault program.

Confidential Communication: a communication between a sexual assault advocate and a survivor, or a person claiming to be a survivor, that is made in the course of providing sexual assault advocacy services to the survivor. [*More detail in statute.*]

Coalition Resources:

Texas Council of Family Violence:
www.tcfv.org

Texas Association Against Sexual Assault: www.taasa.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

UTAH

SUMMARY

PRIVILEGE

DEFINITIONS

Confidential Communications for Sexual Assault Act, Utah Code Ann. § 77-38-201 et. Seq.

See also Utah Code Ann. § 78B-1-137 Witnesses – privileged communication

Confidential communication available to third parties without consent only under specific exceptions.

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.

State v. Gomez, 63 P.3d 72 (Utah 2002), where none of the statutory exceptions exist, the privilege is absolute and no in camera review is allowed.

Coalition Resources:

Utah Domestic Violence Coalition:
www.udvc.org

Utah Coalition Against Sexual Assault:
www.ucasa.org

Confidential communication between a victim and a sexual assault counselor is available to a third person only when: (1) the victim is a minor and the counselor believes it is in the best interest of the victim to disclose the confidential communication to the victim's parents; (2) the victim is a minor and the victim's parents or guardians have consented to disclosure to a third party based upon the counselor's representations that it is in the victim's best interests to do so; (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 to report suspected child abuse or neglect.

Confidential Communication: Information given to a sexual assault counselor by a victim, including reports or working papers made in the course of the counseling relationship.

Sexual Assault Counselor: Must be employed by or volunteer at a rape crisis center, be supervised by the director or designees of the center, and have 40 hours of training.

Victim: 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.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

UTAH

SUMMARY

PRIVILEGE

DEFINITIONS

Privileged Communications with Victim Advocates Act, Utah Code Ann. § 77-38-401 et seq

See also Utah Code Ann. § 78B-1-137 Witnesses – privileged communication

Victim advocate may not disclose confidential communications.

Contains exceptions for criminal justice system victim advocates and for prosecutor to seek exculpatory or witness credibility information.

A victim advocate as defined in Section 77-38-403 cannot, without the consent of the victim, be examined in a civil or criminal proceeding as to any confidential communication

A victim advocate may not disclose a confidential communication (including one in group therapy) except:

- (1) Criminal Justice System Victim Advocate provides info to prosecutor who will determine whether it is exculpatory or goes to credibility of a witness.
- (2) Criminal Justice System Victim Advocate provides info to the parent/guardian of a minor (not the accused) or to a listed group of professionals “for the purpose of providing advocacy services”
- (3) to the extent allowed by Utah Rules of Evidence.

Procedure for notice to victim when sharing exculpatory/credibility information.

Confidential Communication: communication that is intended to be confidential between victim and victim advocate for purpose of obtaining advocacy services.

Victim Advocate includes criminal justice system advocate, nongovernment organization victim advocate or individual designated by Utah Office for Victims of Crime

Victim: victim of a crime, of domestic violence, or of dating violence

Coalition Resources:

Utah Domestic Violence Coalition:
www.udvc.org

Utah Coalition Against Sexual Assault:
www.ucasa.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

UTAH

SUMMARY

PRIVILEGE

DEFINITIONS

Confidential Communications for Institutional Advocacy Services Act, 53B-28-202

Prohibits the disclosure of confidential communications related to advocacy services at an institution of higher education, except under certain circumstances.

A person may disclose a confidential communication if the victim gives written and informed consent to the disclosure or the person has an obligation under state child and elderly abuse and neglect mandated reporting laws, therapist duty to warn or the disclosure is required by federal law; or a court order.

Exceptions: 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, or based on the above the parents further consent to disclosure by the counselor to a third party; 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 the counselor has an obligation under the Child and Family Services Act, to report.

Certified advocate: a volunteer or employee of a qualified institutional victim services provider that has completed at least 40 hours of training...[*See statute for additional detail.*]

Confidential communication: means information that is communicated by a victim to a certified advocate or qualified service provider, in the course of the victim seeking an institutional advocacy service.

Institutional advocacy service: safety planning, counseling, psychological, support, advocacy, medical, or legal service to victim of sexual assault, domestic violence and stalking provided by a qualified institutional provider.

Qualified institutional victim services provider is affiliated with an institution and is designated by the affiliated institution as a qualified institutional victim services provider.

Coalition Resources:

Utah Domestic Violence Coalition:
www.udvc.org

Utah Coalition Against Sexual Assault:
www.ucasa.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

VERMONT

SUMMARY

PRIVILEGE

DEFINITIONS

Victim and Crisis Worker Privilege,
Title 12 Vermont Stat. Ann. § 1614

Victim has privilege to refuse to disclose and prevent any other person from disclosing a confidential communication.

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.

Crisis Worker: Provides direct services to victims of domestic violence or sexual assault in a domestic violence or sexual assault program; has had 20 hours of training; works under the direction of a supervisor of the program or is herself a supervisor; and is certified by the program.

Confidential Communication: 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.

Coalition Resources:

Vermont Network Against Domestic and Sexual Violence:
www.vtnetwork.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

VIRGINIA

SUMMARY

PRIVILEGE

DEFINITIONS

Confidentiality of records of persons receiving domestic and sexual violence services. Va. Code §63.2-104.1

Personally identifying and individual information collected in connection with services through domestic and sexual violence programs shall not be disclosed.

(Statute tracks the language of Section 3 of the Violence Against Women Act codified at 34 USC §12291(b)(2))

Coalition Resources:

Virginia Sexual and Domestic Violence Action Alliance:
www.vsdvalliance.org

Programs and individuals providing services to victims of sexual or domestic violence shall not:

1. Disclose any personally identifying information or individual information collected in connection with services...
2. Reveal individual client information without informed, written, reasonably time-limited consent of the person whose information it is.

Requirement to notify and take necessary protective steps if release is compelled by statutory or court mandate. Statute includes exceptions for aggregate data, court, law-enforcement and prosecution data, information necessary for law enforcement and prosecution purposes, and mandated child abuse reporting if an advocate performs activities placing them in Va. Code categories.

§ 63.2-1509(A)

“Programs” includes public and not-for-profit agencies the primary mission of which is to provide services to victims of sexual or domestic violence.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

WASHINGTON**SUMMARY****PRIVILEGE****DEFINITIONS**

Shelters For Victims of Domestic Violence – Client Records, Rev. Code of Wash. Ann. § 70.123.075

Victim of Sexual Assault Act – Records of Rape Crisis Centers Not Available as Part of Discovery, Rev. Code of Wash. Ann. § 70.125.065

Coalition Resources:

Washington Coalition Against Domestic Violence:
www.wscadv.org

Washington Coalition of Sexual Assault Programs:
www.wcsap.org

Domestic violence and sexual assault records are protected from discovery unless certain procedures are followed. A sexual assault or domestic violence advocate may not, without the consent of the victim, be examined as to any communication made between the victim and the sexual assault or domestic violence advocate.

Client records of domestic violence programs are not subject to discovery in any judicial proceeding unless a pretrial motion is made; an accompanying affidavit is filed; an in camera review is made by the court to determine whether the domestic violence program 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; and court enters an order stating what is discoverable and why.

Client records of sexual assault program are subject to the same procedure.

Domestic Violence Program: A program that provides shelter, advocacy, or counseling services for domestic violence victims.

Community Sexual Assault Program: means a community-based social service agency that is qualified to provide and provides core services to victims of sexual assault.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

WASHINGTON

SUMMARY

PRIVILEGE

DEFINITIONS

Campus-affiliated advocates—
Confidentiality of records, Rev. Code
Wash. Ann. § 28B.112.030

Survivor communications with, and records maintained by, campus-affiliated advocates, shall be confidential.

Survivor communications and records maintained by campus-affiliated advocates shall be confidential and are not subject to public inspection and copying or inspection or copying by an institution of higher education unless: (1) the survivor consents to inspection or copying; (2) there is a clear, imminent risk of serious physical injury or death of the survivor or another person; (3) inspection or copying is required by federal law; (4) by court order.

Campus-affiliated advocate: a sexual assault 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.

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.

Coalition Resources:

Washington Coalition Against
Domestic Violence:
www.wscadv.org

Washington Coalition of Sexual
Assault Programs:
www.wcsap.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

WASHINGTON

SUMMARY

PRIVILEGE

DEFINITIONS

Who Are Disqualified – Privileged Communications, Rev. Code of Wash. Ann. § 5.60.060(7) and (8)

Sexual assault or domestic violence advocate may not, without victim’s consent, be examined as to any confidential communication made by victim.

Sexual assault or domestic violence advocate may not, without victim’s consent, be examined as to any confidential communication made by victim subject to certain exceptions, including clear, imminent risk of serious physical injury or death of the victim or another, or suspected child abuse or neglect.

Sexual Assault Advocate: Is employee or volunteer from a rape crisis center or, victim assistance unit.

Domestic Violence Advocate: Is employee or volunteer from a domestic violence program or human services program.

Coalition Resources:

Washington Coalition Against Domestic Violence:
www.wscadv.org

Washington Coalition of Sexual Assault Programs:
www.wcsap.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

WEST VIRGINIA**SUMMARY****PRIVILEGE****DEFINITIONS**

Domestic Violence Act;
Confidentiality,
W.Va. Code § 48-26-202 &
48-26-701

Domestic violence programs may not disclose or reveal any records or personally identifying information about a program participant.

Exceptions for consent, abuse reporting, and order of court after certain requirements are met.

Note that definitions include services to sexual assault and human trafficking survivors by programs that have both a shelter and an outreach component.

Coalition Resources:

West Virginia Coalition Against Domestic Violence:
www.wvcadv.org

West Virginia Foundation for Rape Information and Services:
www.fris.org

No program licensed pursuant to this article may 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: Among other exceptions, any court can order disclosure based upon a finding that said information is sufficiently relevant to a proceeding before a court to outweigh the importance of maintaining the confidentiality established by this statute.

Provided: The board may close any program that violates the standards established under this article or that threatens the health, well-being or safety of its participants or staff.

Domestic violence program: means a licensed program of a locally controlled nonprofit organization, established primarily for the purpose of providing advocacy services, comprising both a shelter component and an outreach component, to victims of domestic violence, dating violence, sexual assault, stalking or human trafficking and their children.

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

WISCONSIN

SUMMARY

PRIVILEGE

DEFINITIONS

Domestic Violence or Sexual Assault
 Advocate-Victim Privilege
 Wisc. Stat. Ann. § 905.045

Victim has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications

Victim, not the advocate, has choice to exercise the privilege

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, an advocate who is acting in the scope of his or her duties as an advocate, and persons who are participating in providing counseling, assistance, or support services under the direction of an 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.

Mandated Reporting of child abuse exception.

Advocate: 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

Confidential Communication: 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 an advocate

Health practitioner privilege supersedes the advocacy privilege if both would apply.

Coalition Resources:

End Domestic Abuse Wisconsin:
www.endabusewi.org

Wisconsin Coalition Against Sexual Assault: www.wcsasa.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

WYOMING**SUMMARY****PRIVILEGE****DEFINITIONS**

Confidential Communications Between Family Violence and Sexual Assault Advocate and Victim, Wy. Stat. § 1-12-116

Advocates and any other employee of a program shall not be examined concerning confidential communications made by the victim, except where victim consents, victim voluntarily testifies, and where the proceeding results from a report made pursuant to child abuse reporting. Court may compel testimony if victim deceased or incompetent.

Wyo. Stat. Ann. § 14-3-210 states that 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 claimed pursuant to W.S. 1-12-116.

Coalition Resources:

Wyoming Coalition Against Domestic Violence and Sexual Assault:
www.wyomingdvsa.org

Except as provided in the Child Protective Services Act, a family violence or sexual assault advocate or any employee of a program with access to confidential communications shall not be examined as a witness in any civil, criminal, legislative or administrative proceeding concerning confidential communication made by a victim in the course of that relationship, except that the advocate: (A) may testify (I) with express consent of the victim; (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.

Advocate: Employed by or volunteers for a family violence and sexual assault program; certified by the program; completed at least 40 hours of crisis advocacy training; work is directed and supervised by the program.

Confidential Communication: Information transmitted in confidence between a victim and an advocate in the course of that relationship. Includes all information received by, and any report, working paper or document prepared by the advocate in the course of that relationship.

AMERICAN SAMOA

SUMMARY

PRIVILEGE

DEFINITIONS

American Samoa law states that the territory's privileges are governed by common law under Am. Samoa R. Evid. 501. Therefore psychotherapist-patient communications (and attorney-client) are privileged under *Upjohn Co. v. United States*, 449 US 383 (1981) and *Jaffee v. Redmond*, 515 US 1 (1996).

Coalition Resources:

American Samoa Alliance Against Domestic and Sexual Violence:
www.asalliance.com

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

GUAM

SUMMARY

PRIVILEGE

DEFINITIONS

Victim and Crime Victim Advocate Communication, Guam R. Evid. § 9102

Guam also recognizes a limited list of privileges including psychotherapist-patient privilege and physician-patient privilege under Guam R. Evid. §§ 503, 504.

All crime victims have ability to prevent disclosure of communications with a crime victim advocate, with narrow exceptions that apply to perjury, exculpatory material, and advocates employed by the prosecutor’s office.

A crime victim has privilege to refuse to disclose and to prevent any other person from disclosing a confidential communication made to a crime victim advocate (even if made in the presence of others) and any record made of working with crime victim. Crime victim can give written consent for disclosure.

Exception: communication is not privileged if advocate knows the victim’s testimony is perjured or communication contains exculpatory material.

Special provisions for advocates employed by the prosecutor’s office.

Crime Victim Advocate: person who is employed or authorized by a public or private entity to provide counseling, treatment or other support assistance to crime victims.

[No definition provided for “crime victim”]

Coalition Resources:

Guam Coalition Against Sexual Assault and Family Violence:
www.guamcoalition.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

PUERTO RICO**SUMMARY****PRIVILEGE****DEFINITIONS**

P.R. Laws Ann. tit. 32 Ap. IV, Rule 26-A (B).

P.R. Laws Ann. tit. 8, § 652

Any victim of a crime and all communications between a victim of domestic violence and any public entity or body, which renders services to victims of domestic abuse, shall enjoy the same privilege and confidentiality. The privilege is absolute.

Any victim of a crime, whether or not a party to the action, has the privilege to refuse to disclose or to prevent another from disclosing a confidential communication between the victim and the counselor, if any one of them reasonably believed such communication to be necessary for the treatment and help required.

All communications between a victim of domestic violence and any other public entity or body, which renders services to victims of domestic abuse, shall enjoy the same privilege and confidentiality, in harmony with Rule 26-A of the Rules of Evidence of Puerto Rico and the Bill of Rights of Victims and Witnesses of Crime.

If, as part of testimony given in court, the victim reveals part of the confidential communication, it shall be understood as a waiver of the privilege with respect to that portion of the testimony only.

Confidential Communication: Any information transmitted between the crime victim and his/her counselor, be it in private or before a third person whose presence is necessary to establish communication between the victim and the counselor, or to facilitate the counseling services needed by the victim when such information is disclosed during the course of the treatment that the counselor gives to deal with the victim's emotional or psychological condition produced by the commission of a crime and that is made in the confidence that the same will not be disclosed to third persons.

[Statute also contains definitions of "counseling", "counselor", "help and counseling center", and "victim".]

Coalition Resources:

Coordinadora Paz para la Mujer:
www.pazparalamujer.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege

U.S. VIRGIN ISLANDS

SUMMARY

PRIVILEGE

DEFINITIONS

No statutory privilege for communications between a rape crisis/domestic violence counselor and a sexual assault/domestic violence victim.

Coalition Resources:

Virgin Islands Domestic Violence and Sexual Assault Council:

www.vidvsac.org

Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege



We can help social service, advocacy, and legal organizations cultivate policy change by helping create a policy agenda that marries the organization's capacity and mission, develop a policy or advocacy program, develop an effective strategy for advancing your policy proposals, train advocates to write effective legislation, negotiate policy proposals, and position your organization or coalition as a leader on your issues.



Implementing confidentiality can be challenging, especially in the modern world of routine oversharing. Anti-violence professionals face enormous challenges in creating effective policies that protect survivor privacy, facilitate productive collaboration, and comply with funder demands & legal requirements.



The Danu Center for Strategic Advocacy is dedicated to supporting the work of change-makers and helping advocates and mission-based organizations build the tools of social justice. The Danu Center works with individuals, social service organizations, legal services, and organizations advancing policy change. Strengthening organizations, and developing advocates through professional development and individual coaching, strategic program design, meeting and retreat facilitation and more.

