

Summary Of DV/SA Advocate Confidentiality Laws

8/2007

| State | Advocate privilege? | Language of the Statute |
|----------------|--|--|
| Alabama | <p>Yes</p> <p>Ala. Code 1975 § 30-6-8</p> <p>Other privileges include: psychotherapist-patient (Rule 503); counselor-client (Rule 503A).</p> | <p>Confidential communications are any information exchanged between a victim and a victim counselor in private, which is disclosed in the course of the counselor's treatment of the victim for any emotional or psychological condition resulting from sexual assault or family violence.</p> <p>Oral communications between a domestic violence victim and an advocate and written reports and records concerning the victim may not be disclosed without the written consent of the victim. This privilege does not relieve a person from any duty imposed pursuant to Section 26-14-1 (reporting child abuse) or Section 38-9-2 (reporting elder abuse). A victim or advocate may not claim this privilege when providing evidence in proceedings concerning child abuse, but may claim this privilege in all other proceedings, both criminal and civil.</p> |
| Alaska | <p>Yes</p> <p>AK Stat. §§18.66.200-250</p> <p>Other privileges include: common-law psychotherapist-patient (554 P.2d 411).</p> | <p>Confidential communication means information exchanged between a victim and a victim counselor in private or in the presence of a third party who is necessary to facilitate communication or further the counseling process and that is disclosed in the course of victim counseling resulting from a sexual assault or domestic violence.</p> <p>Victim counselor means an employee or supervised volunteer of a victim counseling center that provides counseling to victims who has undergone a minimum of 40 hours of training in domestic violence or sexual assault, crisis intervention, victim support, treatment and related areas; or whose duties include victim counseling.</p> <p>Except as provided in AS 18.66.210 (suspected child abuse, evidence victim is about to commit a crime, victim's death, admissible hearsay as an excited utterance, victim charged with a crime, etc.) or 18.66.220 (waiver), a victim or victim counselor may not be compelled, without appropriate consent, to give testimony or to produce records concerning confidential communications for any purpose in a criminal, civil, legislative, or administrative proceeding. A victim or victim counselor may not be compelled to provide testimony in a civil, criminal, or administrative proceeding that would identify the name, address, location, or telephone number of a safe house, abuse shelter, or other facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding, or the name, address, or telephone number of a victim counselor, unless the court or hearing officer determines that the information is necessary and relevant to the facts of the case.</p> |

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| Arizona | <p>Yes</p> <p>Ariz. Rev. Stat. §§ 13-4401, 13-4430, 8-409</p> <p>Other privileges include: physician-patient (§ 12-2235).</p> | <p>Crime victim advocate means a person who is employed or authorized by a public entity or a private entity that receives public funding primarily to provide counseling, treatment or other supportive assistance to crime victims.</p> <p>Unless the victim consents in writing to the disclosure, a crime victim advocate shall not disclose as a witness or otherwise any communication except compensation or restitution information between himself and the victim, records, notes, documents, correspondence, reports or memoranda, except compensation or restitution information, that contain opinions, theories or other information made while advising, counseling or assisting the victim or that are based on the communication between the victim and the advocate.</p> <p>The communication is not privileged if the crime victim advocate knows that the victim will give or has given perjured testimony or if the communication contains exculpatory material.</p> |
| Arkansas | <p>No – but shelter-victim confidentiality (Ark. Code § 9-4-106(5))</p> <p>Other privileges include: physician- and psychotherapist-patient (Rule 503).</p> | <p>All advocates and volunteers who provide direct services to victims are required to sign a written confidentiality agreement that prohibits the release of the names or other personal and identifying information about the victims who are served at the shelter; and the names or other personal and identifying information about the family or household members of the victims who are served at the shelter.</p> <p>The confidentiality agreement shall not apply to advocates who testify in court.</p> <p>The confidentiality agreement shall not prevent disclosure from federal grant review, audit, or reporting.</p> |
| California | <p>Yes</p> <p>West's Ann. Cal. Evid. Code §§1035.4; 1037.</p> <p>Other privileges include: physician-patient (§992); psychotherapist-patient (§ 1012); caseworker-trafficking victim (§1038).</p> | <p>Sexual assault victim counselor may mean an employee of a rape crisis center, a psychotherapist who has either a master's degree in counseling or a related field or has one year's experience in counseling, at least six months of which is rape crisis counseling, or someone who is supervised by a counselor and has 40 hours training.</p> <p>A domestic violence counselor includes a person who works for an organization that gives advice or assistance to domestic violence victims. The counselor must have received specialized training in counseling domestic violence victims and has either a master's in counseling or a similar field, has one year of counseling experience (of which 6 months must be domestic violence counseling), has either 40 hours of training and is either supervised by a domestic violence counselor or is a psychotherapist, or a person trained by a domestic violence organization where and meets one of the above listed requirements.</p> |

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| | | <p>Confidential communication means information transmitted between the victim and the sexual assault/domestic violence counselor in the course of their relationship and in confidence by a means which, so far as the victim is aware, discloses the information to no third persons other than those who are present to further the interests of the victim in the consultation or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the sexual assault counselor is consulted.</p> <p>The court may compel disclosure of information received by the sexual assault/domestic violence counselor which constitutes relevant evidence of the facts and circumstances involving an alleged sexual assault or involving a crime allegedly perpetrated against the victim or another household member about which the victim is complaining and which is the subject of a criminal proceeding if the court determines that the probative value outweighs the effect on the victim, the treatment relationship, and the treatment services if disclosure is compelled. The court may compel disclosure if the victim is either dead or not the complaining witness in a criminal action against the perpetrator. The court may also compel disclosure in proceedings related to child abuse if the court determines the probative value outweighs the effect on the victim, the treatment relationship, and the treatment services if disclosure is compelled.</p> <p>A victim of domestic violence, whether or not a party to the action, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a domestic violence counselor if the privilege is claimed by any of the following persons: (a) The holder of the privilege, (b) A person who is authorized to claim the privilege by the holder of the privilege. (c) The person who was the domestic violence counselor at the time of the confidential communication. However, that person may not claim the privilege if there is no holder of the privilege in existence or if he or she is otherwise instructed by a person authorized to permit disclosure.</p> |
| <p>Colorado</p> | <p>Yes</p> <p>Colo. Rev. Stat. §13-90-107</p> <p>Other privileges include: physician- and nurse-patient (§ 13-90-107(d)).</p> | <p>A victim's advocate shall not be examined as to any communication made to such victim's advocate by a victim of domestic violence, as defined in section 18-6-800.3(1), C.R.S., or a victim of sexual assault, as described in sections 18-3-401 to 18-3-405.5, 18-6-301, and 18-6-302, C.R.S., in person or through the media of written records or reports without the consent of the victim.</p> <p>Victim's advocate means a person at a battered women's shelter or rape crisis organization or a comparable community-based advocacy program for victims of domestic violence or sexual assault whose primary function is to render advice, counsel, or assist victims of domestic or family violence or sexual assault; and does not include an advocate employed by any law enforcement agency. The victim advocate must have undergone not less than fifteen hours of training as a victim's advocate or, with respect to an advocate who assists victims of sexual assault, not less than thirty hours of training as a sexual assault victim's advocate; and must supervise employees of the program, administer the program, or work under the direction of a supervisor of the program.</p> |

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| <p>Connecticut</p> | <p>Yes</p> <p>Conn. Gen. Stat. § 52-146k</p> <p>Other privileges include: psychologist-patient (§ 52-146c); psychiatrist-patient (§ 52-146d); interpreter (§ 52-146l); physician-patient (§ 52-146o), social worker-client (§ 52-146q); professional counselor-client (§ 52-146s).</p> | <p>Battered women's counselor means any person engaged in a battered women's center who has undergone a minimum of twenty hours of training which shall include, but not be limited to, the dynamics of battering, crisis intervention, communication skills, working with diverse populations, an overview of the state criminal justice system and information about state and community resources for battered women, who is certified as a counselor by the battered women's center which provided such training, who is under the control of a direct service supervisor of a battered women's center, and whose primary purpose is the rendering of advice, counsel and assistance to, and the advocacy of the cause of, battered women.</p> <p>Sexual assault counselor means any person engaged in a rape crisis center who has undergone a minimum of twenty hours of training which shall include, but not be limited to, the dynamics of sexual assault and incest, crisis intervention, communication skills, working with diverse populations, an overview of the state criminal justice system, information about hospital and medical systems and information about state and community resources for sexual assault victims, is certified as a counselor by the sexual assault center which has provided such training, is under the control of a direct services supervisor of a rape crisis center, and whose primary purpose is the rendering of advice, counseling and assistance to, and the advocacy of the cause of, victims of sexual assault.</p> <p>Confidential communication means information transmitted between a victim of a battering or a sexual assault and a battered women's counselor or sexual assault counselor in the course of that relationship and in confidence by a means which, so far as the victim is aware, does not disclose the information to a third person other than any person who is present to further the interests of the victim in the consultation or any person to whom disclosure is reasonably necessary for the transmission of the information or for the accomplishment of the purposes for which such counselor is consulted, and includes all information received by, and any advice, report or working paper given or made by, such counselor in the course of the relationship with the victim.</p> <p>A battered women's counselor or a sexual assault counselor shall not disclose any confidential communications made to such counselor at any time by a victim in any civil or criminal case or proceeding or in any legislative or administrative proceeding unless the victim making the confidential communications waives the privilege, provided under no circumstances shall the location of the battered women's center or rape crisis center or the identity of the battered women's counselor or sexual assault counselor be disclosed in any civil or criminal proceeding.</p> <p>The privilege established by this section shall not apply: In matters of proof concerning chain of custody of evidence; in matters of proof concerning the physical appearance of the victim at the time of the injury; or where the battered women's counselor or sexual assault counselor has knowledge that the victim has given perjured testimony and the defendant or the state has made an offer of proof that perjury may have been committed.</p> |

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| Delaware | <p>No</p> <p>Other privileges include: social worker-client (24 Del. C. § 3913); mental health provider-, physician-, and psychotherapist-patient (Rule 503).</p> | |
| District of Columbia | <p>Yes</p> <p>D.C. Code Ann. § 14-310</p> <p>Other privileges include: physician- and mental health professional-patient (D.C. Stat. § 14-307).</p> | <p>A domestic violence counselor includes an employee, contractor, or volunteer of a domestic violence program who renders support, counseling, or assistance to a victim; undergoes at least 40 hours of domestic violence counselor training conducted by a domestic violence program; is or is under the supervision of a licensed social worker, nurse, physician, psychologist, or psychotherapist, or is or is under the supervision of a person who has at least 5 years of experience in supporting, counseling, or assisting persons who severe emotional abuse or a criminal offense has been committed against, with at least 2 years helping victims.</p> <p>Confidential communication means information exchanged between a victim and a domestic violence counselor during the course of the counselor providing counseling, support and assistance to a victim, including all records kept by the counselor and the domestic violence program, concerning the victim and services provided to the victim.</p> |
| Florida | <p>Yes</p> <p>FSA §§ 90.5035-5036</p> <p>Other privileges include: physician- and psychotherapist-patient (§ 90-503).</p> | <p>Sexual assault counselor is any employee of a rape crisis center whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault or sexual battery.</p> <p>Trained volunteer is a person who volunteers at a rape crisis center, has completed 30 hours of training in assisting victims of sexual violence and related topics provided by the rape crisis center, is supervised by members of the staff of the rape crisis center, and is included on a list of volunteers that is maintained by the rape crisis center.</p> <p>A communication between a sexual assault counselor or trained volunteer and a victim is "confidential" if it is not intended to be disclosed to third persons other than those persons present to further the interest of the victim in the consultation, examination, or interview, those persons necessary for the transmission of the communication,</p> |

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| | | <p>or those persons to whom disclosure is reasonably necessary to accomplish the purposes for which the sexual assault counselor or the trained volunteer is consulted.</p> <p>Domestic violence advocate means any employee or volunteer who has 30 hours of training in assisting victims of domestic violence and is an employee of or volunteer for a program for victims of domestic violence whose primary purpose is the rendering of advice, counseling, or assistance to victims of domestic violence.</p> <p>A communication between a domestic violence advocate and a victim is "confidential" if it relates to the incident of domestic violence for which the victim is seeking assistance and if it is not intended to be disclosed to third persons other than those persons present to further the interest of the victim in the consultation, assessment, or interview or those persons to whom disclosure is reasonably necessary to accomplish the purpose for which the domestic violence advocate is consulted.</p> |
| Georgia | <p>No – but phone service providers required to keep shelter locations confidential (OCGA §46-5-7)</p> <p>Other privileges include: psychiatrist-, psychologist-, social worker-, mental health worker-patient (§ 24-19-21).</p> | <p>Each person, corporation, or other entity that provides telephone service in this state and each person, corporation, or other entity that publishes, disseminates, or otherwise provides telephone directory information or listings of telephone subscribers in this state shall file a plan with the commission setting forth in detail how such person, corporation, or other entity will protect the confidentiality of the address or location of family violence shelters, as defined in Code Section 19-13-20, in this state. Such plan shall describe the manner in which the person, corporation, or other entity will identify all such shelters and the manner in which the person, corporation, or other entity will keep the location and address of such shelters confidential. Such persons, corporations, and other entities shall update such plans at least every 24 months.</p> |
| Hawaii | <p>Yes</p> <p>Hawaii Rev. Stat. Rules of Evid. Rule § 505.5</p> <p>Other privileges include: physician-patient (Rule 504); psychologist-client (Rule 504.1).</p> | <p>A sexual assault counselor is a person who is employed by or is a volunteer in a sexual assault crisis center, has undergone a minimum of thirty-five hours of training and who is, or who reports to and is under the direct control and supervision of, a social worker, nurse, psychiatrist, psychologist, or psychotherapist, and whose primary function is the rendering of advice, counseling or assistance to victims of sexual assault.</p> <p>A domestic violence victim's counselor is a person who is employed by or is a volunteer in a domestic violence victims' program, has undergone a minimum of twenty-five hours of training and who is, or who reports to and is under the direct control and supervision of, a direct service supervisor of a domestic violence victims' program, and whose primary function is the rendering of advice, counseling, or assistance to victims of abuse.</p> |

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| | | <p>A victim has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made to a victim counselor for the purpose of counseling or treatment of the victim for the emotional or psychological effects of sexual assault, domestic violence, or child abuse or neglect, and to refuse to provide evidence that would identify the name, location, or telephone number of a safe house, abuse shelter, or other facility that provided temporary emergency shelter to the victim.</p> <p>There is no privilege under this rule when the victim counselor reasonably believes the victim has given perjured testimony, in matters of proof concerning the physical appearance and condition of the victim at the time of the alleged crime, when there has been a breach of duty by victim counselor or victim counseling program, for mandatory reporting for child abuse, domestic abuse, or abuse of a dependent adult, in proceedings for hospitalization, in examination by order of court, as a condition an element of claim or defense, and in proceedings against the victim counselor.</p> |
| Idaho | <p>No</p> <p>Other privileges include: physician-patient, public officer in his or her official capacity, certified counselor, psychologist or psychological examiner-client (I.C. §9-203).</p> | <p>Exempt from disclosure are records of the department of health and welfare related to child support services in cases in which there is reasonable evidence of domestic violence, as defined in chapter 63, title 39, Idaho Code, that can be used to locate any individuals in the child support case except in response to a court order and the voter's driver's license number, date of birth and the physical residence address of the voter from the statewide voter registration database.</p> |
| Illinois | <p>Yes</p> <p>DV: 750 Ill. Comp. Stat. 60/227 SA: 735 Ill. Comp. Stat. 5/8-802.1</p> <p>Other privileges include: personal counselors of</p> | <p>Domestic violence advocate or counselor means any person who has undergone a minimum of forty hours of training in domestic violence advocacy, crisis intervention, and related areas, and provides services to victims through a domestic violence program either on an employed or volunteer basis.</p> <p>Rape crisis counselor means a person who is a psychologist, social worker, employee, or volunteer in any organization or association defined as a rape crisis organization under this Section, who has undergone 40 hours of training and is under the control of a direct services supervisor of a rape crisis organization.</p> <p>Confidential communication means any communication between an alleged victim...and a domestic violence advocate or counselor [or rape crisis counselor] in the course of providing information, counseling, or advocacy.</p> |

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| | violent crime-victims (735 Ill. Comp. Stat. 5/8-802.2); physician-patient (735 Ill. Comp. Stat. 5/8-802); interpreters (735 Ill. Comp. Stat. 5/8-911). | <p>The term includes all records kept by the advocate or counselor or by the domestic violence program in the course of providing services to an alleged victim concerning the alleged victim and the services provided. The confidential nature of the communication is not waived by the presence at the time of the communication of any additional persons, including but not limited to an interpreter, to further express the interests of the domestic violence victim or by the advocate's or counselor's disclosure to such an additional person with the consent of the victim when reasonably necessary to accomplish the purpose for which the advocate or counselor is consulted.</p> <p>No domestic violence advocate or counselor shall disclose any confidential communication or be examined as a witness in any civil or criminal case or proceeding or in any legislative or administrative proceeding without the written consent of the domestic violence victim except in accordance with the provisions of the Abused and Neglected Child Reporting Act or in cases where failure to disclose is likely to result in an imminent risk of serious bodily harm or death of the victim or another person.</p> <p>No rape crisis counselor shall disclose any confidential communication or be examined as a witness in any civil or criminal proceeding as to any confidential communication without the written consent of the victim or a representative of the victim as provided in subparagraph (c).</p> |
| Indiana | Yes IC § 35-37-6-9 Other privileges include: physician-patient (§34-46-3-1); mental health provider-patient (§34-46-5-1); psychologist-patient (§ 34-46-2-23); social worker- and counselor-client (§34-46-2-20). | <p>Victim counselor means an individual who is an employee or supervised volunteer of a victim counseling center and provides treatment to a victim for an emotional or psychological condition incurred by the victim as a result of a covered act.</p> <p>The following persons may not be compelled to give testimony or to produce records concerning confidential communications in any judicial, legislative, or administrative proceeding:</p> <ol style="list-style-type: none"> (1) A victim. (2) A victim counselor, unless the victim consents to the disclosure. (3) An unemancipated child less than eighteen years of age or an incapacitated victim, unless a custodial parent, custodian, guardian, or guardian ad litem who is not accused of a covered act consents to the disclosure. <p>A victim counselor or a victim may not be compelled to provide testimony in any judicial, legislative, or administrative proceeding that would identify the name, address, location, or telephone number of any facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding unless the facility is a party to the proceeding.</p> |

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| Iowa | <p>Yes</p> <p>Iowa Code Ann. § 915.20A</p> <p>Other privileges include: physician-patient; nurse-patient; mental health practitioner-patient; counselor-client (§ 622.10).</p> | <p>Confidential communication means information shared between a crime victim and a victim counselor within the counseling relationship, and includes all information received by the counselor and any advice, report, or working paper given to or prepared by the counselor in the course of the counseling relationship with the victim. Confidential information is confidential information which, so far as the victim is aware, is not disclosed to a third party with the exception of a person present in the consultation for the purpose of furthering the interest of the victim, a person to whom disclosure is reasonably necessary for the transmission of the information, or a person with whom disclosure is necessary for accomplishment of the purpose for which the counselor is consulted by the victim.</p> <p>Victim counselor means a person who is engaged in a crime victim center, is certified as a counselor by the crime victim center, and is under the control of a direct services supervisor of a crime victim center, whose primary purpose is the rendering of advice, counseling, and assistance to the victims of crime. To qualify as a victim counselor under this section, the person must also have completed at least twenty hours of training provided by the center in which the person is engaged, by the Iowa organization of victim assistance, by the Iowa coalition against sexual abuse, or by the Iowa coalition against domestic violence, which shall include but not be limited to, the dynamics of victimization, substantive laws relating to violent crime, sexual assault, and domestic violence, crisis intervention techniques, communication skills, working with diverse populations, an overview of the state criminal justice system, information regarding pertinent hospital procedures, and information regarding state and community resources for victims of crime.</p> <p>A victim counselor shall not be examined or required to give evidence in any civil or criminal proceeding as to any confidential communication made by a victim to the counselor, nor shall a clerk, secretary, stenographer, or any other employee who types or otherwise prepares or manages the confidential reports or working papers of a victim counselor be required to produce evidence of any such confidential communication, unless the victim waives this privilege in writing or disclosure of the information is compelled by a court pursuant to subsection 7. Under no circumstances shall the location of a crime victim center or the identity of the victim counselor be disclosed in any civil or criminal proceeding.</p> |

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| Kansas | <p>No – but privilege for licensed professional counselor (KS Stat. Ann. § 65-5810) and licensed master or specialist clinical social worker (KS Stat. Ann. § 65-6315).</p> <p>Other privileges include: physician-patient (§60-427).</p> | <p>The confidential relations and communications between a licensed professional counselor [or licensed master social worker or a licensed specialist clinical social worker] and such counselor's client are placed on the same basis as provided by law for those between an attorney and an attorney's client.</p> <p>Nothing in this section or in this act shall be construed to prohibit any licensed professional counselor or licensed clinical professional counselor [or licensed social worker] from testifying in court hearings concerning matters of adult abuse, adoption, child abuse, child neglect, or other matters pertaining to the welfare of children or from seeking collaboration or consultation with professional colleagues or administrative superiors, or both, on behalf of the client. There is no privilege under this section for information which is required to be reported to a public official.</p> |
| Kentucky | <p>Yes</p> <p>Ky. R. Evid. § 506(d)(2)</p> <p>Other privileges include: counselor-client (Rule 506); psychotherapist-patient (Rule 507).</p> | <p>A sexual assault counselor, who is a person engaged in a rape crisis center, as defined in K.R.S. Chapter 421, who has undergone 40 hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault.</p> <p>A communication is confidential if it is not intended to be disclosed to third persons, except persons present to further the interest of the client in the consultation or interview, persons reasonably necessary for the transmission of the communication, or persons present during the communication at the direction of the counselor, including members of the client's family.</p> <p>A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of counseling the client, between himself, his counselor, and persons present at the direction of the counselor, including members of the client's family.</p> <p>There is no privilege under this rule for any relevant communication if the client is asserting his physical, mental, or emotional condition as an element of a claim or defense; or, after the client's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense; or if the judge finds the substance of the communication is relevant to an essential issue in the case, there are no available alternate means to obtain the substantial equivalent of the communication, and the need for the information outweighs the interest protected by the privilege. The court may receive evidence in camera to make findings under this rule.</p> |

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| Louisiana | <p>Yes</p> <p>LSA-R.S. 46:2124.1</p> <p>In addition LSA-R.S. 46:1844 (C)(2) designates a private setting by the sheriff's office</p> <p>Other privileges include: health care provider-patient (L.S.A.-C.E. Art. 510); trained peer support -member (L.S.A.-C.E. Art. 518).</p> | <p>[There is no definition of domestic violence counselor, as this statute applies to all who work in the community shelter.]</p> <p>"Privileged communication" means a communication made to a representative or employee of a community shelter by a victim. It also means a communication not otherwise privileged made by a representative or employee of a community shelter to a victim in the course of rendering services authorized by R.S. 46:2124.</p> <p>All law enforcement or judicial agencies shall provide a private setting for all interviewing of victims of crime. Private setting shall mean an enclosed room from which the occupants are not visible or otherwise identifiable and whose conversations cannot be heard from outside such room. Only those persons directly and immediately related to the interviewing of the victim, specifically the victim, a social worker, psychologist, or other professional, the victim advocate designated by the sheriff's office, or a representative from a not-for-profit victim service organization, including but not limited to rape crisis centers, domestic violence advocacy groups, and alcohol abuse or substance abuse groups providing emotional support to the victim, shall be present, unless the victim requests the exclusion of such person from the interview, and, when appropriate, the parent or parents of the victim.</p> |
| Maine | <p>Yes</p> <p>16 Me. Rev. Stat. Ann. §§ 53-A and 53-B</p> <p>Other privileges include: physician- and psychotherapist-patient (Rule 503).</p> | <p>Sexual assault counselor means a person who has undergone a program of training from a rape crisis center which shall include, but not be limited to: law, medicine, societal attitudes, crisis intervention, counseling techniques and referral services; and is either a staff member, paid or unpaid, or under the supervision of a staff member of a rape crisis center.</p> <p>Except with regard to reporting, cooperating in an investigation or giving evidence pursuant to Title 22, chapter 1071, or except at the request, or with the consent of, the victim of sexual assault, no sexual assault counselor may be required to testify in any civil or criminal action, suit or proceeding at law or in equity about any information which he may have acquired in providing sexual assault counseling services. A sexual assault counselor or a rape crisis center may not be required to disclose to the court any records, notes, memoranda or documents containing confidential communications. When a court in the exercise of sound discretion deems the disclosure necessary to the proper administration of justice, no information communicated to, or otherwise learned by, that sexual assault counselor in connection with the provision of sexual assault counseling services may be privileged and disclosure may be required.</p> <p>Advocate means an employee of or volunteer for a nongovernmental program for victims of domestic or family violence who has undergone at least 30 hours of training; and as a primary function with the program gives</p> |

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| | | <p>advice to, counsels or assists victims, supervises employees or volunteers who perform that function or administers the program.</p> <p>A victim, advocate or advocate's agency may not be required through oral or written testimony or through production of documents to disclose to a court in criminal or civil proceedings or to any other agency or person confidential communications between the victim and the advocate, except when disclosure is required pursuant to Title 22, chapter 1071, through a court order, or when a victim dies or is otherwise incapable of giving consent and disclosure is required.</p> |
| <p>Maryland</p> | <p>No</p> <p>Other privileges include: psychiatrist-client; professional counselor-client (MD Code, Courts and Judicial Proceedings, § 9-109.1).</p> | <p><i>Newman v. State</i>, 863 A.2d 321 (2004) — mere presence of third party will not constitute waiver of attorney-client privilege so long as the attorney could control whether the third party could be present or absent.</p> <p><i>E.I. du Pont de Nemours & Co. v. Forma-Pack, Inc.</i>, 718 A.2d 1129, 1138 (1998) — only the communications pertaining to legal assistance and made with the intention of confidentiality will be protected.</p> |
| <p>Massachusetts</p> | <p>Yes</p> <p>DV: Mass. Gen. L Ann. Ch. 233, § 20K SA: Mass. Gen. L Ann. Ch. 233, § 20J</p> <p>Other privileges include: psychotherapist-patient (Rule 503).</p> | <p>Domestic violence victims' counselor is a person who is employed or volunteers in a domestic violence victims' program, who has undergone a minimum of twenty-five hours of training and who reports to and is under the direct control and supervision of a direct service supervisor of a domestic violence victims' program, and whose primary purpose is the rendering of advice, counseling or assistance to victims of abuse.</p> <p>Sexual assault counselor is a person who is employed by or is a volunteer in a rape crisis center, has undergone thirty-five hours of training, who reports to and is under the direct control and supervision of a licensed social worker, nurse, psychiatrist, psychologist or psychotherapist and whose primary purpose is the rendering of advice, counseling or assistance to victims of sexual assault.</p> <p>Confidential communication is information transmitted in confidence by and between a victim and a counselor by a means which does not disclose the information to a person other than a person present for the benefit of the victim, or to those to whom disclosure of such information is reasonably necessary to the counseling and assisting of such victim. The term includes all information received by the counselor which arises out of and in the course of such counseling and assisting, including, but not limited to, reports, records, working papers, or memoranda.</p> |

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| | | A sexual assault counselor and a domestic violence victims' counselor shall not disclose such confidential communication without the prior written consent of the victim, except as provided. Such confidential communication shall not be subject to discovery in any civil, legislative or administrative proceeding without the prior written consent of the victim to whom such confidential communication relates. In criminal actions, such confidential communication shall be subject to discovery and shall be admissible as evidence but only to the extent of information contained therein which is exculpatory in relation to the defendant; provided, however, that the court shall first examine such confidential communication and shall determine whether or not such exculpatory information is therein contained before allowing such discovery or the introduction of such evidence. |
| Michigan | <p>Yes</p> <p>Mich. Comp. Laws Ann. § 600.2157a</p> <p>Other privileges include: physician-patient (§ 600.2157).</p> | <p>Sexual assault or domestic violence counselor means a person who is employed at or who volunteers service at a sexual assault or domestic violence crisis center, and who in that capacity provides advice, counseling, or other assistance to victims of sexual assault or domestic violence and their families.</p> <p>Confidential communication means information transmitted between a victim and a sexual assault or domestic violence counselor, or between a victim or sexual assault or domestic violence counselor and any other person to whom disclosure is reasonably necessary to further the interests of the victim, in connection with the rendering of advice, counseling, or other assistance by the sexual assault or domestic violence counselor to the victim.</p> <p>Except as provided by section 722.631 of the Michigan Compiled Laws (reporting for suspected child abuse), a confidential communication, or any report, working paper, or statement contained in a report or working paper, given or made in connection with a consultation between a victim and a sexual assault or domestic violence counselor, shall not be admissible as evidence in any civil or criminal proceeding without the prior written consent of the victim.</p> |
| Minnesota | <p>Yes — SA ONLY</p> <p>Minn. Stat. Ann. § 595.02(k)</p> <p>Other privileges include: physician-patient; psychologist-patient; social worker-client; interpreter; chemical dependency counselor-client (§ 595.02).</p> | <p>Sexual assault counselor for the purpose of this section means a person who has undergone at least 40 hours of crisis counseling training and works under the direction of a supervisor in a crisis center, whose primary purpose is to render advice, counseling, or assistance to victims of sexual assault.</p> <p>Sexual assault counselors may not be compelled to testify about any opinion or information received from or about the victim without the consent of the victim. However, a counselor may be compelled to identify or disclose information in investigations or proceedings related to neglect or termination of parental rights if the court determines good cause exists. In determining whether to compel disclosure, the court shall weigh the public interest and need for disclosure against the effect on the victim, the treatment relationship, and the treatment services if disclosure occurs. Nothing in this clause exempts sexual assault counselors from compliance with the provisions of sections 626.556 (reporting maltreatment of minors) and 626.557 (reporting maltreatment of vulnerable adults). Domestic violence counselors, even if they undergo at least 40 hours of training, do not have victim-counselor privilege.</p> |

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| Mississippi | <p>No</p> <p>Other privileges include: psychologist-patient (§ 73-31-29); licensed professional counselor-patient (§ 73-30-17) physician-patient (§ 13-1-21).</p> | |
| Missouri | <p>No – but shelter-victim confidentiality (Mo. Stat. Ann. § 455.220 (1)(5))</p> <p>Other privileges include: psychologist-patient (§ 337.055); professional counselor-client (§ 337.540); social worker-client (§ 337.636); physician-patient (§ 491.060(5)).</p> | <p>A qualified shelter must require persons employed by or volunteering services to the shelter to maintain the confidentiality of any information that would identify individuals served by the shelter and any information or records that are directly related to the advocacy services provided to such individuals.</p> <p>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 above, unless the confidentiality requirement is waived in writing by the individual served by the shelter.</p> |
| Montana | <p>Yes</p> <p>MCA § 26-1-812</p> <p>Other privileges include: physician-patient (§26-1-805); speech language pathologist & audiologist (§26-1-806); psychologist-client (§26-1-807).</p> | <p>Advocate means an employee or volunteer of a domestic violence shelter, crisis line, or victim's services provider that provides services for victims of sexual assault, stalking, or any assault on a partner or family member.</p> <p>Unless a report is otherwise required by law, an advocate may not, without consent of the victim, be examined as to any communication made to the advocate by a victim and may not divulge records kept during the course of providing shelter, counseling, or crisis intervention services. This privilege belongs to the victim and may not be waived, except by express consent. The privilege continues even if the victim is unreachable. Consent may not be implied because the victim is a party to a divorce or custody proceeding. The privilege terminates upon the death of the victim.</p> |

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| <p>Nebraska</p> | <p>No – but advocate-victim confidentiality (Neb. Stat. § 29-4301-4303)</p> <p>Other privileges include: physician-patient; professional counselor-client (§ 27-504).</p> | <p>Advocate means any employee or supervised volunteer of a domestic violence and sexual assault victim assistance program or of any other agency, business, or organization that is not affiliated with a law enforcement or prosecutor's office, whose primary purpose is assisting domestic violence and sexual assault victims;</p> <p>Victim means a person who communicates with an advocate for assistance in overcoming the adverse effects of domestic violence or sexual assault; and</p> <p>Confidential communication means any written or spoken information exchanged between a victim and an advocate in private or in the presence of a third party who is necessary to facilitate communication or further the advocacy process and which is disclosed to the advocate for the purposes of overcoming the adverse effects of domestic violence or sexual assault.</p> <p>A victim, an advocate without the consent of the victim, a third party as described in subdivision (3) of section 29-4302 without the consent of the victim, or a minor or incapacitated victim without the consent of a custodial guardian or a guardian ad litem appointed upon application of either party, shall not be compelled to give testimony or to produce records concerning a confidential communication for any purpose in any criminal, civil, legislative, administrative, or other proceeding, except as follows:</p> <p>(a) The party seeking disclosure of a confidential communication shall, in a criminal, civil, or administrative proceeding, file a motion that sets forth specifically the issues on which disclosure is sought and enumerates the reasons why the party is seeking disclosure and why disclosure is necessary, accompanied by an affidavit or affidavits containing specific information which establishes that the confidential communication constitutes relevant and material evidence in the case; and</p> <p>(b) If the party seeking disclosure has complied with subdivision (a) of this subsection, the court or a hearing officer shall review the confidential communication in camera and out of the presence and hearing of all persons, except the victim, the advocate, and any other person the victim is willing to have present, to determine whether a failure to disclose the confidential communication would violate the constitutional rights of the party seeking disclosure.</p> <p>An advocate, a victim, or a third party as described...cannot be compelled to provide testimony in any criminal, civil, legislative, administrative, or other proceeding that would identify the name, address, location, or telephone number of a safe house, abuse shelter, or other facility that provided temporary emergency shelter to the victim of the offense that is the subject of the proceeding unless the facility is a party to the proceeding.</p> |

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| Nevada | <p>Yes</p> <p>Nev. Stat. § 49.2541</p> <p>Other privileges include: psychologist-patient (§ 49-209); physician-patient (§ 49-225); social worker-client (§ 49-252); counselor-pupil (§ 49-290).</p> | <p>Victim's advocate means a person who works for a nonprofit program that provides assistance to victims with or without compensation and who has received at least 20 hours of relevant training.</p> <p>Communication includes, without limitation, all records concerning the victim and the services provided to the victim which are within the possession of the victim's advocate; or the nonprofit program for whom the victim's advocate works. A communication shall be deemed to be confidential if the communication is between a victim and a victim's advocate and is not intended to be disclosed to third persons other than a person who is present to further the interest of the victim; a person reasonably necessary for the transmission of the communication; or a person who is participating in the advice, counseling or assistance of the victim, including, without limitation, a member of the victim's family.</p> <p>Except as otherwise provided in NRS 49.2549 (child and elder neglect, breach of duty, required by law, aiding and abetting a crime by the victim), a victim who seeks advice, counseling or assistance from a victim's advocate has a privilege to refuse to disclose, and to prevent any other person from disclosing confidential communications.</p> |
| New Hampshire | <p>Yes</p> <p>N.H. Rev. Stat. Ann. §§ 173-C:1 to C:10</p> <p>Other privileges include: physician-patient (§ 329:26); chiropractor-client (§ 316-A:27); mental health professional-client (§ 330-A:32).</p> | <p>Domestic violence counselor means any person who is employed or appointed or who volunteers in a domestic violence center who renders support, counseling, or assistance to victims of domestic abuse or attempted domestic abuse, who has satisfactorily completed 30 hours of training in a bona fide program which has been developed by any organization or agency which would qualify as a direct service grantee.</p> <p>Confidential communication means information transmitted between a victim of an alleged sexual assault, alleged domestic abuse, alleged sexual harassment, or alleged stalking, and a sexual assault or domestic violence counselor in the course of that relationship and in confidence by means which, so far as the victim is aware, does not disclose the information to a third person. The presence of an interpreter for the hearing impaired, a foreign language interpreter, or any other interpreter necessary for that communication to take place shall not affect the confidentiality of the communication nor shall it be deemed a waiver of the privilege. The term includes all information received by the sexual assault or domestic violence counselor in the course of that relationship.</p> <p>A victim has the privilege to refuse to disclose and to prevent any other person from disclosing a confidential communication made by the victim to a sexual assault counselor or a domestic violence counselor, including any record made in the course of support, counseling, or assistance of the victim. Any confidential communication or record may be disclosed only with the prior written consent of the victim. This privilege terminates upon the</p> |

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| | | <p>death of the victim.</p> <p>The only information subject to discovery from the records of a rape crisis center or a domestic violence center or which may be elicited during the testimony of a sexual assault or domestic violence counselor are those statements of the victim which relate to the alleged crime being prosecuted in the instant trial. A counselor may waive the privilege when has knowledge that the victim has given perjured testimony and when the defendant has made an offer of proof that there is probable cause to believe that perjury has been committed. This privilege does not preclude mandatory reporting of suspected child abuse.</p> |
| <p>New Jersey</p> | <p>Yes</p> <p>N.J. Stat. Ann. §§ 2A:84A-22.13-16</p> <p>Other privileges include: psychologist-patient (Rule 505); physician-patient (Rule 506); social worker-client (Rule 518).</p> | <p>Victim counselor means a person engaged in any office, institution or center defined as a victim counseling center by this act, who has undergone 40 hours of training and is under the control of a direct services supervisor of the center and who has a primary function of rendering advice, counseling or assisting victims of acts of violence. This definition includes a rape care advocate</p> <p>Confidential communication means any information exchanged between a victim and a victim counselor in private or in the presence of a third party who is necessary to facilitate communication or further the counseling process and which is disclosed in the course of the counselor's treatment of the victim for any emotional or psychological condition resulting from an act of violence. It includes any advice, report or working paper given or made in the course of the consultation and all information received by the victim counselor in the course of that relationship.</p> <p>A victim counselor has a privilege not to be examined as a witness in any civil or criminal proceeding with regard to any confidential communication. When a victim is incompetent or deceased consent to disclosure may be given by the guardian, executor or administrator except when the guardian, executor or administrator is the defendant or has a relationship with the victim such that he has an interest in the outcome of the proceeding. The privilege may be knowingly waived by a juvenile. In any instance where the juvenile is, in the opinion of the judge, incapable of knowing consent, the parent or guardian of the juvenile may waive the privilege on behalf of the juvenile, provided that the parent or guardian is not the defendant and does not have a relationship with the defendant such that he has an interest in the outcome of the proceeding. A victim counselor or a victim cannot be compelled to provide testimony in any civil or criminal proceeding that would identify the name, address, location, or telephone number of a domestic violence shelter or any other facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding unless the facility is a party to the proceeding.</p> |

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| New Mexico | <p>Yes</p> <p>N.M. Stat. Ann. §§ 31-25-1-6</p> <p>Other privileges include: physician- and psychotherapist-patient (Rule 11-504).</p> | <p>Victim counselor means any employee or supervised volunteer of a victim counseling center or other agency, business or organization that provides counseling to victims who is not affiliated with a law enforcement agency or the office of a district attorney, has successfully completed forty hours of academic or other formal victim counseling training or has had a minimum of one year of experience in providing victim counseling and whose duties include victim counseling.</p> <p>Confidential communication means any information exchanged between a victim and a victim counselor in private or in the presence of a third party who is necessary to facilitate communication or further the counseling process and which is disclosed in the course of the counselor's treatment of the victim for any emotional or psychological condition resulting from a sexual assault or family violence.</p> <p>A victim, a victim counselor without the consent of the victim or a minor or incapacitated victim without the consent of a custodial guardian or a guardian ad litem appointed upon application of either party shall not be compelled to provide testimony or to produce records concerning confidential communications for any purpose in any criminal action or other judicial, legislative or administrative proceeding. A victim counselor or a victim shall not be compelled to provide testimony in any civil or criminal proceeding that would identify the name, address, location or telephone number of a safe house, abuse shelter or other facility that provided temporary emergency shelter to the victim of the offense or occurrence that is the subject of a judicial, legislative or administrative proceeding unless the facility is a party to the proceeding. Counselor is required to report instances of suspected child abuse.</p> |
| New York | <p>Yes</p> <p>N.Y. Civ. Prac. L. & R. § 4510</p> <p>Other privileges include: physician-, dentist-, podiatrist-, chiropractor- and nurse-patient (§ 4504); psychologist-client (§ 4507); social worker-client (§ 4508).</p> | <p>Rape crisis counselor means any person who has been certified by an approved rape crisis program as having completed 30 hours of pre-service training + 10 hours of in-service training specified under Public Health Law § 206, and who, regardless of compensation, is acting under the direction and supervision of an approved rape crisis program.</p> <p>A rape crisis counselor shall not be required to disclose a communication made by his or her client to him or her, or advice given thereon, in the course of his or her services nor shall any clerk, stenographer or other person working for the same program as the rape crisis counselor or for the rape crisis counselor be allowed to disclose any such communication or advice given thereon nor shall any records made in the course of the services given to the client or recording of any communications made by or to a client be required to be disclosed, nor shall the client be compelled to disclose such communication or records, except that a rape crisis counselor may disclose such otherwise confidential communication to the extent authorized by the client; that a rape crisis counselor shall not be required to treat as confidential a communication by a client which reveals the intent to commit a crime or harmful act; and in a case in which the client waives the privilege by instituting charges against the rape crisis counselor or the rape crisis program and such action or proceeding involves confidential communications between the client and the rape crisis counselor.</p> |

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| North Carolina | Yes N.C. Gen. Stat. § 8-53.12 Other privileges include: physician- and nurse-patient (§ 8-53); psychologist-patient (§ 8-53.3); school counselor (§ 8-53.4), social worker-client (§ 8-53.7); counselor-client (§ 8-53.8); peer support group counselors (§ 8-53.10). | <p>An agent means an employee or agent of a center who has completed a minimum of 20 hours of training as required by the center, or a volunteer, under the direct supervision of a center supervisor, who has completed a minimum of 20 hours of training as required by the center.</p> <p>No agent of a center shall be required to disclose any information which the agent acquired during the provision of services to a victim and which information was necessary to enable the agent to render the services; provided, however, that this subsection shall not apply where the victim waives the privilege conferred. Any resident or presiding judge in the district in which the action is pending shall compel disclosure, either at the trial or prior thereto, if the court finds, by a preponderance of the evidence, a good faith, specific and reasonable basis for believing that the records or testimony sought contain information that is relevant and material to factual issues to be determined in a civil proceeding, or is relevant, material, and exculpatory upon the issue of guilt, degree of guilt, or sentencing in a criminal proceeding for the offense charged or any lesser included offense, the evidence is not sought merely for character impeachment purposes, and the evidence sought is not merely cumulative of other evidence or information available or already obtained by the party seeking the disclosure or the party's counsel. If the case is in district court, the judge shall be a district court judge, and if the case is in superior court, the judge shall be a superior court judge. Nothing in this section shall be construed to relieve any person of any duty pertaining to abuse or neglect of a child or disabled adult as required by law.</p> |
| North Dakota | Yes N.D. Century Code § 14-07.1-18 Other privileges include: psychotherapist- and physician-patient (Rule 503). | <p>All agents, employees, and volunteers participating in a domestic violence or sexual assault program shall maintain the confidentiality of the address, telephone number, and other identifying information of a shelter, safe home, and place of emergency safe housing; name, address, telephone number, personally identifying information, and case file or history of any client receiving services from a domestic violence or sexual assault program; and name, address, telephone number, and other identifying information of an agent, employee, or volunteer providing services under a domestic violence or sexual assault program.</p> <p>This information may not be disclosed unless a client consents to the release of information that relates only to that client or the client's dependents; the agent, employee, or volunteer operating a domestic violence or sexual assault program determines the disclosure of the information necessary for the efficient and safe operation of a domestic violence or sexual assault program; or for the protection of the safety of an employee, agent, volunteer, or client of a domestic violence or sexual assault program; or for the protection of a third party reasonably thought to be in need of protection; a court of competent jurisdiction orders the disclosure after an in camera review and a written finding by the court that the information directly and specifically relates to a determination of child abuse and neglect under chapter 50-25.1; or an agent, employee, or volunteer working with a domestic violence or sexual assault program has knowledge or reasonable cause to suspect a child has been abused or neglected.</p> |

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| <p>Ohio</p> | <p>No</p> <p>Other privileges include: licensed professional counselor (R.C. § 2317.02 (G)(1)); psychologist-patient (§4732.19); physician-patient (§ 2317.02(B)).</p> | |
| <p>Oklahoma</p> | <p>No – but state and local agencies provide confidentiality for victims of domestic violence who have relocated (22 Okl. St. Ann. § 60.14)</p> <p>Other privileges include: psychotherapist- and physician-patient (§ 2503); interpreter for the deaf (§ 2503.1).</p> | <p>The purpose of this section is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic abuse, sexual assault, or stalking, to enable interagency cooperation with the Secretary of State in providing address confidentiality for victims of domestic abuse, sexual assault, or stalking, and to enable state and local agencies to accept an address designated by the Secretary of State by a program participant as a substitute mailing address.</p> <p>Upon the creation of the Address Confidentiality Program Office, an adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person may apply to the Secretary of State to have an address designated by the Secretary of State serve as the address of the person or the address of the minor or incapacitated person. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State and if it contains a sworn statement by the applicant that the applicant has good reason to believe that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic abuse, sexual assault, or stalking, and that the applicant fears for the safety of self or children, or the safety of the minor or incapacitated person on whose behalf the application is made, a designation of the Secretary of State as agent for purposes of service of process and for the purpose of receipt of mail, the mailing address where the applicant can be contacted by the Secretary of State, and the phone number or numbers where the applicant can be called by the Secretary of State, the new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic abuse, sexual assault, or stalking, and the signature of the applicant and of a representative of any office designated a referring agency under subsection G of this section who assisted in the preparation of the application, and the date on which the applicant signed the application.</p> <p>If the program participant obtains a name change, the participant loses certification as a program participant. The Secretary of State may cancel the certification of a program participant if there is a change in the residential address from the one listed on the application, unless the program participant provides the Secretary of State with seven (7) days' prior notice of the change of address or if mail forwarded by the Secretary of State to the address of the program participant is returned as non-deliverable.</p> |

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| Oregon | <p>No</p> <p>Other privileges include: licensed clinical social worker- (Ore. Rev. Stat. Ann. §40.250); psychotherapist- (Rule 504); physician- (Rule 504.1); nurse- (Rule 504.2); and counselor- (Rule 507).</p> | |
| Pennsylvania | <p>Yes</p> <p>23 Pa. Cons. Stat. Ann. § 6116</p> <p>Other privileges include: physician-patient (42 Pa. C.S.A. § 5929); psychiatrist- and psychologist-patient (§ 5944); interpreter and translator (63 P.S. § 1725.7).</p> | <p>Domestic violence counselor/advocate means an individual who is engaged in a domestic violence program, the primary purpose of which is the rendering of counseling or assistance to victims of domestic violence, who has undergone 40 hours of training.</p> <p>Confidential communications mean all information, whether written or spoken, transmitted between a victim and a domestic violence counselor or advocate in the course of the relationship. The term includes information received or given by the domestic violence counselor or advocate in the course of the relationship, as well as advice, reports, statistical data, memoranda or working papers, records or the like, given or made in the course of the relationship. The term also includes communications made by or to a linguistic interpreter assisting the victim, counselor or advocate in the course of the relationship.</p> <p>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 communications made to or by the counselor/advocate by or to a victim. The privilege shall terminate upon the death of the victim. Neither the domestic violence counselor/advocate nor the victim shall waive the privilege of confidential communications by reporting facts of physical or sexual assault under Chapter 63 (relating to child protective services), a Federal or State mandatory reporting statute or a local mandatory reporting ordinance.</p> <p><i>VBT, et al. v. Family Services of Western Pennsylvania</i>, 705 A.2d 1325 (Pa. Super. 1998) — privilege is found to be absolute</p> |

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| Rhode Island | <p>No – but sexual assault counselor-victim confidentiality (469 A.2d 1161 (R.I. 1983))</p> <p>Other privileges include: physician-patient (RI ST § 9-17-24); mental health counselor-client (§ 5-63.2-18); psychiatrist- and psychologist-patient reporting sexual contact (§ 5-63.1-4); social worker-client (§ 5-39.1-4).</p> | <p>Sexual assault counselor means a person who has undergone twenty (20) or more hours of training from a rape crisis center which shall include but not be limited to the following areas: law, medicine, societal attitudes, crisis intervention, counseling techniques, and referral services; and is either a staff member, or under the supervision of a staff member, of a rape crisis center.</p> <p>Confidential communication means any communication between a sexual assault victim and a sexual assault counselor obtained in his or her professional capacity in the course of rendering assistance or counseling to the sexual assault victim.</p> <p>In the trial of every cause, both civil and criminal, no sexual assault counselor shall be competent to testify concerning any confidential communication without the prior written consent of the sexual assault victim, nor shall a sexual assault counselor or rape crisis center be required to disclose to the court any records, notes, memoranda, or documents containing confidential communications without the prior written consent of the sexual assault victim. However, a defendant in a criminal proceeding may petition the trial justice to issue a subpoena and/or a subpoena duces tecum requiring the appearance of a sexual assault counselor or other representative of a rape crisis center and/or the production of records, notes, memoranda or documents in their possession. Prior to issuance of said subpoena or subpoena duces tecum, the trial justice shall require the defense to show that there is reason to believe that the witness knows and/or the material sought contains information which is relevant to a material issue in the case. A witness responding to such a subpoena shall be interviewed, and/or material produced in response to such a subpoena duces tecum shall be reviewed in camera by the trial justice without counsel present. If the trial justice determines that the witness knows and/or the material contains evidence which would be clearly exculpatory in nature, then the trial justice shall make it known to counsel who shall be permitted to present such evidence at trial through the appropriate witnesses.</p> |
| South Carolina | <p>No</p> <p>Other privileges include: mental health provider-patient (Code 1976 § 19-11-95).</p> | |

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| South Dakota | <p>No – but domestic abuse grant recipient-victim confidentiality (SDCL § 25-10-20)</p> <p>Other privileges include: physician-patient (§ 19-13-6); school counselor-student (§ 19-13-21.1 and 2); sign language interpreter (§ 19-13-31).</p> | <p>Local domestic abuse programs receiving domestic abuse grants shall provide services that include but are not limited to the following: emergency shelter for victims of domestic abuse and their minor children; information and referral services for victims of domestic abuse and other family or household members; and education and training for members of the community on matters which relate to domestic abuse.</p> <p>The board of county commissioners shall provide for the confidentiality of victims of domestic abuse receiving services funded pursuant to the guidelines above.</p> |
| Tennessee | <p>No – but shelter-victim confidentiality (Tenn. Code Ann. § 36-3-623)</p> <p>Other privileges include: physician-, psychiatrist-patient (§ 24-1-207); interpreters (§ 24-1-210).</p> | <p>The records of domestic violence shelters and rape crisis centers shall be treated as confidential by the records custodian of such shelters or centers, unless the individual to whom the records pertain authorizes their release; or a court approves a subpoena for the records, subject to such restrictions as the court may impose, including in camera review.</p> |
| Texas | <p>Yes</p> <p>Vernon's Tex. Govt Ann. § 420.075</p> <p>Other privileges include: physician-patient (Rule 509); mental health professional-patient (Rule 510).</p> | <p>An individual may act as an advocate for survivors of sexual assault if the individual has completed a sexual assault training program certified by the department and is employed by a sexual assault program; or provides services through a sexual assault program as a volunteer under the supervision of an advocate.</p> <p>A communication between an 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 is confidential and may not be disclosed except as provided by this subchapter. A record of the identity, personal history, or background information of a survivor or information concerning the victimization of a survivor that is created by or provided to an advocate or maintained by a sexual assault program is confidential and may not be disclosed except as provided by this subchapter. A person who receives information from a confidential communication or record as described by this subchapter may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was obtained.</p> |

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Summary Of DV/SA Advocate Confidentiality Laws

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| State | Advocate privilege? | Language of the Statute |
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| | | A communication or record that is confidential under this subchapter may be disclosed in court or in an administrative proceeding if the proceeding is brought by the survivor against an advocate or a sexual assault program or is a criminal proceeding or a certification revocation proceeding in which disclosure is relevant to the claims or defense of the advocate or sexual assault program; or the survivor or a person authorized to act on behalf of the survivor consents in writing to the release of the confidential information. |
| Utah | <p>Yes</p> <p>Utah Code Ann. §§ 78-3c-1-4</p> <p>Other privileges include: physician- and mental health professional-patient (Rule 506).</p> | <p>Sexual assault counselor means a person who is employed by or volunteers at a rape crisis center who has a minimum of 40 hours of training in counseling and assisting victims of sexual assault and who is under the supervision of the director or designee of a rape crisis center.</p> <p>Confidential communication means information given to a sexual assault counselor by a victim and includes reports or working papers made in the course of the counseling relationship.</p> <p>The confidential communication between a victim and a sexual assault counselor is available to a third person only when 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; the victim is a minor and the minor's parents or guardian have consented to disclosure of the confidential communication to a third party based upon representations made by the counselor that it is in the best interest of the minor victim to make such disclosure; 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 Title 62A, Chapter 4a, Child and Family Services, to report information transmitted in the confidential communication.</p> |
| Vermont | <p>Yes</p> <p>Vt. Stat. Ann. Tit. 12, § 1614(b)</p> <p>Other privileges include: physician-, dentist-, nurse-, and medical health professional-patient (Rule 503).</p> | <p>Crisis worker means an employee or volunteer who provides direct services to victims of abuse or sexual assault for a domestic violence program or sexual assault crisis program incorporated or organized for the purpose of providing assistance, counseling or support services; has undergone 20 hours of training; works under the direction of a supervisor of the program, supervises employees or volunteers, or administers the program; and is certified by the director of the program.</p> <p>A communication is confidential if not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of services to the victim or those reasonably necessary for the transmission of the communication.</p> <p>A victim receiving direct services from a crisis worker has the privilege to refuse to disclose and to prevent any other person from disclosing a confidential communication made by the victim to the crisis worker, including any record made in the course of providing support, counseling or assistance to the victim. The crisis worker shall be presumed to have authority to claim the privilege but only on behalf of the victim.</p> |

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| Virginia | <p>Yes</p> <p>Va. Code Ann. § 63.2-104.1(B)</p> <p>Other privileges include: physician-patient (§ 8.01-399); interpreter-deaf (§ 8.01-401.1); mental health professional-client (§ 8.01-401.2).</p> | <p>Programs shall include public and not-for-profit agencies the primary mission of which is to provide services to victims of sexual or domestic violence.</p> <p>Programs and individuals providing services to victims of sexual or domestic violence shall not disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through sexual or domestic violence programs; or reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of an incapacitated person as defined in § 37.2-1000, the guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program, except that consent for release may not be given by the abuser of the minor, incapacitated person, or the abuser of the other parent of the minor.</p> <p>If release of information described in subsection B is compelled by statutory or court mandate, the service provider shall make reasonable attempts to provide notice to victims affected by the disclosure of information; and shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.</p> |
| Washington | <p>Yes</p> <p>Rev. Code of Wash. Ann. § 5.60.060</p> <p>Other privileges include: physician-patient; peer support group counselor; and non-employee counselor (§ 5.60.060).</p> | <p>Sexual assault advocate means the employee or volunteer from a rape crisis center, victim assistance unit, program, or association, that provides information, medical or legal advocacy, counseling, or support to victims of sexual assault, who is designated by the victim to accompany the victim to the hospital or other health care facility and to proceedings concerning the alleged assault, including police and prosecution interviews and court proceedings.</p> <p>Domestic violence advocate means an employee or supervised volunteer from a community-based domestic violence program or human services program that provides information, advocacy, counseling, crisis intervention, emergency shelter, or support to victims of domestic violence and who is not employed by, or under the direct supervision of, a law enforcement agency, a prosecutor's office, or the child protective services section of the department of social and health services as defined in RCW 26.44.020.</p> <p>A sexual assault advocate may not, without the consent of the victim, be examined as to any communication made between the victim and the sexual assault advocate. A sexual assault advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. Any sexual assault advocate participating in good faith in the disclosing of records and communications under this section shall have immunity</p> |

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| | | <p>from any liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this section, the good faith of the sexual assault advocate who disclosed the confidential communication shall be presumed.</p> <p>A domestic violence advocate may not, without the consent of the victim, be examined as to any communication between the victim and the domestic violence advocate. A domestic violence advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. This section does not relieve a domestic violence advocate from the requirement to report or cause to be reported an incident under RCW 26.44.030(1) or to disclose relevant records relating to a child as required by RCW 26.44.030(11). Any domestic violence advocate participating in good faith in the disclosing of communications under this subsection is immune from liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this subsection, the good faith of the domestic violence advocate who disclosed the confidential communication shall be presumed.</p> |
| <p>West Virginia</p> | <p>No - but shelter-victim confidentiality (W.Va. Code § 48-26-701)</p> <p>Other privileges include: mental health professional-patient (§ 27-3-1); licensed professional counselors-client (§ 30-31-13); social worker-client (§ 30-30-12).</p> | <p>No domestic violence program or shelter receiving funds pursuant to this article shall disclose or be compelled to disclose, release or be compelled to release any written records created or maintained in providing services pursuant to this article except upon written consent of the person seeking or who has sought services from the program or the shelter; in any proceeding brought under sections four and five, article six, chapter nine of this code or article six, chapter forty-nine of this code; as mandated by article six-a, chapter forty-nine and article six, chapter nine of this code; pursuant to an order of any court based upon a finding that said information is sufficiently relevant to a proceeding before the court to outweigh the importance of maintaining the confidentiality established by this section; to protect against a clear and substantial danger of imminent injury by a client to himself or herself or another; or for treatment or internal review purposes to the staff of any program or shelter if the client is also being cared for by other health professionals in the program or shelter.</p> <p>No consent or authorization for the transmission or disclosure of confidential information shall be effective unless it is in writing and signed by the client. Every person signing an authorization shall be given a copy.</p> |

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| Wisconsin | <p>Yes</p> <p>WSA § 905.045</p> <p>Other privileges include: physician-, registered nurse-, chiropractor-, psychologist-, and social worker-patient (§ 905.04); interpreter-deaf (§905.015).</p> | <p>Advocate means an individual who is an employee of or a volunteer for an organization the purpose of which is to provide counseling, assistance, or support services free of charge to a victim.</p> <p>A communication or information is confidential if not intended to be disclosed to 3rd persons other than persons present to further the interest of the person receiving counseling, assistance, or support services, persons reasonably necessary for the transmission of the communication or information, and persons who are participating in providing counseling, assistance, or support services under the direction of an advocate, including family members of the person receiving counseling, assistance, or support services and members of any group of individuals with whom the person receives counseling, assistance, or support services.</p> <p>A victim has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made or information obtained or disseminated among the victim, 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. This privilege does not apply to mandated reports concerning child abuse.</p> |
| Wyoming | <p>Yes</p> <p>Wyo. Stat. § 1-12-116(b)(i)</p> <p>Other privileges include: physician-patient (§ 1-12-101(a)(1)).</p> | <p>Advocate or family violence or sexual assault advocate means a person who is employed by or volunteers services to any family violence and sexual assault program, who is certified by the program as having undergone at least forty (40) hours of crisis advocacy training and whose work is directed and supervised under a family violence and sexual assault program.</p> <p>Confidential communication means information transmitted in confidence between a victim and an advocate in the course of that relationship and includes all information received by, and any report, working paper or document prepared by the advocate in the course of that relationship.</p> <p>Except for cases involving a child, an advocate shall not be examined as a witness in any civil, criminal, legislative or administrative proceeding. An advocate shall not testify concerning a confidential communication made by a victim in the course of that relationship. The advocate may testify with the express consent of the victim; or if the victim voluntarily testifies, provided the advocate's testimony shall be limited to the same subject matter. The advocate may be compelled to testify if the victim is unable to testify due to death or incompetence. Any employee of a family violence and sexual assault program who has access to confidential communication shall not testify except in those circumstances where the advocate may testify.</p> |

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