



CONNECTICUT

CONN. GEN. STAT. § 52-146k

Type of Privilege: Qualified by judicial decision

Note:

- Because rape crisis counselors must work or volunteer at a rape crisis program approved by the Connecticut Department of Public Health in order for this privilege to apply, communication between RAINN's Online Hotline counselors and victims would most likely not be privileged under the Connecticut confidentiality statute

Privilege:

- A sexual assault counselor may not disclose any confidential communications made to the sexual assault counselor by a victim in any civil or criminal proceeding without consent of the victim
- Under no circumstances may the location of the rape crisis center or the identity of the sexual assault counselor be disclosed in any civil or criminal proceeding CONN. GEN. STAT. § 52-146k (b)
- In *Re Robert H.*, 509 A.2d 475, 482 (Conn. 1986)
 - The identity of the sexual assault counselor must be disclosed in order to determine whether the counselor meets the statutory training requirements

Statutory Exceptions to Privilege: CONN. GEN. STAT. § 52-146k (e) (1)-(3)

- 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 assault
- Sexual assault counselor knows that the victim has given perjured testimony

In Camera Review: Provided for by judicial decision

- In *Re Robert H.*, 509 A.2d 475, 484-85 (Conn. 1986)—described a procedure for obtaining in camera review of privileged records that was originally set out in the context of the psychotherapist-patient privilege in *State v. Esposito*, 471 A.2d 949, 956 (Conn. 1984), but was later amended in this case in order to apply to the sexual assault counselor-victim privilege:
 - Defendant must show that there is a reasonable ground to believe that failure to produce the privileged information will impair his right to confrontation
 - If the court finds that defendant has met this burden, the court may give the state an opportunity to obtain consent of the victim for the court to conduct an in camera inspection of the privileged information
 - If the victim will not give consent, the court may strike the victim's testimony
 - If the victim gives consent, the court may conduct an in camera review of the privileged records
 - If the court and finds that there are inconsistent and relevant statements of the victim when compared to the victim's direct testimony, the victim must decide whether to consent to release of such material to the defendant or have her testimony stricken from the record
 - If no inconsistent and relevant statements are found in the privileged records, the records will be sealed and made available for inspection upon appellate review

Holder of Privilege:

- Only victim may waive the privilege CONN. GEN. STAT. § 52-146k (b)
- *Sexual Assault v. Connecticut Sexual Assault*, No. 70196, 1994 LEXIS 830, at *4 (Conn. Super. Ct. Mar. 30, 1994)
 - A rape crisis center has standing to sue for a violation of the confidentiality of a sexual assault victim's records

Waiver of Privilege:



- Victim must waive the privilege CONN. GEN. STAT. § 52-146k (b)
- If victim is deceased or incompetent, victim's guardian or the executor of victim's estate may waive the privilege CONN. GEN. STAT. § 52-146k (c)

DEFINITIONS:

Confidential communication:

- Information transmitted between a sexual assault victim and a sexual assault counselor in the course of their relationship, including any advice, report, or working paper made by a sexual assault counselor in the course of his or her relationship with the victim 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. CONN. GEN. STAT. § 52-146k (a) (3)

Rape Crisis Center:

- Any center offering assistance to victims of sexual assault through crisis intervention, and which meets the Department of Public Health criteria of service provision for such centers CONN. GEN. STAT. § 52-146k (a) (4)

Sexual Assault Counselor:

- Any person engaged in a rape crisis center who is either a certified counselor, or working under a supervisor of a rape crisis center, who counsels and assists victims of sexual assault CONN. GEN. STAT. § 52-146k (a) (5)

Training Requirements for Sexual Assault Counselors:

- At least 20 hours of training including, but not limited to, the dynamics of sexual assault and incest, crisis intervention, communications skills, working with diverse populations, an overview of the state's criminal justice system, information about hospital and medical systems, and information about state and community resources for sexual assault victims CONN. GEN. STAT. § 52-146k (a) (5) (A)