



MAINE

ME. REV. STAT. tit. 16, § 53-A

Type of Privilege: Qualified by statute

Note:

- Because a rape crisis center must be an in-state entity in order for this privilege to apply, communication between RAINN's Online Hotline counselors and victims would most likely not be privileged under the Maine confidentiality statute

Privilege:

- No sexual assault counselor may be required to testify about any information acquired during the provision of sexual assault counseling services in any civil or criminal proceeding without the consent of the victim of sexual assault
- 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 ME. REV. STAT. tit. 16, § 53-A (2)

Statutory Exceptions to Privilege: ME. REV. STAT. tit. 16, § 53-A (2)

- Cooperation in an investigation
- Mandatory reporting of abuse or neglect of child or incapacitated/ dependent adult

In Camera Review: Provided for by statute

- When a court deems disclosure of privileged information necessary in order to achieve justice, the court may require disclosure of any information privileged under this statute ME. REV. STAT. tit. 16, § 53-A (2)
- State v. Watson, 726 A.2d 214, 216 (Me. 1999)
 - Although this case deals with the social worker-client privilege, the language of the portion of that privilege that allows for in camera review of the privileged records is substantially similar to the same provision in the sexual assault counselor-victim privilege discussed here
 - A party seeking in camera review of privileged records and communications must make a preliminary showing to the court that such a motion is justified
 - The motion must be more than a simple fishing expedition into privileged records
 - The decision whether to grant a motion to produce privileged records and communications rests in the discretion of the trial court

Holder of Privilege:

- Only victim may waive the privilege ME. REV. STAT. tit. 16, § 53-A (2)

Waiver of Privilege: No procedure specified

DEFINITIONS:

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Confidential Communication: No definition specified

Rape Crisis Center:

- Any public or private facility that provides crisis intervention, counseling, medical and legal information, and education about sexual assault to sexual assault victims and their families
- Must be in Maine ME. REV. STAT. tit. 16, § 53-A (1) (A)

Sexual Assault Counselor:

- A person who is a paid or unpaid staff member of a rape crisis center
ME. REV. STAT. tit. 16, § 53-A (1) (B) (2)

Training Requirements for Sexual Assault Counselors:

- Training must include, but not be limited to, law, medicine, societal attitudes, crisis intervention, counseling techniques, and referral services ME. REV. STAT. tit. 16, § 53-A (1) (B) (1)

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