



## RHODE ISLAND

No privilege for communications between a rape crisis counselor and a sexual assault victim

However, the Rhode Island Supreme Court has determined that an absolute privilege protecting communications between sexual assault counselors and victims would be unconstitutional and that, if enacted, a sexual assault counselor-victim privilege must include the possibility of in camera review:

### **Advisory Opinion to the House of Representatives, 469 A.2d 1161 (R.I 1983)**

- The Rhode Island Supreme Court considered two versions of a proposed bill to protect the confidentiality of communications between sexual assault counselors and victims
- Proposal A was an absolute privilege, while Proposal B provided for the possibility of judicial in camera review if the defendant could demonstrate that there was reason to believe that the material sought contained information that was relevant and material to the case
- Conclusion:
  - The absolute privilege presented in Proposal A violates the federal and state constitutional rights of a defendant to confront his accusers, to obtain compulsory process, and to offer testimony
  - However, Proposal B strikes the requisite balance between preserving the constitutional rights of the defendant and maintaining the privacy of a sexual assault victim
- A per se bar to the introduction of an entire class of evidence denies a defendant his constitutional rights

### **PROPOSED DEFINITIONS:**

#### **Confidential Communication:**

- Any communication between a sexual assault victim and a sexual assault counselor obtained in his or her professional capacity in the course of rendering counseling to the sexual assault victim 469 A.2d 1161, 1167

#### **Rape Crisis Center:**

- Any public or private agency that reduces the trauma of sexual assault to sexual assault victims and their families through crisis intervention, counseling, medical and legal information, and dissemination of educational information about sexual assault 469 A.2d 1161, 1166

#### **Sexual Assault Counselor:**

- A person who is either a staff member, or under the supervision of a staff member, of a rape crisis center 469 A.2d 1161, 1167

#### **Training Requirements for Sexual Assault Counselors:**

- At least 20 hours of training from a rape crisis center including, but not limited to, the following areas:
  - Law

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- Medicine
- Societal attitudes
- Crisis intervention
- Counseling techniques
- Referral services 469 A.2d 1161, 1167

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