



IOWA

IOWA CODE § 915.20A

Type of Privilege: Qualified by statute

Privilege:

- A victim counselor may not testify in any civil or criminal proceeding as to any confidential communication made by a victim to the victim counselor unless the victim waives the privilege
- A clerk or secretary who prepares or manages the confidential reports or working papers may not be compelled to produce evidence of any confidential communication unless the victim waives the privilege
- Under no circumstances may the location of the crime victim center or the identity of the victim counselor be disclosed in any civil or criminal proceeding IOWA CODE § 915.20A (2)

Statutory Exceptions to Privilege: IOWA CODE § 915.20A (5)

- In matters of proof concerning the chain of custody of evidence
- In matters of proof concerning the physical appearance of the victim at the time of the crime
- Victim counselor has reason to believe that the victim has given perjured testimony

In Camera Review: Provided for by statute

- The court must conduct an in camera review of the privileged records
- If the court determines after inspecting the records in camera that the following conditions have been met, the court may compel disclosure of the privileged information:
 - The requested information is relevant and material to the alleged crime that is the subject of the proceeding
 - The probative value of the requested information outweighs any harmful effect disclosure may have
 - The requested information cannot be obtained from any other source IOWA CODE § 915.20A (7)

Procedure for Disclosure of Privileged Information: IOWA CODE § 915.20A (8) (a)-(d)

- The party seeking the privileged information files a motion to compel disclosure
- The court conducts an in camera review of the privileged information with only the victim and the victim's representative present
- If the court determines that the conditions above are met, the court conducts another private hearing at which the parties may question the victim counselor regarding information the court has determined is subject to disclosure
- At the conclusion of the hearing, the court determines which information may be introduced as evidence and establishes an acceptable line of questioning for the moving party to use at trial

Holder of Privilege:

- Only victim may waive the privilege IOWA CODE § 915.20A (2)

Waiver of Privilege:

- Victim must waive the privilege in writing IOWA CODE § 915.20A (2)
- If a victim is deceased or incompetent, the privilege can be waived by the victim's guardian or personal representative IOWA CODE § 915.20A (3)
- A minor may waive the privilege if he is capable of knowingly and intelligently waiving the privilege
- If a minor is not capable of knowingly and intelligently waiving the privilege, the minor's parent or guardian may waive the privilege, unless the parent or guardian either 1) is the defendant, or 2) has an interest adverse to the minor IOWA CODE § 915.20A (4)



DEFINITIONS:

Confidential Communication:

- Information shared between a crime victim and a victim counselor within the counseling relationship
- Includes all information received by the counselor, as well as any reports or working papers prepared by the counselor in the course of the counseling relationship with the victim IOWA CODE § 915.20A (1) (a)

Crime Victim Center:

- Any office, institution, or agency that offers assistance to victims of crime and their families through crisis intervention, medical and legal advocacy, and follow-up counseling IOWA CODE § 915.20A (1) (b)

Victim Counselor:

- A person who is engaged in a crime victim center, is certified as a counselor by the crime victim center, works under the control of a supervisor of the crime victim center, and gives advice, counseling, and assistance to crime victims IOWA CODE § 915.20A (1) (d)

Training Requirements for Victim Counselors:

- At least 20 hours of training including, but not limited to, the dynamics of victimization, substantive laws relating to sexual assault, crisis intervention techniques, communication skills, working with diverse populations, an overview of the state criminal justice system, hospital procedures, and information regarding state and community resources for victims of crime
- Training may be provided by the crime victim center, the Iowa organization of victim assistance, or by the Iowa coalition against sexual assault IOWA CODE § 915.20A (1) (d)