



LOUISIANA

LA. CODE EVID. art. 510

Type of Privilege: Semi-absolute

Note:

- Privilege is limited to civil proceedings only

Privilege:

- Limited to civil proceedings only—a victim has a privilege to refuse to disclose and to prevent another person from disclosing any confidential communication made between the victim and his sexual assault counselor for the purpose of advice or treatment of the victim's emotional, physical, or mental condition LA. CODE EVID. art. 510 (B) (1)
- The provision pertaining to criminal proceedings only privileges communications between patients and their physicians or psychotherapists LA. CODE EVID. art. 510 (C) (1)

Statutory Exceptions to Privilege: LA. CODE EVID. art. 510 (B) (2) (a)-(m)

- Limited to civil proceedings only
- Victim relies upon his health condition as an element of his claim or defense
- Any party is relying upon a deceased victim's health condition as an element of a claim or defense
- Communication made to the sexual assault counselor was intended to assist the patient or another person to commit or plan to commit a crime
- Communication was made in the course of a court-ordered examination
- Victim is the subject of a commitment proceeding when victim has failed or refused to submit to an examination by a health care provider appointed by the court regarding issues relating to the commitment proceeding
- Victim brings a malpractice suit against the sexual assault counselor
- Communication is relevant to proceedings concerning child abuse, elder abuse, or abuse of disabled or incompetent adults

In Camera Review: Prohibited

Holder of Privilege:

- Privilege may be claimed by the victim or by the victim's legal representative
- Sexual assault counselor is presumed to have the authority to claim the privilege on behalf of the victim LA. CODE EVID. art. 510 (D)

Waiver of Privilege: No procedure specified

DEFINITIONS:

Confidential Communication:

- Any communication or information that is not intended to be disclosed to a third person LA. CODE EVID. art. 510 (A) (8)

Rape Crisis Center: No definition specified

Sexual Assault Counselor:

- A person who is engaged in any office, center, or institution referred to as a rape crisis center, and who gives advice, counseling, or assistance to victims of sexual assault LA. CODE EVID. art. 510 (A) (2)

Training Requirements for Sexual Assault Counselors:



- At least 40 hours of training LA. CODE EVID. art. 510 (A) (2)

LA. REV. STAT. § 46:2121-46:2128

Note:

- This statute established family violence centers throughout the state, which provide shelter, counseling, and referrals to social services, medical care, and legal assistance to victims of family violence LA. REV. STAT. § 46:2121 (C)
- The privilege established in this section protects communications between victims and employees of community shelters

Type of Privilege: Qualified by statute

Privilege:

- No person shall be required to disclose, by way of testimony or otherwise, a privileged communication or to produce records relating to such privileged communication in any civil or criminal proceeding LA. REV. STAT. § 46:2124.1 (B)

Statutory Exceptions to Privilege: None specified

In Camera Review: Provided for by statute

- Any party may petition the court for an in camera inspection of the records of a privileged communication
- The petition must show that the requested records would provide admissible evidence favorable to the moving party
- In criminal proceedings, the petition must show that the requested records are relevant to the issue of guilt or punishment
- If the court determines that the moving party is entitled to all or any part of the requested records, it may order production and disclosure as it deems appropriate LA. REV. STAT. § 46:2124.1 (D)

Holder of Privilege: Not specified

Waiver of Privilege: No procedure specified

DEFINITIONS:

Privileged Communication:

- A communication made to a representative or employee of a community shelter by a victim
- A communication made by a representative or employee of a community shelter LA. REV. STAT. § 46:2124.1 (A) (2)

Community Shelter:

- A shelter or other program established under this statute LA. REV. STAT. § 46:2124.1 (A) (1)

Family Violence:



Any assault, battery, or other physical abuse which occurs between family or household members who reside together or who formerly resided together LA. REV. STAT. § 46:2121.1 (2)