

New Jersey Statutes Annotated

Title 2a. Administration of Civil and Criminal Justice (Refs & Annos)

Subtitle 9. Evidence, Witnesses and Public Hearings

Appendix a. Chapter 84A--New Jersey Rules of Evidence (Refs & Annos)

Article V. Privileges (Refs & Annos)

NJ R. Evid. N.J.R.E. 517

Rule 517. Victim counselor privilege

Currentness

(a) *N.J.S.A. 2A:84A-22.13* provides:

The Legislature finds and declares that:

- a. The emotional and psychological injuries that are inflicted on victims of violence are often more serious than the physical injuries suffered;
- b. Counseling is often a successful treatment to ease the real and profound psychological trauma experienced by these victims and their families;
- c. In the counseling process, victims of violence openly discuss their emotional reactions to the crime. These reactions are often highly intertwined with their personal histories and psychological profile;
- d. Counseling of violence and victims is most successful when the victims are assured their thoughts and feelings will remain confidential and will not be disclosed without their permission; and
- e. Confidentiality should be accorded all victims of violence who require counseling whether or not they are able to afford the services of private psychiatrists or psychologists.

Therefore, it is the public policy of this State to extend a testimonial privilege encompassing the contents of communications with a victim counselor and to render immune from discovery or legal process the records of these communications maintained by the counselor.

(b) *N.J.S.A. 2A:84A-22.14* provides:

As used in this act:

- a. "Act of violence" means the commission or attempt to commit any of the offenses set forth in subsection b. of section 11 of P.L. 1971, c. 317 (C. 52:4B-11).

b. “Confidential communication” means any information exchanged between a victim and a victim counselor in private or in the presence of a third party who is necessary to facilitate communication or further the counseling process and which is disclosed in the course of the counselor's treatment of the victim for any emotional or psychological condition resulting from an act of violence. It includes any advice, report or working paper given or made in the course of the consultation and all information received by the victim counselor in the course of that relationship.

c. “Victim” means a person who consults a counselor for the purpose of securing advice, counseling or assistance concerning a mental, physical or emotional condition caused by an act of violence.

d. “Victim counseling center” means any office, institution, or center offering assistance to victims and their families through crisis intervention, medical and legal accompaniment and follow-up counseling.

e. “Victim counselor” means a person engaged in any office, institution or center defined as a victim counseling center by this act, who has undergone 40 hours of training and is under the control of a direct services supervisor of the center and who has a primary function of rendering advice, counseling or assisting victims of acts of violence. “Victim counselor” includes a rape care advocate as defined in Section 4 of [P.L.2001, c.81](#) (C.52:4B-52).

(c) [N.J.S.A. 2A:84A-22.15](#) provides:

Subject to Rule 37 [[Rule 530](#)] of the Rules of Evidence, a victim counselor has a privilege not to be examined as a witness in any civil or criminal proceeding with regard to any confidential communication. The privilege shall be claimed by the counselor unless otherwise instructed by prior written consent of the victim. When a victim is incapacitated or deceased consent to disclosure may be given by the guardian, executor, or administrator except when the guardian, executor, or administrator is the defendant or has a relationship with the victim such that the guardian, executor, or administrator has an interest in the outcome of the proceeding. The privilege may be knowingly waived by a juvenile. In any instance where the juvenile is, in the opinion of the judge, incapable of knowing consent, the parent or guardian of the juvenile may waive the privilege on behalf of the juvenile, provided that the parent or guardian is not the defendant and does not have a relationship with the defendant such that he has an interest in the outcome of the proceeding. A victim counselor or a victim cannot be compelled to provide testimony in any civil or criminal proceeding that would identify the name, address, location, or telephone number of a domestic violence shelter or any other facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding unless the facility is a party to the proceeding.

(d) [N.J.S.A. 2A:84A-22.16](#) provides:

Nothing in this act shall be deemed to prevent the disclosure to a defendant in a criminal action of statements or information given by a victim to a county victim-witness coordinator, where the disclosure of the statements or information is required by the constitution of this State or of the United States.

#### Credits

Adopted effective July 1, 1993. Amended by [L. 2001, c. 81, § 1](#), effective May 4, 2001; [L.2013, c. 103, § 19](#), eff. [Aug. 7, 2013](#).

[Notes of Decisions \(4\)](#)

NJ Rules of Evidence N.J.R.E. 517, NJ R EVID N.J.R.E. 517  
Current with amendments received through August 15, 2015.

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