

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1230 Session of  
1989

INTRODUCED BY MAINE, MILLER, TANGRETTI, HECKLER, LASHINGER,  
DeWEESE, STUBAN, BOYES, MORRIS, TIGUE, BUNT, DALEY, TRELLO,  
ITKIN, NOYE, JAROLIN, KOSINSKI, PISTELLA, WILLIAMS, ROBINSON,  
COY, COLAIZZO, GIGLIOTTI, KUKOVICH, JOHNSON, VAN HORNE,  
HAYDEN, JOSEPHS, RUDY, YANDRISEVITS, BISHOP, CAWLEY,  
PRESSMANN, VEON, HERSHEY, MELIO, STABACK, CIVERA, RITTER,  
BELARDI, E. Z. TAYLOR, COLAFELLA, LINTON, KASUNIC, SERAFINI  
AND BILLOW, APRIL 19, 1989

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 19, 1989

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, further providing for  
3 access to and disclosure of certain confidential information  
4 and for confidential communications with sexual assault  
5 counselors.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Section 5945.1 of Title 42 of the Pennsylvania  
9 Consolidated Statutes is amended to read:

10 § 5945.1. Confidential communications [to] with sexual assault  
11 counselors.

12 (a) Definitions.--As used in this section, the following  
13 words and phrases shall have the meanings given to them in this  
14 subsection:

15 "Rape crisis center." Any office, institution or center  
16 offering assistance to victims of sexual assault and their

1 families through crisis intervention, medical and legal  
2 accompaniment and follow-up counseling.

3 "Sexual assault counselor." A person who is engaged in any  
4 office, institution or center defined as a rape crisis center  
5 under this section, who has undergone 40 hours of sexual assault  
6 training and is under the control of a direct services  
7 supervisor of a rape crisis center, whose primary purpose is the  
8 rendering of advice, counseling or assistance to victims of  
9 sexual assault.

10 "Victim." A person who consults a sexual assault counselor  
11 for the purpose of securing advice, counseling or assistance  
12 concerning a mental, physical or emotional condition caused or  
13 reasonably believed to be caused by a sexual assault. The term  
14 shall also include those persons who have a significant  
15 relationship with a victim of sexual assault and who seek  
16 advice, counseling or assistance from a sexual assault center.

17 "Confidential communication." [Information] All information,  
18 oral or written, transmitted between a victim of sexual assault  
19 and a sexual assault counselor in the course of [that] their  
20 relationship [and in confidence by a means which, so far as the  
21 victim is aware, does not disclose the information to a third  
22 person other than those who are present to further the interests  
23 of the victim in the consultation or those to whom disclosure is  
24 reasonably necessary for the transmission of the information or  
25 an accomplishment of the purposes for which the sexual assault  
26 counselor is consulted. The term includes all information  
27 received by the sexual assault counselor in the course of that  
28 relationship] including, but not limited to, any advice,  
29 reports, statistical data, memoranda, working papers, records or  
30 the like, given or made during that relationship.

1 (b) Privilege.--[A sexual assault counselor has a privilege  
2 not to be examined as a witness in any civil or criminal  
3 proceeding without the prior written consent of the victim being  
4 counseled by the counselor as to any confidential communication  
5 made by the victim to the counselor or as to any advice, report  
6 or working paper given or made in the course of the  
7 consultation.] A victim has an absolute privilege:

8 (1) To not have disclosed the victim's confidential  
9 communications with a sexual assault counselor.

10 (2) To not have the victim's sexual assault counselor  
11 examined in any administrative or judicial proceeding.

12 (3) To not have advice, reports, statistical data,  
13 memoranda, working papers, records, or the like reviewed by  
14 any person or used in any manner as evidence in any  
15 administrative or judicial proceeding.

16 The confidential relations and communications between a sexual  
17 assault counselor and the victim shall be on the same basis as  
18 those provided or prescribed by law between an attorney and  
19 client.

20 (c) Extension of privilege.--In addition to the sexual  
21 assault counselor, application of this privilege, when asserted  
22 by a victim, shall cover any person and/or coparticipant who,  
23 with the consent of the victim, is present to further the  
24 interests of the victim and necessary to aid the victim and/or  
25 sexual assault counselor in accomplishing the purposes for which  
26 the sexual assault counselor is consulted.

27 (d) Waiver of privilege.--The privileges granted to the  
28 victim under this section may be waived only by the prior  
29 written consent of the victim.

30 Section 2. This act shall take effect immediately.