

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1230

Session of  
1989

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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,  
BILLOW AND RICHARDSON, APRIL 19, 1989

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AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, MAY 31, 1989

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## 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 COUNSELOR CONCERNING A MENTAL, PHYSICAL OR EMOTIONAL CONDITION <—  
18 CAUSED OR REASONABLY BELIEVED TO BE CAUSED BY A SEXUAL ASSAULT  
19 OF A VICTIM.

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

1 relationship] including, but not limited to, any advice,  
2 reports, statistical data, memoranda, working papers, records or  
3 the like, given or made during that relationship.

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

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

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

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

19 The confidential relations and communications between a sexual  
20 assault counselor and the victim shall be on the same basis as  
21 those provided or prescribed by law between an attorney and  
22 client. NO SEXUAL ASSAULT COUNSELOR, MAY, WITHOUT THE WRITTEN <—  
23 CONSENT OF THE VICTIM, DISCLOSE THE VICTIM'S CONFIDENTIAL  
24 COMMUNICATIONS TO THE COUNSELOR NOR CONSENT TO BE EXAMINED IN  
25 ANY COURT OR CRIMINAL PROCEEDING.

26 (c) Extension of privilege. In addition to the sexual <—  
27 assault counselor, application of this privilege, when asserted  
28 by a victim, shall cover any person and/or coparticipant who,  
29 with the consent of the victim, is present to further the  
30 interests of the victim and necessary to aid the victim and/or

~~sexual assault counselor in accomplishing the purposes for which  
the sexual assault counselor is consulted.~~

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

(C) EXTENSION OF PRIVILEGE.--NO PERSON OR COPARTICIPANT,  
WHO, WITH THE CONSENT OF THE VICTIM, IS PRESENT TO FURTHER THE  
INTERESTS OF THE VICTIM AND NECESSARY TO AID THE VICTIM OR  
SEXUAL ASSAULT COUNSELOR, MAY DISCLOSE THE VICTIM'S CONFIDENTIAL  
COMMUNICATIONS TO THE COUNSELOR NOR CONSENT TO BE EXAMINED IN  
ANY CIVIL OR CRIMINAL PROCEEDING WITHOUT THE WRITTEN CONSENT OF  
THE VICTIM.

Section 2. This act shall take effect immediately.