

No. 1990-183

AN ACT

HB 1230

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

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

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

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

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

“*Coparticipant.*” *A victim participating in group counseling.*

“*Rape crisis center.*” Any office, institution or center offering assistance to victims of sexual assault and their families through crisis intervention, medical and legal accompaniment and follow-up counseling.

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

“*Victim.*” A person who consults a sexual assault counselor for the purpose of securing advice, counseling or assistance concerning a mental, physical or emotional condition caused *or reasonably believed to be caused* by a sexual assault. *The term shall also include those persons who have a significant relationship with a victim of sexual assault and who seek advice, counseling or assistance from a sexual assault counselor concerning a mental, physical or emotional condition caused or reasonably believed to be caused by a sexual assault of a victim.*

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

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

(1) No sexual assault counselor may, without the written consent of the victim, disclose the victim's confidential oral or written communications to the counselor nor consent to be examined in any court or criminal proceeding.

(2) No coparticipant who is present during counseling may disclose a victim's confidential communication made during the counseling session 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.

APPROVED—The 17th day of December, A. D. 1990.

ROBERT P. CASEY