

§53-B. Privileged communications to victim advocate; family violence

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Advocate" means an employee of or volunteer for a nongovernmental or Maine tribal program for victims of domestic or family violence who:

(1) Has undergone at least 30 hours of training; and

(2) As a primary function with the program gives advice to, counsels or assists victims, supervises employees or volunteers who perform that function or administers the program. [PL 2013, c. 478, §3 (AMD).]

A-1. "Confidential communications" means all information, whether written or oral, transmitted between a victim and a domestic violence advocate in the course of the working relationship. "Confidential communications" includes, but is not limited to, information received or given by the advocate in the course of the working relationship, advice, records, reports, notes, memoranda, working papers, electronic communications, case files, history and statistical data, including name, date of birth and social security number, that personally identify the victim. [PL 2005, c. 388, §1 (NEW).]

A-2. "Confidential criminal history record information" has the same meaning as in section 703, subsection 2. [PL 2013, c. 478, §4 (NEW).]

A-3. "Criminal justice agency" has the same meaning as in section 703, subsection 4. [PL 2013, c. 478, §5 (NEW).]

B. "Victim" means a victim of domestic or family violence. [PL 1995, c. 128, §1 (NEW).]
[PL 2013, c. 478, §§3-5 (AMD).]

1-A. Confidential criminal history record information. A Maine criminal justice agency, whether directly or through any intermediary, may disseminate confidential criminal history record information to an advocate for the purpose of planning for the safety of a victim of domestic violence. An advocate who receives confidential criminal history record information pursuant to this subsection shall use it solely for the purpose authorized by this subsection and may not further disseminate the information.

[PL 2013, c. 588, Pt. E, §10 (AMD).]

2. Privileged communication. Communications are privileged from disclosure as follows.

A. A victim may refuse to disclose and may deny permission to an advocate to disclose confidential written or oral communications between the victim and the advocate and written records, notes, memoranda or reports concerning the victim. [PL 1995, c. 128, §1 (NEW).]

B. Except as provided in subsection 3, a victim, advocate or advocate's agency may not be required through oral or written testimony or through production of documents to disclose to a court in criminal or civil proceedings or to any other agency or person confidential communications between the victim and the advocate. [PL 1995, c. 128, §1 (NEW).]

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3. Exceptions. A person may not be required to publicly disclose the address or location of a domestic or family violence shelter or safe house, except that privileged communications may be disclosed in the following cases:

A. When disclosure is required under Title 22, chapter 958-A or 1071 and that disclosure is in accordance with the provisions of either chapter; [PL 2007, c. 577, §2 (AMD).]

B. When a court in the exercise of its discretion determines the disclosure of the information necessary to the proper administration of justice, an inspection of records may be held in camera by the judge to determine whether those records contain relevant information. This proceeding does not entitle an opposing party to examine the records unless those records are made available by the court; or [PL 1995, c. 128, §1 (NEW).]

C. When a victim dies or is incapable of giving consent and disclosure is required for an official law enforcement investigation or criminal proceeding regarding the cause of that victim's death or incapacitation. [PL 1995, c. 128, §1 (NEW).]

[PL 2007, c. 577, §2 (AMD).]

SECTION HISTORY

PL 1995, c. 128, §1 (NEW). PL 2005, c. 388, §1 (AMD). PL 2007, c. 577, §2 (AMD). PL 2013, c. 478, §§3-6 (AMD). PL 2013, c. 588, Pt. E, §10 (AMD).

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