

2A:84A-22.11, 2A:84A-22.12

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2A:84A-22.11, 2A:84A-22.12

(Rape counselors - testimony -  
require victims written consent  
for disclosure)

LAWS OF: 1983

CHAPTER: 116

Bill No: A1500

Sponsor(s): Zimmer and others

Date Introduced: May 14, 1982

Committee: Assembly: Judiciary, Law, Public Safety and Defense

Senate: Judiciary

Amended during passage: Yes

// Amendments during passage  
denoted by asterisks

Date of Passage:

Assembly: July 1, 1982

Senate: Jan. 24, 1983

Date of Approval: March 31, 1983

Following statements are attached if available:

Sponsor statement:

Yes

// (Below) Also  
attached: Senate  
amendments,  
adopted 12-13-82  
(with statement)

Committee statement:

Assembly

Yes

//

Senate

Yes

//

Fiscal Note:

///

No

Veto Message:

///

No

Message on Signing:

Yes

//

Following were printed:

Reports:

///

No

Hearings:

///

No

(over)

**Sponsors' statement:**

**This bill is aimed at protecting the confidentiality of communications to rape counselors. This bill would provide that a rape counselor could not testify as to any information provided by a rape victim without the victim's prior written consent.**

**See: Neuhauser, Confidentiality and Rape Crisis counselors,  
112 N.J.L.J. 29 (7-14-83)**

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## ASSEMBLY, No. 1500

**STATE OF NEW JERSEY**

INTRODUCED MAY 24, 1982

By Assemblymen ZIMMER, HERMAN, WEIDEL, KARCHER, D. GALLO, Assemblywoman BROWN, Assemblyman BENNETT, Assemblywoman WRIGHT, Assemblyman FRANKS, Assemblywoman OGDEN, Assemblymen SHUSTED, ROCCO, Assemblywomen PERUN, COSTA, Assemblymen PELLECCCHIA, COWAN, VAN WAGNER, VISOTCKY, Assemblywoman KALIK, Assemblymen VILLANE, DEVERIN, GORMLEY, BOCCHINI, BROWN and ZANGARI

AN ACT concerning the confidentiality of communications with sexual assault counselors and supplementing Title 2A of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. As used in this act:

2 a. "Confidential communication" means information transmitted  
3 between a victim of sexual assault and a sexual assault counselor  
4 in the course of that relationship and in confidence by a means  
5 which, so far as the victim is aware, does not disclose the informa-  
6 tion to a third person other than those who are present to further  
7 the interests of the victim in the consultation or those to whom  
8 disclosure is reasonably necessary for the transmission of the in-  
9 formation or for the accomplishment of the purposes for which the  
10 sexual assault counselor is consulted. "Confidential communica-  
11 tion" includes *\*any advice, report or working paper given or made*  
12 *in the course of the consultation and\** all information received by  
12A the sexual assault counselor in the course of that relationship.

13 b. "Rape crisis center" means any office, institution or center

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter printed in italics thus is new matter.**

**Matter enclosed in asterisks or stars has been adopted as follows:**

**\*—Assembly committee amendments adopted June 17, 1982.**

14 offering assistance to victims of sexual assault and their families  
15 through crisis intervention, medical and legal accompaniment and  
16 follow-up counseling.

17 c. "Sexual assault counselor" means a person engaged in any  
18 office, institution or center defined as a rape crisis center by this act,  
19 who **\*[are]\*** *\*has\** undergone 40 hours of training and is under  
20 the control of a direct services supervisor of a rape crisis center  
21 and **\*[whose]\*** *\*who has a\** primary function **\*[is the]\*** *\*of\**  
22 rendering **\*[of]\*** advice, counseling or assist**\*[ance]\*** *\*ing\**  
22A victims of sexual assault.

23 d. "Victim" means a person who consults a sexual counselor for  
24 the purpose of securing advice, counseling or assistance concerning  
25 a mental, physical or emotional condition caused by a sexual assault.

1 2. **\*[A]\*** *\*Subject to Rule 37 of the Rules of Evidence, a\**  
2 sexual assault counselor has a privilege not to be examined as a  
3 witness in any civil or criminal proceeding with regard to any  
4 confidential communication **\*[made by a victim to the counselor or**  
5 **as to any advice, report or working paper given or made in the**  
6 **course of the consultation without the]\*** *\*. The privilege shall be*  
7 *claimed by the counselor unless otherwise instructed by\** prior  
8 written consent of the victim. *\*When a victim is incompetent or*  
9 *deceased, consent to disclosure may be given by the guardian,*  
10 *executor or administrator.\**

1 3. This act shall take effect immediately.

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15 through crisis intervention, medical and legal accompaniment and  
16 follow-up counseling.

17 c. "Sexual assault counselor" means a person engaged in any  
18 office, institution or center defined as a rape crisis center by this act,  
19 who are undergone 40 hours of training and is under the control of  
20 a direct services supervisor of a rape crisis center and whose  
21 primary function is the rendering of advice, counseling or assis-  
22 tance to victims of sexual assault.

23 d. "Victim" means a person who consults a sexual counselor for  
24 the purpose of securing advice, counseling or assistance concerning  
25 a mental, physical or emotional condition caused by a sexual assault.

1 2. A sexual assault counselor has a privilege not to be examined  
2 as a witness in any civil or criminal proceeding with regard to any  
3 confidential communication made by a victim to the counselor or  
4 as to any advice, report or working paper given or made in the  
5 course of the consultation without the prior written consent of the  
6 victim.

1 3. This act shall take effect immediately.

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STATEMENT

This bill is aimed at protecting the confidentiality of communica-  
tions to rape counselors. The bill would provide that a rape  
counselor could not testify as to any information provided by a rape  
victim without the victim's prior written consent.

A1500(1982)

**ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND  
DEFENSE COMMITTEE**

STATEMENT TO  
**ASSEMBLY, No. 1500**  
with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 17, 1982

This bill is aimed at protecting the confidentiality of communications between victims and rape counselors by making this communication privileged.

The committee amendments clarify that a rape counselor could not testify as to any information provided by a rape victim without the victim's prior written consent. The amendments also would make the privilege subject to Evidentiary Rule 37 (C. 2A:84A-29) which provides for a waiver of the privilege by a contract or a previous disclosure. The amendments additionally provide that where the victim is incompetent or deceased that a representative may consent to disclosure.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1500**

**STATE OF NEW JERSEY**

DATED: OCTOBER 13, 1982

Assembly Bill No. 1500 is aimed at protecting the confidentiality of communications between rape counselors and rape victims by classifying that communication as confidential. Specifically, Assembly Bill No. 1500 provides that rape counselor has a privilege not to be examined as a witness in any civil or criminal proceeding with regard to any confidential communication made by a rape victim to the counselor. The counselor may not voluntarily waive that privilege unless the permission is granted in writing by the victim. If a victim is deceased or incompetent, consent to disclosure may be given by the victim's guardian, executor or administrator. The victim waives the right to confidentiality by a previous disclosure of the communication or if by contract, the victim agrees to disclose the communication.

ADD

DEC 13 1964

YAC

to

Amend:

Page	Sec.	Line
2	2	10

After "." insert "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."

STATEMENT

This amendment deals with the situation where the victim of sexual assault is a minor. It allows a minor who, in the opinion of the judge, is capable of knowing consent to so consent. It also provides that the parent or guardian may waive the privilege on behalf of the minor unless the parent is the defendant or the parent has a relationship with the defendant that places him in a conflictual situation. More specifically, the latter clause is designed to cover cases involving incest, abuse by a paramour, and the like.



OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATELY

CONTACT: CARL GOLDEN

THURSDAY, MARCH 31, 1983

Governor Thomas H. Kean today signed legislation establishing a confidential relationship between a rape victim and a rape counselor, freeing the counselor from being required to testify in court concerning information supplied by the victim.

"This legislation strengthens our efforts to protect the rights of crime victims and to protect the rights of women," Kean said, during a public signing ceremony in his office.

The legislation, A-1500, was sponsored by Assemblyman Richard Zimmer, (R-Hunterdon).

"Establishing this type of confidential relationship is a most logical and proper step," Kean said. "Rape is one of the most violent of crimes, psychologically as well as physically.

"Counselors are in a position to help victims overcome the trauma of an assault and provide the kind of support so desperately needed," the Governor said. "Given these circumstances, there is, in my view, no reason to compel a counselor to recount what is a most private conversation."

The legislation, which takes effect immediately, exempts counselors from the confidentiality provision if the victim has disclosed information to a third party who is not protected by similar privilege.

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