

The Confidentiality Institute

Protecting Privacy, Securing Safety

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SELECTED COLORADO AND FEDERAL STATUTES REGARDING SURVIVOR CONFIDENTIALITY

Colorado Law:

13-90-107

Statutes and Session Law

TITLE 13 COURTS AND COURT PROCEDURE

ARTICLE 90 Witnesses

13-90-107 Who may not testify without consent.

(1) There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person shall not be examined as a witness in the following cases:

(k) (I) A victim's advocate shall not be examined as to any communication made to such victim's advocate by a victim of domestic violence, as defined in section 18-6-800.3 (1), C.R.S., or a victim of sexual assault, as described in sections 18-3-401 to 18-3-405.5, 18-6-301, and 18-6-302, C.R.S., in person or through the media of written records or reports without the consent of the victim.

(II) For purposes of this paragraph (k), a "victim's advocate" means a person at a battered women's shelter or rape crisis organization or a comparable community-based advocacy program for victims of domestic violence or sexual assault and does not include an advocate employed by any law enforcement agency:

(A) Whose primary function is to render advice, counsel, or assist victims of domestic or family violence or sexual assault; and

(B) Who has undergone not less than fifteen hours of training as a victim's advocate or, with respect to an advocate who assists victims of sexual assault, not less than thirty hours of training as a sexual assault victim's advocate; and

(C) Who supervises employees of the program, administers the program, or works under the direction of a supervisor of the program.

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People vs. Turner, 109 P3d. 639 (CO 2005) held that domestic violence program communications with clients and all records subject to absolute confidentiality, including any identifying information regarding clients

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Federal Law:

Section 3 of VAWA 2005 provides, in relevant part:

“(A) IN GENERAL. In order to ensure the safety of adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking, and their families, grantees and subgrantees under this title shall protect the confidentiality and privacy of persons receiving services.

“(B) NONDISCLOSURE.—Subject to subparagraphs (C) and (D), grantees and subgrantees shall not —

“(i) disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees’ and subgrantees’ programs; or

“(ii) reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of persons with disabilities, the guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program, except that consent for release may not be given by the abuser of the minor, person with disabilities, or the abuser of the other parent of the minor.

“(C) RELEASE.—If release of information described in subparagraph (B) is compelled by statutory or court mandate—

“(i) grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the disclosure of information; &

“(ii) grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

“(D) INFORMATION SHARING.—Grantees and subgrantees may share—

“(i) nonpersonally identifying data in the aggregate regarding services to their clients and nonpersonally identifying demographic information in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements;

“(ii) court-generated information and law-enforcement generated information contained in secure, governmental registries for protection order enforcement purposes; and

“(iii) law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes.

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“Personally identifying information or personal information”, Sec. 3, Universal Definitions and Grant Provisions 42 USC § 13925(b)(2)

“The term ‘personally identifying information’ or ‘personal information’ means individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault or stalking, including –

(A) a first and last name;

(B) a home or other physical address;

(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

(D) a social security number; and

any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any of subparagraphs (a) through (D), would serve to identify any individual.”