

**2001 DRAFTING REQUEST**

**Bill**

Received: **03/15/2001**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Brian Burke (608) 266-8535**

By/Representing: **Tanya**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Courts - miscellaneous  
Criminal Law - procedure**

Extra Copies: **rpn**

Submit via email: **NO**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Communication between domestic violence or sexual assault advocate and client

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**Instructions:**

Redraft 1999 LRB 2378

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 05/17/2001	jdye 05/23/2001		_____			
/1		jdye 12/11/2001	rschluct 05/23/2001	_____	lrb_docadmin 05/23/2001		
/2			pgreensl 12/11/2001	_____	lrb_docadmin 12/11/2001	lrb_docadmin 02/11/2002	

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Communication between sex assault counselor and client

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/?	mdsida 05/17/2001	jdycr 05/23/2001		_____			
/1		jdycr 12/11/2001	rschluct 05/23/2001	_____	lrb_docadmin 05/23/2001		
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Requester's email:

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#### Topic:

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/?	mdsida 05/17/2001	jdye 05/23/2001					
/1		12/17 JLD	rschluet 05/23/2001	12/17 pg/vejk	lrb_docadmin 05/23/2001		

FE Sent For:

12/11 pg

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RLR

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No specific pre topic given

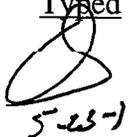
Topic:

Communication between sex assault counselor and client

Instructions:

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1/?	mdsida	1/5/03 jld	 5-23-1	 KF 5-23-1			

FE Sent For:

<END>



State of Wisconsin  
1999 - 2000 LEGISLATURE

2868/1  
LRB-2378/P2

JEO/mjf

JLD

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~ mgd

Regen

1 AN ACT to amend 905.04 (title), 905.04 (1) (b), 905.04 (1) (c), 905.04 (2), 905.04  
 2 (3), 905.04 (4) (e) 2. and 905.04 (4) (e) 3.; and to create 905.04 (1) (fL), 905.04  
 3 (1) (fm), 905.04 (1) (h) and 905.045 of the statutes; relating to: an evidentiary  
 4 privilege for communications made to a person providing counseling to sexual  
 5 assault victims or counseling, assistance or support services to victims of  
 6 abusive conduct.

*Analysis by the Legislative Reference Bureau*

Under current law, with certain exceptions, a patient has a privilege in a court and in certain administrative proceedings to refuse to disclose, and to prevent any other person from disclosing, confidential communications and information relating to the diagnosis or treatment of the patient's physical, mental or emotional condition, if the communication was made or the information was shared between the patient, certain health care providers who are diagnosing or treating the patient, and other persons, including members of the patient's family, who are participating in the diagnosis or treatment under the direction of a specified health care provider. The health care providers included under this privilege are physicians, registered nurses, chiropractors, psychologists, social workers, marriage and family therapists, and professional counselors. This bill adds sexual assault victim counselors to the list of health care providers included under the privilege.

The bill also creates a new privilege for communications made and information disclosed between a victim of child abuse, interspousal battery or domestic abuse

(abusive conduct) and an individual who works with an organization or victim assistance program that provides free counseling, assistance, or support services to a victim (a victim advocate). Under the bill, a victim of abusive conduct has a privilege in a court and in certain administrative proceedings to refuse to disclose, and to prevent any other person from disclosing, confidential communications made or information obtained or disseminated among the victim, a victim advocate who is acting in the scope of his or her duties as an advocate, and persons who are participating in providing counseling, assistance, or support services under the direction of an advocate, if the communication was made or the information was obtained or disseminated for the purpose of providing counseling, assistance, or support services to the victim.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 905.04 (title) of the statutes is amended to read:

905.04 (title) Physician-patient, registered nurse-patient, chiropractor-patient, psychologist-patient, social worker-patient, marriage and family therapist-patient, sexual assault victim counselor-patient and professional counselor-patient privilege.

SECTION 2. 905.04 (1) (b) of the statutes is amended to read:

905.04 (1) (b) A communication or information is "confidential" if not intended to be disclosed to 3rd persons other than those present to further the interest of the patient in the consultation, examination, or interview, or persons reasonably necessary for the transmission of the communication or information or persons who are participating in the diagnosis and treatment under the direction of the physician, registered nurse, chiropractor, psychologist, social worker, marriage and family therapist, sexual assault victim counselor or professional counselor, including the members of the patient's family.

SECTION 3. 905.04 (1) (c) of the statutes is amended to read:

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905.04 (1) (c) "Patient" means an individual, couple, family or group of individuals who consults with or is examined or interviewed by a physician, registered nurse, chiropractor, psychologist, social worker, marriage and family therapist, sexual assault victim counselor or professional counselor.

5 SECTION 4. 905.04 (1) (fL) of the statutes is created to read:

6 905.04 (1) (fL) "Sexual assault" means conduct that is in violation of s. 940.22  
7 (2), 940.225, 944.06, 948.02, 948.025, 948.05, 948.055, 948.06, 948.07, 948.08,  
8 948.09, 948.095 or 948.10.

9 SECTION 5. 905.04 (1) (fm) of the statutes is created to read:

10 905.04 (1) (fm) "Sexual assault victim counselor" means an individual who  
11 provides counseling to a victim of a sexual assault.

12 SECTION 6. 905.04 (1) (h) of the statutes is created to read:

13 905.04 (1) (h) "Victim" means a person against whom a sexual assault has been  
14 committed or who alleges that a sexual assault has been committed against him or  
15 her. It is immaterial that the sexual assault has not been reported to any government  
16 agency.

17 SECTION 7. 905.04 (2) of the statutes is amended to read:

PWF  
18  
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18 905.04 (2) GENERAL RULE OF PRIVILEGE. A patient has a privilege to refuse to  
19 disclose and to prevent any other person from disclosing confidential  
20 communications made or information obtained or disseminated for purposes of  
21 diagnosis or treatment of the patient's physical, mental or emotional condition,  
22 among the patient, the patient's physician, the patient's registered nurse, the  
23 patient's chiropractor, the patient's psychologist, the patient's social worker, the  
24 patient's marriage and family therapist, the patient's sexual assault victim  
25 counselor, the patient's professional counselor or persons, including members of the

1 patient's family, who are participating in the diagnosis or treatment under the  
2 direction of the physician, registered nurse, chiropractor, psychologist, social worker,  
3 marriage and family therapist, sexual assault victim counselor or professional  
4 counselor. <sup>1</sup>

5 SECTION 8. 905.04 (3) of the statutes is amended to read:

6 905.04 (3) WHO MAY CLAIM THE PRIVILEGE. The privilege may be claimed by the  
7 patient, by the patient's guardian or conservator, or by the personal representative  
8 of a deceased patient. The person who was the physician, registered nurse,  
9 chiropractor, psychologist, social worker, marriage and family therapist, sexual  
10 assault victim counselor or professional counselor may claim the privilege but only  
11 on behalf of the patient. The authority so to do is presumed in the absence of evidence  
12 to the contrary. <sup>2</sup>

13 SECTION 9. 905.04 (4) (e) 2. of the statutes is amended to read:

14 905.04 (4) (e) 2. There is no privilege in situations where the examination of  
15 an abused or neglected child creates a reasonable ground for an opinion of the  
16 physician, registered nurse, chiropractor, psychologist, social worker, marriage and  
17 family therapist, sexual assault victim counselor or professional counselor that the  
18 abuse or neglect was other than accidentally caused or inflicted by another. <sup>3</sup>

19 SECTION 10. 905.04 (4) (e) 3. of the statutes is amended to read:

20 905.04 (4) (e) 3. There is no privilege in situations where the examination of  
21 the expectant mother of an abused unborn child creates a reasonable ground for an  
22 opinion of the physician, registered nurse, chiropractor, psychologist, social worker,  
23 marriage and family therapist, sexual assault victim counselor or professional  
24 counselor that the physical injury inflicted on the unborn child was caused by the  
25 habitual lack of self-control of the expectant mother of the unborn child in the use

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of alcohol beverages, controlled substances or controlled substance analogs, exhibited to a severe degree.

3 SECTION 11. 905.045<sup>✓</sup> of the statutes is created to read:

4 905.045 Advocate-victim privilege. (1) DEFINITIONS<sup>✓</sup>. In this section:

5 (a) "Abusive conduct" means abuse, as defined in s. 813.122 (1) (a)<sup>✓</sup>, of a child,  
6 as defined in s. 48.02 (2)<sup>✓</sup>, interspousal battery, as described under s. 940.19 or 940.20  
7 (1m)<sup>✓</sup>, or domestic abuse, as defined in s. 813.12 (1) (a)<sup>✓</sup>.

8 (b) "Advocate" means an individual who is a member or employe<sup>e</sup><sub>^</sub> of or a  
9 volunteer for an organization or victim assistance program that provides counseling,  
10 assistance or support services free of charge to a victim.

11 (c) A communication or information is "confidential"<sup>✓</sup> if not intended to be  
12 disclosed to 3rd persons other than persons present to further the interest of the  
13 person receiving counseling, assistance or support services, persons reasonably  
14 necessary for the transmission of the communication or information and persons  
15 who are participating in providing counseling, assistance or support services under  
16 the direction of an advocate, including family members of the person receiving  
17 counseling, assistance or support services and members of any group of individuals  
18 with whom the person receives counseling, assistance or support services.<sup>✓</sup>

19 (d) "Victim" means an individual who has been the subject of abusive conduct  
20 or who alleges that he or she has been the subject of abusive conduct. It is immaterial  
21 that the abuse conduct has not been reported to any government agency.

22 (2) GENERAL RULE OF PRIVILEGE<sup>✓</sup>. A victim has a privilege to refuse to disclose and  
23 to prevent any other person from disclosing confidential communications made or  
24 information obtained or disseminated among the victim, an advocate who is acting  
25 in the scope of his or her duties as an advocate and persons who are participating in

1 providing counseling, assistance or support services under the direction of an  
2 advocate, if the communication was made or the information was obtained or  
3 disseminated for the purpose of providing counseling, assistance or support services  
4 to the victim.

5 (3) WHO MAY CLAIM THE PRIVILEGE. The privilege may be claimed by the victim,  
6 by the victim's guardian or conservator, or by the victim's personal representative if  
7 the victim is deceased. The advocate may claim the privilege on behalf of the victim.  
8 The advocate's authority so to do is presumed in the absence of evidence to the  
9 contrary.

10 (4) EXCEPTIONS. Subsection (2) does not apply to any report concerning child  
11 abuse that an advocate is required to make under s. 48.981.

12 (5) RELATIONSHIP TO S. 905.04. If a communication or information that is  
13 privileged under sub. (2) is also a communication or information that is privileged  
14 under s. 905.04 (2), the provisions of s. 905.04 supersede this section with respect to  
15 that communication or information.

## 16 SECTION 12. Initial applicability.

17 (1) This act first applies to communications made or information obtained or  
18 disseminated on the effective date of this subsection.

19 (END)

**BILL**

1 in providing counseling, assistance, or support services under the direction of an  
2 advocate, if the communication was made or the information was obtained or  
3 disseminated for the purpose of providing counseling, assistance, or support services  
4 to the victim.

5 (3) WHO MAY CLAIM THE PRIVILEGE. The privilege may be claimed by the victim,  
6 by the victim's guardian or conservator, or by the victim's personal representative if  
7 the victim is deceased. The advocate may claim the privilege on behalf of the victim.

8 The advocate's authority ~~to do~~ is presumed in the absence of evidence to the  
9 contrary.

so

Q: what if the victim is a minor + parent(s) demand info?

10 (4) EXCEPTIONS. Subsection (2) does not apply to any report concerning child  
11 abuse that an advocate is required to make under s. 48.931.

12 (5) RELATIONSHIP TO S. 905.04. If a communication or information that is  
13 privileged under sub. (2) is also a communication or information that is privileged  
14 under s. 905.04 (2), the provisions of s. 905.04 supersede this section with respect to  
15 that communication or information.

**SECTION 12. Initial applicability.**

17 (1) This act first applies to communications made or information obtained or  
18 disseminated on the effective date of this subsection.

(END)

~~Fig a certification requirement?~~  
~~Statute DOS NOT require~~

**BILL**

1 of alcohol beverages, controlled substances or controlled substance analogs,  
2 exhibited to a severe degree.

*Domestic<sup>3</sup> violence  
or Sexual  
assault*

SECTION 11. 905.045 of the statutes is created to read:

**905.045 Advocate-victim privilege. (1) DEFINITIONS.** In this section:

5 (a) "Abusive conduct" means abuse, as defined in s. 813.122 (1) (a), of a child,  
6 as defined in s. 48.02 (2), interspousal battery, as described under s. 940.19 or 940.20  
7 (1m), ~~domestic abuse~~, as defined in s. 813.12 (1) (a), *or sexual assault, as*

8 (b) "Advocate" means an individual who is ~~a member or~~ *on* employee of or a  
9 volunteer for an ~~organization or victim assistance program~~ *domestic violence or sexual assault* that provides counseling,  
10 assistance, or support services free of charge to a victim. ~~of domestic violence~~

11 (c) A communication or information is "confidential" if not intended to be  
12 disclosed to 3rd persons other than persons present to further the interest of the  
13 person receiving counseling, assistance, or support services, persons reasonably  
14 necessary for the transmission of the communication or information, and persons  
15 who are participating in providing counseling, assistance, or support services under  
16 the direction of an advocate, including family members ~~of~~ *or friends?* of the person receiving  
17 counseling, assistance, or support services and members of any group of individuals  
18 with whom the person receives counseling, assistance, or support services.

19 (d) "Victim" means an individual who has been the subject of abusive conduct  
20 or who alleges that he or she has been the subject of abusive conduct. It is immaterial  
21 that the abuse conduct has not been reported to any government agency.

22 (2) GENERAL RULE OF PRIVILEGE. A victim has a privilege to refuse to disclose and  
23 to prevent any other person from disclosing confidential communications made or  
24 information obtained or disseminated among the victim, an advocate who is acting  
25 in the scope of his or her duties as an advocate, and persons who are participating

P/c to Patti Sege 255-0539

she wants ~~to have~~ an adolescent to be able to  
~~discuss~~ involve privilege (even against parents)  
in cases ~~of~~ in which the adolescent

Sugg'd I talk to

Lisa Macowley 257-1516

Jen Senick

D.V. services are rarely mental health treatment

sexual assault org's provide much more of a range of  
svcs, including mental health.

If privileged under 905.04, then that 5. applies. And so  
would the exemption in 51.30(6).

But do I need an exemption to 905.04 to cover  
exception in

adolescent cases?

1

P/C to Lisa Macanley

Adol - Adol (consensual)

No parent access  
in some cases

Plc from Lisa WCASA

tie in to 14y.o.

159 Wis 2d 730  
223 " 622

Speese 199 Wis 2d 597, 607

Unclear whether child or GAL may assert priv

So if we estab. priv for 14+ in this bill, ct. may say that legis knew how to give that privilege to them.

~~Legislative~~

Drafting file could include staff saying "no intent to affect current law", but ct. may never see it

- Leg. intent stmt?
- <sup>throw</sup> caution to wind
- ~~Can~~ Add 14+ to 905.04?

Conv w/ Patti Sezer

Don't include any ref to age

Plan to apply law (and old law) ~~at all~~  
w/ assumption that it covers children



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-2868/1

MGD:jld:rs

2

2001 BILL

relieve  
from hold

from

Reger

1 AN ACT to amend 905.04 (title), 905.04 (1) (b), 905.04 (1) (c), 905.04 (2), 905.04  
 2 (3), 905.04 (4) (e) 2. and 905.04 (4) (e) 3.; and to create 905.04 (1) (fL), 905.04  
 3 (1) (fm), 905.04 (1) (h) and 905.045 of the statutes; relating to: an evidentiary  
 4 privilege for communications made to a person <sup>employed by or volunteering with an organization</sup> providing ~~counseling to sexual~~  
 5 ~~assault victims or~~ counseling, assistance, or support services to victims of  
 6 <sup>sexual assault or</sup> abusive conduct.

**Analysis by the Legislative Reference Bureau**

Under current law, with certain exceptions, a patient has a privilege in a court and in certain administrative proceedings to refuse to disclose, and to prevent any other person from disclosing, confidential communications and information relating to the diagnosis or treatment of the patient's physical, mental, or emotional condition, if the communication was made or the information was shared between the patient, certain health care providers who are diagnosing or treating the patient, and other persons, including members of the patient's family, who are participating in the diagnosis or treatment under the direction of a specified health care provider. The health care providers included under this privilege are physicians, registered nurses, chiropractors, psychologists, social workers, marriage and family therapists, and professional counselors. ~~This bill adds sexual assault victim counselors to the list of health care providers included under the privilege.~~

The bill ~~also~~ creates a new privilege for communications made and information disclosed between a victim of child abuse, interspousal battery, or domestic abuse

shared

**BILL**

*MOVE*

*on sexual assault* ✓

(abusive conduct), and an individual who works with an organization of victim assistance program that provides free counseling, assistance, or support services to a victim (a victim advocate). Under the bill, a victim of abusive conduct has a privilege in a court and in certain administrative proceedings to refuse to disclose, and to prevent any other person from disclosing, confidential communications made or information obtained or disseminated among the victim, a victim advocate who is acting in the scope of his or her duties as an advocate, and persons who are participating in providing counseling, assistance, or support services under the direction of an advocate, if the communication was made or the information was obtained or disseminated for the purpose of providing counseling, assistance, or support services to the victim.

*such* (5)

*Andrews*

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1        **SECTION 1.** 905.04 (title) of the statutes is amended to read:  
 2        **905.04** (title) **Physician-patient, registered nurse-patient,**  
 3        **chiropractor-patient, psychologist-patient, social worker-patient,**  
 4        **marriage and family therapist-patient, sexual assault victim**  
 5        **counselor-patient, and professional counselor-patient privilege.**

6        **SECTION 2.** 905.04 (1) (b) of the statutes is amended to read:  
 7        **905.04 (1) (b)** A communication or information is "confidential" if not intended  
 8        to be disclosed to 3rd persons other than those present to further the interest of the  
 9        patient in the consultation, examination, or interview, or persons reasonably  
 10       necessary for the transmission of the communication or information or persons who  
 11       are participating in the diagnosis and treatment under the direction of the physician,  
 12       registered nurse, chiropractor, psychologist, social worker, marriage and family  
 13       therapist, sexual assault victim counselor, or professional counselor, including the  
 14       members of the patient's family.

15       **SECTION 3.** 905.04 (1) (c) of the statutes is amended to read:

*Get cases*

**BILL**

1           905.04 (1) (c) "Patient" means an individual, couple, family or group of  
2 individuals who consults with or is examined or interviewed by a physician,  
3 registered nurse, chiropractor, psychologist, social worker, marriage and family  
4 therapist, sexual assault victim counselor, or professional counselor.

5           **SECTION 4.** 905.04 (1) (fL) of the statutes is created to read:

6           905.04 (1) (fL) "Sexual assault" means conduct that is in violation of s. 940.22  
7 (2), 940.225, 944.06, 948.02, 948.025, 948.05, 948.055, 948.06, 948.07, 948.08,  
8 948.09, 948.095, or 948.10.

9           **SECTION 5.** 905.04 (1) (fm) of the statutes is created to read:

10          905.04 (1) (fm) "Sexual assault victim counselor" means an individual who  
11 provides counseling to a victim of a sexual assault.

12          **SECTION 6.** 905.04 (1) (h) of the statutes is created to read:

13          905.04 (1) (h) "Victim" means a person against whom a sexual assault has been  
14 committed or who alleges that a sexual assault has been committed against him or  
15 her. It is immaterial that the sexual assault has not been reported to any government  
16 agency.

17          **SECTION 7.** 905.04 (2) of the statutes is amended to read:

18          905.04 (2) **GENERAL RULE OF PRIVILEGE.** A patient has a privilege to refuse to  
19 disclose and to prevent any other person from disclosing confidential  
20 communications made or information obtained or disseminated for purposes of  
21 diagnosis or treatment of the patient's physical, mental or emotional condition,  
22 among the patient, the patient's physician, the patient's registered nurse, the  
23 patient's chiropractor, the patient's psychologist, the patient's social worker, the  
24 patient's marriage and family therapist, the patient's sexual assault victim  
25 counselor, the patient's professional counselor or persons, including members of the

**BILL**

1 patient's family, who are participating in the diagnosis or treatment under the  
2 direction of the physician, registered nurse, chiropractor, psychologist, social worker,  
3 marriage and family therapist, sexual assault victim counselor, or professional  
4 counselor.

5 **SECTION 8.** 905.04 (3) of the statutes is amended to read:

6 905.04 (3) WHO MAY CLAIM THE PRIVILEGE. The privilege may be claimed by the  
7 patient, by the patient's guardian or conservator, or by the personal representative  
8 of a deceased patient. The person who was the physician, registered nurse,  
9 chiropractor, psychologist, social worker, marriage and family therapist, sexual  
10 assault victim counselor, or professional counselor may claim the privilege but only  
11 on behalf of the patient. The authority so to do is presumed in the absence of evidence  
12 to the contrary.

13 **SECTION 9.** 905.04 (4) (e) 2. of the statutes is amended to read:

14 905.04 (4) (e) 2. There is no privilege in situations where the examination of  
15 an abused or neglected child creates a reasonable ground for an opinion of the  
16 physician, registered nurse, chiropractor, psychologist, social worker, marriage and  
17 family therapist, sexual assault victim counselor, or professional counselor that the  
18 abuse or neglect was other than accidentally caused or inflicted by another.

19 **SECTION 10.** 905.04 (4) (e) 3. of the statutes is amended to read:

20 905.04 (4) (e) 3. There is no privilege in situations where the examination of  
21 the expectant mother of an abused unborn child creates a reasonable ground for an  
22 opinion of the physician, registered nurse, chiropractor, psychologist, social worker,  
23 marriage and family therapist, sexual assault victim counselor, or professional  
24 counselor that the physical injury inflicted on the unborn child was caused by the  
25 habitual lack of self-control of the expectant mother of the unborn child in the use

BILL

*5*  
*Domestic violence or sexual assault*

1 of alcohol beverages, controlled substances or controlled substance analogs  
2 exhibited to a severe degree.

3 SECTION 11. 905.045 of the statutes is created to read:

4 **905.045 Advocate-victim privilege.** (1) DEFINITIONS. In this section:

5 (a) "Abusive conduct" means abuse, as defined in s. 813.122 (1) (a), of a child,  
6 as defined in s. 48.02 (2), interspousal battery, as described under s. 940.19 or 940.20  
7 (1m), *or* domestic abuse, as defined in s. 813.12 (1) (a), *or sexual assault*  
*under s. 940.225*

8 (b) "Advocate" means an individual who is *a member or* employee of or a  
9 volunteer for an organization *or victim assistance program* that provides counseling,  
10 assistance, or support services free of charge to a victim.

11 (c) A communication or information is "confidential" if not intended to be  
12 disclosed to 3rd persons other than persons present to further the interest of the  
13 person receiving counseling, assistance, or support services, persons reasonably  
14 necessary for the transmission of the communication or information, and persons  
15 who are participating in providing counseling, assistance, or support services under  
16 the direction of an advocate, including family members of the person receiving  
17 counseling, assistance, or support services and members of any group of individuals  
18 with whom the person receives counseling, assistance, or support services.

19 (d) "Victim" means an individual who has been the subject of *abusive conduct*  
20 or who alleges that he or she has been the subject of abusive conduct. It is immaterial  
21 that the *abuse* *or* *abusive* conduct has not been reported to any government agency.

22 (2) GENERAL RULE OF PRIVILEGE. A victim has a privilege to refuse to disclose and  
23 to prevent any other person from disclosing confidential communications made or  
24 information obtained or disseminated among the victim, an advocate who is acting  
25 in the scope of his or her duties as an advocate, and persons who are participating

*the purpose of which is to*

**BILL**

1 in providing counseling, assistance, or support services under the direction of an  
2 advocate, if the communication was made or the information was obtained or  
3 disseminated for the purpose of providing counseling, assistance, or support services  
4 to the victim.

5 (3) WHO MAY CLAIM THE PRIVILEGE. The privilege may be claimed by the victim,  
6 by the victim's guardian or conservator, or by the victim's personal representative if  
7 the victim is deceased. The advocate may claim the privilege on behalf of the victim.  
8 The advocate's authority so to do is presumed in the absence of evidence to the  
9 contrary.

10 (4) EXCEPTIONS. Subsection (2) does not apply to any report concerning child  
11 abuse that an advocate is required to make under s. 48.981.

12 (5) RELATIONSHIP TO S. 905.04. If a communication or information that is  
13 privileged under sub. (2) is also a communication or information that is privileged  
14 under s. 905.04 (2), the provisions of s. 905.04 supersede this section with respect to  
15 that communication or information.

**SECTION 12. Initial applicability.**

16 (1) This act first applies to communications made or information obtained or  
17 disseminated on the effective date of this subsection.

18  
19 (END)

still  
need?

**Barman, Mike**

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**From:** Heringlake, Katherine  
**Sent:** Monday, February 11, 2002 10:19 AM  
**To:** LRB.Legal  
**Subject:** Bill Jacketed

I need LRB 2868/2 relating to privilege between sexual assault and domestic violence victims and their counselors jacketed for the Senate.

Thanks,  
Katy Heringlake  
Senator Burke's Office