

# Laws about Private Communications Colorado

*Last Updated: April 2023*

Question	Answer
<p>What relationships qualify for privileged communications and how is "privilege" defined?</p>	<p><b>Confidentiality between victim's advocate and victim</b></p> <p>COLO. REV. STAT. § 13-90-107(k)(l)</p> <ul style="list-style-type: none"> <li>• A domestic violence or sexual assault victim's advocate cannot testify about any communications made by the victim to the victim's advocate (<i>but see below</i>) without the consent of the victim.</li> <li>• Covers in-person testimony and written records or reports.</li> <li>• <i>People v. Turner</i>, 109 P.3d 639, 642, 645 (Colo. 2005)             <ul style="list-style-type: none"> <li>• Privilege does not apply only to statements made by the victim to the victim's advocate, but also includes records of any assistance, advice or other communication provided by a victim's advocate. The privilege also extends to any services or assistance provided by a victim's advocate.</li> </ul> </li> <li>• <i>People In Int. of J.S.A.</i>, No. 23CA0939, 2024 WL 3944294, at *3 (Colo. App. June 6, 2024), <u>cert. denied</u>, No. 24SC692, 2025 WL 1117203 (Colo. Apr. 14, 2025)             <ul style="list-style-type: none"> <li>• Recognizing that treatment records of victims of sexual assaults should also remain confidential pursuant to the psychologist-patient privilege codified in COLO. REV. STAT. § 13-90-107(1)(g)</li> </ul> </li> </ul>
<p>Is the privilege qualified or absolute?</p>	<p>Absolute</p>
<p>Who holds the privilege and has the right to waive it? What are the standards for waiver of the privilege?</p>	<p><b>Holder of Privilege:</b></p> <ul style="list-style-type: none"> <li>• Only the victim may waive the privilege. COLO. REV. STAT. § 13-90-107(k)(l)</li> </ul> <p><b>Waiver of Privilege:</b></p> <ul style="list-style-type: none"> <li>• <i>People v. Turner</i>, 109 P.3d 639, 645 (Colo. 2005)             <ul style="list-style-type: none"> <li>• The party seeking to overcome the privilege bears the burden of demonstrating that the privilege has been waived.</li> <li>• Waiver of a privilege can be express or implied and must be justified through an evidentiary showing.</li> </ul> </li> <li>• <i>People v. Sisneros</i>, 55 P.3d 797, 801 (Colo. 2002)             <ul style="list-style-type: none"> <li>• The Colorado Supreme Court held that a sexualassault victim does not waive the</li> </ul> </li> </ul>

	<p>psychologist-patient privilege merely by testifying at a preliminary hearing.</p> <ul style="list-style-type: none"> <li>• The court emphasized that waiver must be evaluated under the totality of the circumstances, and it rejected an automatic or implied waiver based solely on testimony.</li> <li>• In concluding that no waiver occurred, the Court considered, among other things, that: <ul style="list-style-type: none"> <li>• (1) the victim did not assert a personal claim or defense that placed her mental health at issue;</li> <li>• (2) her preliminary hearing testimony did not disclose or place in issue the substance of her psychological treatment or her post-assault mental condition; and</li> <li>• (3) the circumstances of her testimony do not reflect an intent to forego the protections of the psychologist-patient privilege.</li> </ul> </li> </ul>
<p>Are there any exceptions to the privilege?</p>	<p>None specified.</p>
<p>When and how may a judge review case documents in private?</p>	<p>Prohibited</p> <ul style="list-style-type: none"> <li>• <i>People v. Turner</i>, 109 P.3d 639, 642 (Colo. 2005) <ul style="list-style-type: none"> <li>• Made the victim-advocate privilege absolute.</li> <li>• Records of services provided to victims of sexual assault must be kept confidential in order to protect victims.</li> <li>• A defendant cannot gain access to any records of the assistance and services provided to a victim of sexual assault unless he can demonstrate that the victim has waived the privilege.</li> </ul> </li> </ul>
<p>What other definitions are important to know?</p>	<p><b>Sexual Assault Victim's Advocate:</b> COLO. REV. STAT. § 13-90-107(k)(II)</p> <ul style="list-style-type: none"> <li>• 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: (a) whose primary function is to render advice, counsel, or assist victims of sexual assault; (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. <ul style="list-style-type: none"> <li>• Does not include an advocate employed by any law enforcement agency who or whose: <ul style="list-style-type: none"> <li>• Primary function is to render advice, counsel, or assist victims of domestic or family violence or sexual assault; and</li> <li>• 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</li> <li>• Supervises employees of the program, administers the program, or works under the direction of a supervisor of the program.</li> </ul> </li> </ul> </li> </ul> <p><b>Training Requirements for Sexual Assault Victim's Advocate:</b></p> <ul style="list-style-type: none"> <li>• Must have undergone not less than fifteen hours of training as a victim's advocate or, with</li> </ul>

	respect to an advocate who assists victims of sexual assault, not less than thirty hours of training as a sexual assault victim's advocate. Colo. Rev. Stat. § 13-90-107(k)(II)(B)
Anything else I should know?	N/A
Statutory citation(s):	COLO. REV. STAT. § 13-90-107