

HB3265



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3265

Introduced 2/19/2021, by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

735 ILCS 5/8-802.1

from Ch. 110, par. 8-802.1

Amends the Evidence Article of the Code of Civil Procedure. Provides that "rape crisis organization" includes, but is not limited to, rape crisis centers certified by a statewide sexual assault coalition.

LRB102 12031 LNS 17367 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 8-802.1 as follows:

6 (735 ILCS 5/8-802.1) (from Ch. 110, par. 8-802.1)

7 Sec. 8-802.1. Confidentiality of Statements Made to Rape
8 Crisis Personnel.

9 (a) Purpose. This Section is intended to protect victims
10 of rape from public disclosure of statements they make in
11 confidence to counselors of organizations established to help
12 them. On or after July 1, 1984, "rape" means an act of forced
13 sexual penetration or sexual conduct, as defined in Section
14 11-0.1 of the Criminal Code of 2012, including acts prohibited
15 under Sections 11-1.20 through 11-1.60 or 12-13 through 12-16
16 of the Criminal Code of 1961 or the Criminal Code of 2012.
17 Because of the fear and stigma that often results from those
18 crimes, many victims hesitate to seek help even where it is
19 available at no cost to them. As a result they not only fail to
20 receive needed medical care and emergency counseling, but may
21 lack the psychological support necessary to report the crime
22 and aid police in preventing future crimes.

23 (b) Definitions. As used in this Act:

1 (1) "Rape crisis organization" means any organization
2 or association the major purpose of which is providing
3 information, counseling, and psychological support to
4 victims of any or all of the crimes of aggravated criminal
5 sexual assault, predatory criminal sexual assault of a
6 child, criminal sexual assault, sexual relations between
7 siblings, criminal sexual abuse and aggravated criminal
8 sexual abuse. "Rape crisis organization" includes, but is
9 not limited to, rape crisis centers certified by a
10 statewide sexual assault coalition.

11 (2) "Rape crisis counselor" means a person who is a
12 psychologist, social worker, employee, or volunteer in any
13 organization or association defined as a rape crisis
14 organization under this Section, who has undergone 40
15 hours of training and is under the control of a direct
16 services supervisor of a rape crisis organization.

17 (3) "Victim" means a person who is the subject of, or
18 who seeks information, counseling, or advocacy services as
19 a result of an aggravated criminal sexual assault,
20 predatory criminal sexual assault of a child, criminal
21 sexual assault, sexual relations within families, criminal
22 sexual abuse, aggravated criminal sexual abuse, sexual
23 exploitation of a child, indecent solicitation of a child,
24 public indecency, exploitation of a child, promoting
25 juvenile prostitution as described in subdivision (a)(4)
26 of Section 11-14.4, or an attempt to commit any of these

1 offenses.

2 (4) "Confidential communication" means any
3 communication between a victim and a rape crisis counselor
4 in the course of providing information, counseling, and
5 advocacy. The term includes all records kept by the
6 counselor or by the organization in the course of
7 providing services to an alleged victim concerning the
8 alleged victim and the services provided.

9 (c) Waiver of privilege.

10 (1) The confidential nature of the communication is
11 not waived by: the presence of a third person who further
12 expresses the interests of the victim at the time of the
13 communication; group counseling; or disclosure to a third
14 person with the consent of the victim when reasonably
15 necessary to accomplish the purpose for which the
16 counselor is consulted.

17 (2) The confidential nature of counseling records is
18 not waived when: the victim inspects the records; or in
19 the case of a minor child less than 12 years of age, a
20 parent or guardian whose interests are not adverse to the
21 minor inspects the records; or in the case of a minor
22 victim 12 years or older, a parent or guardian whose
23 interests are not adverse to the minor inspects the
24 records with the victim's consent, or in the case of an
25 adult who has a guardian of his or her person, the guardian
26 inspects the records with the victim's consent.

1 (3) When a victim is deceased, the executor or
2 administrator of the victim's estate may waive the
3 privilege established by this Section, unless the executor
4 or administrator has an interest adverse to the victim.

5 (4) A minor victim 12 years of age or older may
6 knowingly waive the privilege established in this Section.
7 When a minor is, in the opinion of the Court, incapable of
8 knowingly waiving the privilege, the parent or guardian of
9 the minor may waive the privilege on behalf of the minor,
10 unless the parent or guardian has been charged with a
11 violent crime against the victim or otherwise has any
12 interest adverse to that of the minor with respect to the
13 waiver of the privilege.

14 (5) An adult victim who has a guardian of his or her
15 person may knowingly waive the privilege established in
16 this Section. When the victim is, in the opinion of the
17 court, incapable of knowingly waiving the privilege, the
18 guardian of the adult victim may waive the privilege on
19 behalf of the victim, unless the guardian has been charged
20 with a violent crime against the victim or otherwise has
21 any interest adverse to the victim with respect to the
22 privilege.

23 (d) Confidentiality. Except as provided in this Act, no
24 rape crisis counselor shall disclose any confidential
25 communication or be examined as a witness in any civil or
26 criminal proceeding as to any confidential communication

1 without the written consent of the victim or a representative
2 of the victim as provided in subparagraph (c).

3 (e) A rape crisis counselor may disclose a confidential
4 communication without the consent of the victim if failure to
5 disclose is likely to result in a clear, imminent risk of
6 serious physical injury or death of the victim or another
7 person. Any rape crisis counselor or rape crisis organization
8 participating in good faith in the disclosing of records and
9 communications under this Act shall have immunity from any
10 liability, civil, criminal, or otherwise that might result
11 from the action. In any proceeding, civil or criminal, arising
12 out of a disclosure under this Section, the good faith of any
13 rape crisis counselor or rape crisis organization who
14 disclosed the confidential communication shall be presumed.

15 (f) Any rape crisis counselor who knowingly discloses any
16 confidential communication in violation of this Act commits a
17 Class C misdemeanor.

18 (Source: P.A. 96-1010, eff. 1-1-11; 96-1551, eff. 7-1-11;
19 97-1150, eff. 1-25-13.)