

# NY CLS CPLR § 4510

Current through 2025 released Chapters 1-207

*New York*

*Consolidated Laws Service* >  
*Civil Practice Law And Rules (Arts. 1 — 100)* >  
*Article 45 Evidence (§§ 4501 — 4551)*

## Notice

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 This section has more than one version with varying effective dates.

## **§ 4510. Rape crisis counselor or domestic violence advocate.**

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(a) Definitions. When used in this section, the following terms shall have the following meanings:

1. “Rape crisis program” means any office, institution or center which has been approved pursuant to subdivision fifteen of section two hundred six of the public health law, as added by chapter 432 of the laws of 1993, offering counseling and assistance to clients concerning sexual offenses, sexual abuses or incest.
2. “Rape crisis counselor” means any person who has been certified by an approved rape crisis program as having satisfied the training standards specified in subdivision fifteen of section two hundred six of the public health law, as added by chapter 432 of the laws of 1993, and who, regardless of compensation, is acting under the direction and supervision of an approved rape crisis program.
3. “Client” means

(i) any person who is seeking or receiving the services of a rape crisis counselor for the purpose of securing counseling or assistance concerning any sexual offenses, sexual abuse, incest or attempts to commit sexual offenses, sexual abuse, or incest, as defined in the penal law; or

(ii) any victim of domestic violence as defined in section four hundred fifty-nine-a of the social services law.

4. "Domestic violence program" means a residential program for victims of domestic violence or a non-residential program for victims of domestic violence as defined in section four hundred fifty-nine-a of the social services law or any similar program operated by an Indian tribe, as defined by section two of the Indian law.

5. "Domestic violence advocate" means any person who is acting under the direction and supervision of a licensed and approved domestic violence program and has satisfied the training standards required by the office of children and family services.

(b) Confidential information privileged. A rape crisis counselor or domestic violence advocate shall not be required to disclose a communication made by his or her client to him or her, or advice given thereon, in the course of his or her services nor shall any clerk, stenographer or other person working for the same program as the rape crisis counselor or domestic violence advocate or for the rape crisis counselor or domestic violence advocate be allowed to disclose any such communication or advice given thereon nor shall any records made in the course of the services given to the client or recording of any communications made by or to a client be required to be disclosed, nor shall the client be compelled to disclose such communication or records, except:

1. that a rape crisis counselor or domestic violence advocate may disclose such otherwise confidential communication to the extent authorized by the client;
2. that a rape crisis counselor or domestic violence advocate shall not be required to treat as confidential a communication by a client which reveals the intent to commit a crime or harmful act;

3. that a domestic violence advocate shall not be required to treat as confidential a communication by a client which reveals a case of suspected child abuse or maltreatment pursuant to title six of article six of the social services law;
4. in a case in which the client waives the privilege by instituting charges against the rape crisis counselor or domestic violence advocate or the rape crisis program or domestic violence program and such action or proceeding involves confidential communications between the client and the rape crisis counselor or domestic violence advocate.

**(c)** Who may waive the privilege. The privilege may only be waived if the client, the personal representative of a deceased client, or, in the case of a client who has been adjudicated incompetent or for whom a conservator has been appointed, the committee or conservator provides the rape crisis counselor or domestic violence advocate with informed, written and reasonably time-limited consent.

**(d)** Limitation on waiver. A client who, for the purposes of obtaining compensation under article twenty-two of the executive law or insurance benefits, authorizes the disclosure of any privileged communication to an employee of the office of victim services or an insurance representative shall not be deemed to have waived the privilege created by this section.

## History

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Add, L 1993, ch 432, § 1, eff Jan 22, 1994; amd, L 2010, ch 56, § 49 (Part A–1), eff June 22, 2010; L 2021, ch 309, § 1, effective July 23, 2021.

Annotations

## Notes

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**Amendment Notes:**

**2010.** Chapter 56, § 49 (Part A-1).

Sub (d) by deleting at fig 1 “crime victims board” and adding the matter in italics.

**The 2021 amendment by ch 309, § 1**, added “or domestic violence advocate” in the section heading; added “as added by chapter 432 of the laws of 1993” in (a)1 and (a)2; added the (a)3(i) designation; added (a)3(ii); added (a)4 and (a)5; added “or domestic violence advocate” three times in the introductory language of (b); added “or domestic violence advocate” in (b)1 and (b)2; added (b)3; redesignated and rewrote former (b)3 as (b)4; added “or domestic violence advocate” three times in (b)4; in (c), substituted “if the client” for “by the client” and added “provides the rape crisis counselor or domestic violence advocate with informed, written and reasonably time-limited consent”; and made a related change.

## **Notes to Decisions**

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### **1. In general**

Trial court properly denied rape defendant’s application for in camera inspection of records of rape crisis counselor who interviewed victim at hospital on ground that defendant’s motion failed to set forth “specific factual allegations providing grounds that disclosure [of otherwise privileged communication] is required.” *People v Thiam*, 232 A.D.2d 199, 647 N.Y.S.2d 763, 1996 N.Y. App. Div. LEXIS 9815 (N.Y. App. Div. 1st Dep’t), app. denied, 89 N.Y.2d 930, 654 N.Y.S.2d 733, 677 N.E.2d 305, 1996 N.Y. LEXIS 4946 (N.Y. 1996).

## **Research References & Practice Aids**

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### **Jurisprudences:**

44 NY Jur 2d Disclosure § 86. .

47A NY Jur 2d Domestic Relations § 1732. .

58A NY Jur 2d Evidence and Witnesses §§ 902., 903. .

§ 4510. Rape crisis counselor or domestic violence advocate.

18 Am Jur Trials 341., Handling the Defense in a Rape Prosecution.

## **Treatises**

### **Matthew Bender's New York Civil Practice:**

Weinstein, Korn & Miller, New York Civil Practice: CPLR Ch. 4511, Rape Crisis Counselor.

2 Carrieri, Lansner, New York Civil Practice: Family Court Proceedings § 31.10.

### **Matthew Bender's New York AnswerGuides:**

Lexis Nexis AnswerGuide New York Civil Disclosure § 8.19. Asserting Rape Crisis Counselor Privilege.

LexisNexis AnswerGuide New York Civil Litigation § 10.04. Protecting Privileged Communications.

## **Annotations:**

Constitutionality, with respect to accused's rights to information or confrontation, of statute according confidentiality to sex crime victim's communications to sexual counselor. 43 ALR4th 395.

### **Matthew Bender's New York Checklists:**

Checklist for Protecting Privileged Communications LexisNexis AnswerGuide New York Civil Litigation § 10.02.

## **Texts:**

1 New York Trial Guide (Matthew Bender) §§ 7.23, 7.51; 3 New York Trial Guide (Matthew Bender) §§ 51.01, 51.16.

## **Hierarchy Notes:**

§ 4510. Rape crisis counselor or domestic violence advocate.

NY CLS CPLR, Art. 45

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