

ACT 193

S.B. NO. 1624

A Bill for an Act Relating to the Hawaii Rules of Evidence.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act amends the evidentiary rule regarding the victim-counselor privilege by amending the reference to “registered social worker” in the definition of “victim counselor”. Because social workers are no longer registered under chapter 467D, Hawaii Revised Statutes, due to the repeal of that chapter on December 31, 1992, pursuant to section 26H-4(b)(1), Hawaii Revised Statutes, the reference to “registered” social worker is now obsolete. A new definition of social worker is added to require that a person holding oneself out as a social worker, for purposes of the evidentiary rule, has received a master’s degree from an accredited school of social work in order to retain the same qualifications as required under former section 467D-4, Hawaii Revised Statutes.

SECTION 2. Section 626-1, Hawaii Revised Statutes, is amended by amending subsection (a) of rule 505.5 to read as follows:

“(a) Definitions. As used in this rule:

(1) A communication is “confidential” if not intended to be disclosed to third persons other than those to whom disclosure would be in furtherance of the provision of counseling or treatment services to the victim or those reasonably necessary for the transmission of the communication.

[1] (2) “Domestic violence victims’ program” means any refuge, shelter, office, safe home, institution, or center established for the purpose of offering assistance to victims of abuse through crisis intervention, medical, legal, or support counseling.

- [(2)] (3) "Sexual assault crisis center" means any office, institution, or center offering assistance to victims of sexual assault and the families of such victims through crisis intervention, medical, and legal, or support counseling.
- (4) "Social worker" means a person who has received a master's degree in social work from a school of social work accredited by the Council on Social Work Education.
- [(3)] (5) A "victim" is a person who consults a victim counselor for assistance in overcoming any adverse emotional or psychological effect of sexual assault, domestic violence, or child abuse.
- [(4)] A "victim counselor" is either a sexual assault counselor or a domestic violence victims' counselor. A sexual assault counselor is a person who is employed by or is a volunteer in a sexual assault crisis center, has undergone a minimum of thirty-five hours of training and who is, or who reports to and is under the direct control and supervision of, a [registered] social worker, nurse, psychiatrist, psychologist, or psychotherapist, and whose primary function is the rendering of advice, counseling or assistance to victims of sexual assault. A domestic violence victims' counselor is a person who is employed by or is a volunteer in a domestic violence victims' program, has undergone a minimum of twenty-five hours of training and who is, or who reports to and is under the direct control and supervision of, a direct service supervisor of a domestic violence victims' program, and whose primary function is the rendering of advice, counseling, or assistance to victims of abuse.
- (5) (6) A "victim counseling program" is any activity of a domestic violence victims' program or a sexual assault crisis center that has, as its primary function, the counseling and treatment of sexual assault, domestic violence, or child abuse victims and their families, and that operates independently of any law enforcement agency, prosecutor's office, or the department of human services.
- [(6)] A communication is "confidential" if not intended to be disclosed to third persons other than those to whom disclosure would be in furtherance of the provision of counseling or treatment services to the victim or those reasonably necessary for the transmission of the communication.]
- (7) A "victim counselor" is either a sexual assault counselor or a domestic violence victims' counselor. A sexual assault counselor is a person who is employed by or is a volunteer in a sexual assault crisis center, has undergone a minimum of thirty-five hours of training and who is, or who reports to and is under the direct control and supervision of, a social worker, nurse, psychiatrist, psychologist, or psychotherapist, and whose primary function is the rendering of advice, counseling or assistance to victims of sexual assault. A domestic violence victims' counselor is a person who is employed by or is a volunteer in a domestic violence victims' program, has undergone a minimum of twenty-five hours of training and who is, or who reports to and is under the direct control and supervision of, a direct service supervisor of a domestic violence victims' program, and whose primary function is the rendering of advice, counseling, or assistance to victims of abuse."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

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**SECTION 4. This Act shall take effect upon its approval.**

**(Approved June 9, 1993.)**