

## Legislative History for Connecticut Act

HB 6290 PA 429 1983

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CONNECTICUT  
SEN. ASSEMBLY  
HOUSE

PROCEEDINGS

1983

VOL. 26

PART 15

5226-5490

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House of Representatives

Thursday, May 19, 1983

voted? If so, the machine will be locked, and the Clerk will take a tally.

Will the Clerk please announce the tally.

REP. COLEMAN: (1st)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Coleman.

REP. COLEMAN: (1st)

May I be recorded in the affirmative, please.

SPEAKER STOLBERG:

Rep. Coleman in the affirmative.

Will the Clerk please announce the tally?

CLERK:

House Bill 5542, as amended by House "A".

Total number voting	146
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Necessary for passage	74
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Those voting yea	111
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Those voting nay	35
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Those absent and not voting	5
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SPEAKER STOLBERG:

The bill is passed.

CLERK:

Please turn to page 12, Calendar 665, Substitute  
for House Bill 6290, AN ACT CONCERNING CONFIDENTIAL

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COMMUNICATIONS BETWEEN VICTIM SERVICE COUNSELOR AND VICTIM.

Favorable Report of the Committee on Judiciary.

SPEAKER STOLBERG:

Rep. Onorato, are you bringing this out, or are you consulting?

Rep. Richard Tulisano, the distinguished Chairman of the Judiciary Committee.

REP. TULISANO: (29th)

Mr. Speaker, I move for acceptance of the Joint Committee's Favorable Report and passage of the bill, and parenthetically, how magically files appear when they've been left at home.

SPEAKER STOLBERG:

Will you remark? Will you remark to the entire Chamber?

REP. TULISANO: (29th)

Mr. Speaker, the Clerk has an amendment, and I'm going to yield to Rep. Kezer.

SPEAKER STOLBERG:

Rep. Kezer, if your voice is back, do you accept the yield?

REP. KEZER: (22nd)

Yes, thank you. Mr. Speaker, I do. There's some confusion about amendments. I would like to offer an

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amendment at this point in time. LCO No. 6595. If the Clerk would please call and I be allowed to summarize.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 6595, which will be designated House Amendment Schedule "A". Will the Clerk please call.

CLERK:

LCO 6595, designated House "A", offered by Rep. Kezer of the 22nd, et al.

SPEAKER STOLBERG:

Rep. Kezer would like leave to summarize. Is there objection? Is there objection? Seeing no objection, please proceed.

REP. KEZER: (22nd)

Mr. Speaker, this amendment attempts to clarify the language that's already in the bill. It includes part of an amendment that Richard Tulisano had also filed, which takes out the words, administrative and legislative in lines 88.

It further goes on to describe when the privilege should not be used. It talks about, in Section C of the amendment, about a victim who may be deceased or has been adjudged incompetent. It talks about in Section D about a minor, and when the minor may or may not use the privilege.

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In Section E it talks about when the privilege should not be invoked. In matters of proof concerning change of custody, in matters of proof concerning the physical appearance of the victim at the time of injury, and lastly where perjury testimony is in question. I move adoption of the amendment.

SPEAKER STOLBERG:

Will you remark further on the amendment? Rep. Kezer.

REP. KEZER: (22nd)

Mr. Speaker, there's been considerable work done on this particular amendment, because when we first decided to extend the privilege of communications to sexual assault counselors and battered womens' shelters counselors, we wanted to make sure the law was drawn in a very precise manner.

When the bill in the file copy said that the state should have the right to waive the privilege whenever it deemed necessary, there was a group of us that felt that it should be more clearly defined when the state should or should not have the right to waive the privilege.

This amendment attempts to do that. It defines those instances when the privilege should not be extended, and for this reason, I think it's a good amendment, and

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it enhances the bill, and I ask for your support of this amendment.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "A"? If not, all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

REPRESENTATIVES:

No.

SPEAKER STOLBERG:

The amendment is adopted and ruled technical.

\*\*\*\*\*

House Amendment Schedule "A".

Delete lines 84 to 88, inclusive, in their entirety and substitute the following in lieu thereof: "in any civil or criminal proceeding."

After line 88, add subsections (c) to (f) as follows:

"(c) When a victim is deceased or has been adjudged incompetent by a court of competent jurisdiction, the guardian of the victim or the executor or administrator of the estate of the victim may waive the privilege established by this section.

(d) A minor may knowingly waive the privilege established by this section. In any instance where the

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minor is, in the opinion of the court, incapable of knowingly waiving the privilege, the parent or guardian of the minor may waive the privilege on behalf of the minor, provided such parent or guardian is not the defendant and does not have a relationship with the defendant such that he has an interest in the outcome of the proceeding.

(e) The privilege established by this section shall not apply: (1) In matters of proof concerning chain of custody of evidence; (2) in matters of proof concerning the physical appearance of the victim at the time of the injury; or (3) where the battered women's counselor or sexual assault counselor has knowledge that the victim has given perjured testimony and the defendant or the state has made an offer of proof that perjury may have been committed.

(f) The failure of any party to testify as a witness pursuant to the provisions of this section shall not result in an inference unfavorable to the state's cause or to the cause of the defendant."

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SPEAKER STOLBERG:

Will you remark further on the bill as amended?

Rep. Kezer.

REP. KEZER: (22nd)

Thank you. This is a bill that was originally sponsored by Rep. Helfgott, Rep. Gibson and myself. It extends the privilege that now exists to psychiatrists, clergy, to very narrowly defined counselors who work in battered shelters and rape crisis centers. This bill is an important piece of legislation.

Today, a rape victim is more apt to go to a rape



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crisis counselling center than she is apt to go to a private psychiatrist. However, her records, if she goes to a private psychiatrist, are considered confidential.

Today, in this state, her records are not considered confidential if she goes to a rape crisis center or a battered women's shelter. This bill is needed. I would comment that other states are doing the same things, New Jersey, Pennsylvania have just passed similar legislation, Massachusetts and Rhode Island are indeed working on legislation of this type right now.

This has the overwhelming support of the women legislators in this body, and I feel that the bill has been carefully enough drafted, and tightly enough drawn so that we are extending a privilege, but we are doing it under tight guidelines so that we will not be hampering the prosecution of anybody accused of a crime in either, who was previously a victim or remains a victim.

This bill is landmark legislation in this field, and I hope that it has the support of all our members here today.

SPEAKER STOLBERG:

Will you remark further? Rep. Irene Favreau.

REP. FAVREAU: (24th)

Thank you, Mr. Speaker. I urge my colleagues in

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this Chamber to look carefully at this bill. It is extremely important. Many women who have either been victims of violence in the household, or also have been subjected to sexual assault have all kinds of problems, and desperately need help.

One of the reasons that they go to a sexual assault counselor, is because the problems are of a very delicate nature, and they're very reluctant to discuss it with law enforcement officials, or even other members of their family. That's why it's so important to protect their confidentiality so these women can get the help they need, so we can avert further problems. I urge my colleagues to pass this bill.

SPEAKER STOLBERG:

Will you remark further on the bill as amended?  
Will you remark further? If not, will members please be seated. Will staff and guests come to the well of the House. The machine will be opened.

The House of Representatives is now voting by roll. Would the members please return to the Chamber immediately. The House of Representatives is now voting by roll. Would the members please return to the Chamber immediately.

Have all the members voted? Have all the members voted? If so, the machine will be locked, and the Clerk

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will take a tally.

Will the Clerk please announce the tally.

CLERK:

House Bill 6290, as amended by House "A".

Total number voting	144
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Necessary for passage	73
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Those voting yea	143
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Those voting nay	1
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Those absent and not voting	7
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SPEAKER STOLBERG:

The bill is passed.

CLERK:

Calendar 670, Substitute for House Bill 6419, AN  
ACT CONCERNING AN INCREASE IN THE AGGREGATE OF STATE BONDS  
WHICH MAY BE AUTHORIZED FOR AID TO PRIVATE OR MUNICIPAL  
WATER COMPANIES FOR PURPOSES OF REQUIRED TREATMENT FACILITY  
CONSTRUCTION. Favorable Report of the Committee on Finance,  
Revenue and Bonding.

REP. GROPPA: (63rd)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Groppo.

REP. GROPPA: (63rd)

May this item be referred to the Committee on

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be placed on the consent calendar for the second time.

THE CHAIR:

Is there any objection to placing the item as amended by House Amendment Schedule "A" on the consent calendar? Hearing none, it will go on consent.

THE CLERK:

Calendar 718, File Nos. 816 and 964, Substitute for House Bill No. 6290. An Act Concerning Confidential Communications Between Victim Service Counselor And Victim. (As amended by House Amendment Schedule "A").

Favorable Report of the Committee on Judiciary.

THE CHAIR:

Senator Owens. Calendar 718.

SENATOR OWENS:

Mr. President, I move acceptance of the joint committee's favorable report as amended by House Amendment "A" and passage of the bill.

THE CHAIR:

Will you remark, Senator?

SENATOR OWENS:

Yes. House Amendment "A" added the exceptions to the privilege in the provision concerning use against the case - use of the state or the defendant deleting language "voiding the privilege when the state subpoenaed the testimony of a sexual assault victim" and removed a provision which would have prohibited disclosure of the location of the center or the identity of a counselor at any administrative or legislative proceeding.

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I move adoption of that amendment.

THE CHAIR:

Will you remark further on House Amendment "A"? If not, the issue is adoption. All those in favor of House Amendment Schedule "A" will signify by saying aye. Those opposed, nay. The ayes have it. The Amendment's adopted. On the bill as amended, Senator?

SENATOR OWENS:

Yes. The bill would make confidential any communications between a victim and any battered women's or sexual assault council unless the victim were to waive confidentiality or a specific exemption to confidentiality exists. Communications would include information transmitted between the victim and counselor. I wanted to point out, this was a bill that was worked on with the Chief State's Attorney's Office in conjunction with the Committee on Judiciary and various associations who spent a great deal of time working this out. It's a good piece of legislation and solves serious problems that existed in the field of criminal law. I'd ask, if there's no objection, that this bill be placed on consent.

THE CHAIR:

Is there any objection to placing the item on consent? Hearing none, the matter will go on consent.

THE CLERK:

Calendar 720, File No. 980, Substitute for Senate Bill No. 645. An Act Reestablishing The Connecticut Siting Council, The Occupational Safety And Health Review Commission, The Commission On Human Rights And

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Mr. Clerk?

THE CLERK:

That completes the business of the day except for the consent calendar, Mr. President.

THE CHAIR:

The Clerk will make the appropriate announcement for the roll call on the consent calendar, and when the Clerk starts the consent calendar, give your attention because it's about sixty items long.

THE CLERK:

An immediate roll call has been called for in the Senate. Will all Senators please take their seats. An immediate roll call has been called for in the Senate. Will all Senators please be seated.

THE CHAIR:

Please give your attention to the Clerk who will proceed with the roll call on a consent calendar which is our second consent calendar of the day, the first having concerned ourselves with Executive and Legislative Nominations. The Clerk will proceed with the list.

THE CLERK:

On page 7, Calendar No. 239. On page 9, Calendars 689 and 690. On page 10, Calendar 696, 716, 718. Page 11, Calendar 721, 722, 723, 724, 725. Page 12, Calendars 726, 728. Page 14, Calendar 736. Page 18, Calendars 761, 763, 764, 784. Page 19, Calendars 785, 786, 787, 788 and 789. Page 20, Calendars 790, 791, 793 and 794. On page 21, Calendar 795, 796, 797, 798 and 799. Page 22, Calendar 800, 801, 804. Page 23, Calendar

SB433, HB6921,  
HB7048,  
HB5371,  
HB5542,  
HB6290, SB102,  
SB400, SB1050,  
SB450, SB608,  
SB836, SB1159,  
SB948, SB913,  
SB432, SB853,  
HB5691,  
HB7133,  
HB7063, HB7123,  
HB7179,  
HB5521,  
HB5676,

HB6164, HB6400, HB6508, HB6833, HB7012, HB7026, HB7037, HB7046,  
HB7156, HB7245, HB5385

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805, 806, 807, 808. Page 24, Calendar 810, 811, 812. Page 25, Calendar 824 and 825, 827 and 828. Calendar 26, page 26, excuse me, Calendar 829, 831, 833, 834. Page 27, Calendar 539, 283, 284. Page 28, Calendar 285, 381 and 455. Page 29, Calendar 460, 527, 532. On page 33, Calendars 77 and 119. That completes the items on today's consent calendar.

HB5351, HB5789,  
HB5110, HB6993,  
HB7126, HB7054,  
HB7067, HB7204,  
HB6876, HB5421,  
HB5555, HB6152,  
HB6703, HB7200,  
HB6883, SB651,  
SB1037, SB744,  
SB986, SB882,  
SB805, SB1110,  
SB1093, SB872,  
HB5473

THE CHAIR:

That's the consent calendar. Are there any corrections or any requests to remove any items from the consent calendar? Any questions on the consent calendar?

THE CLERK:

One more, Mr. President. It's been pointed out to me under Resolutions, Calendar No. - that was not on the consent calendar.

THE CHAIR:

Technically, 776 was adopted by a standing moment of silence and 777 on a voice vote for Resolutions. Other than that, are there any corrections? If not, the machine is open on the consent calendar. Have all Senators voted. Machine'll be closed and locked. The consent calendar is adopted 36 votes in favor and no votes against. Senator Schneller.

SENATOR SCHNELLER:

Mr. President, I would like to remind all Democratic Senators that we'll be caucusing immediately following the session in our caucus room. Hopefully if we meet promptly, we can be out in thirty, forty minutes.



JOINT  
STANDING  
COMMITTEE  
HEARINGS

JUDICIARY  
PART 5  
1522 - 1819

1983

4/7/83



April 7, 1983  
Testimony to the Judiciary Committee

Subject: HB 6290 "An Act Concerning Confidential Communication Between Victim Service Counselor and Victim"

Good Morning. My name is Charlotte Kinlock. I coordinate the CT Task Force on Abused Women. I am here today to speak in favor of HB 6290 "An Act Concerning Confidential Communication Between a Victim Counselor and a Victim".

Because Attorney Margaret Levy is also testifying I will leave the legal intricacies of the bill to her and focus on the need for privileged communication between battered women and battered women counselors.

There are 3 major reasons why this bill should receive a joint favorable report and be made law. The first is the fact that clearly the nature of the relationship between a battered woman and her counselor is of significant social importance and should be fostered. Privileged communication would be a major act of support by society for this important relationship.

According to FBI statistics a woman is beaten every 18 seconds and 1 out of 2 married women will be abused at some point during their marriage. In CT 2,140 women and children were sheltered last year while another 2,000 were turned away due to lack of space. In the same time period 25,000 crisis calls were received.

What differentiates battered women shelters from other social service agencies is not only the volume of clients served, but the life and death nature of the relationship. Any battered woman will tell you that the greatest part of her terror comes from the knowledge that she never knows if this will be the battering incident in which he goes too far, gets too angry, and kills her.

Since the subpoenaing of the Middletown shelter shelters in CT have been flooded with calls from women who are questioning whether shelters are the safe refuge that they thought they were.

Shelters can save lives, break the cycle of violence in the lives of the children, and save society untold dollars in unincurred institutional costs. But only if women know that they can come to them and have what they say to the counselors kept in confidence. Otherwise women will not use shelters when they need them. Instead of being seen as life saving refuges, shelters, like the societal institutions of the police, the courts, the medical profession, and the institute of matrimony itself, will be just one more place where the trust of battered women has been betrayed.

The second point is that the argument that the discussions and records between a battered woman and her counselor must be available to serve as corroborating evidence is false. The discussions and record keeping that occur in battered women shelters are in no way of a fact finding nature. Battered women counselors are concerned, not with getting factual information, but with giving battered women support and comfort. Any notes that are kept are of a process nature detailing the counselor's subjective appraisal of the woman herself.

The type of evidence needed to corroborate dates, times, and extent of injuries can be gotten much better from police and emergency room reports without the risk of destroying the delicate counselor-client relationship. It is hard enough for women in this society to come forth and tell a counselor that the man she loves batters her, without burdening them with the additional fear that someday their personal pain and humiliation may be aired in a court of law for the world to hear.

The final point I would like to make is the grave risk that both battered women and battered women counselors are exposed to without this bill.

Batterers are not men who push a woman around once or twice, yell at her a few times and then let it go. They will go to extreme lengths to keep their woman "under control" and they do not brook lightly with interference from anyone, especially "those women who are trying to keep his woman from him".

Because of the danger shelter workers never go to a woman's house. They always meet the woman in a public place like an emergency room and then only after they have ascertained that the woman is alone and that it is safe to approach her.

Without this bill the identity of shelter workers and the location of shelters themselves are open to examination in courts of law. In New Haven 4 years ago a battered woman was gunned down on the steps of the court house by her batterer after she testified against him. In Middletown 2 years ago a batterer found out the location of the shelter and set it on fire at 2:30 in the morning with the intent to kill everyone inside. We were lucky that time. The fire was discovered in time to evacuate everyone; the man's girlfriend wasn't even at the shelter at the time, she had been transferred to another shelter due to the danger. The fire did force the shelter to close for six months for repairs, though.

With the passage of this bill shelter workers will no longer have to rely on luck to avoid being injured or killed. They will have the security of knowing that tomorrow they cannot be subpoenaed into court and suddenly be 10 feet from a batterer who is determined to let no one stand in the way of his relationship and who, up until that point, did not know what the shelter workers name was, or what she looked like, or where the shelter was located.

For the sake of both battered women and shelter workers I ask this committee to vote favorably for this bill.

Thank You.

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To: Members of the Judiciary Committee  
From: Representative Pauline Kezer  
Re: Testimony in support of HB 6290

Connecticut's laws are silent on the confidentiality issue as applied to Battered Women's Shelters and Rape Crisis Centers. It is essential to protect the privacy of these women who seek help from these sources.

I ask your support because 6290:

- Treats counselors in these shelters and centers in the same manner that physicians, psychiatrists, and clergy are treated regarding their clients.
- Does allow the person to release her records if she wants to use them for any purpose. However, it does prevent the counselor from releasing them.
- Protects the identity of the counselor and the location of the shelter or center.

I am concerned about the trend of broadening existing statutes. Therefore, this bill has been carefully drafted to clearly define a "counselor", a "shelter", and a "rape crisis center". This bill is modeled after a similar Pennsylvania law and a more recent New Jersey law. The Massachusetts and Rhode Island legislatures are also considering similar legislation.

I urge the passage of this bill.

A22 Thursday, February 3, 1983

# The Hartford Courant

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## EDITORIALS

### Privacy for Women's Shelters

Clergymen do not have to reveal their parishioners' confidences to grand juries. Psychiatrists, other doctors and lawyers can protect their discussions with clients. Husbands and wives aren't compelled to testify against each other.

The state already recognizes the private nature of some relationships, even when this confidentiality might interfere with a grand jury's important work. But a recent case in Middletown shows that discussions between counselors and clients of a shelter for battered women are unprotected.

In the Middletown case, a grand jury was looking into the murder of a man whose wife had been to the New Horizons Shelter. The jury subpoenaed records about the woman, and the subpoena was upheld by Judge Daniel F. Spallone. A shelter should not be afforded privileges that are denied other special organizations, he argued.

The shelter turned over the records after Judge Spallone promised to delete references to the shelter address and workers. He also ordered the records sealed after the grand jury has reviewed them.

Shortly thereafter, the woman was charged with murder.

Society has a legitimate interest in collecting information that might be relevant to a murder case. But there also should be con-

cern about women who — often desperate and alone — turn to a shelter for sanctuary.

Like a psychiatrist's clinic or a clergyman's office, a battered women's shelter ought to be a place where women can confidently seek the private help they need to put their lives in order. Grand jury information is sometimes made public.

The Middletown case is apparently the first of its kind in Connecticut, but the question has come up elsewhere. Earlier in January, officials at the Rhode Island Rape Crisis Center, who had received three subpoenas for records, burned 2,000 client folders. In 1981, the Pennsylvania Supreme Court upheld the right to privacy at a women's shelter.

Connecticut law apparently does not clearly protect such confidentiality. If that is the case, the Legislature ought to pass a law that leaves no room for doubt. Two state representatives — Democrat Betsy B. Gibson of New London and Republican Pauline R. Kezer of Plainville — have introduced a women's shelter confidentiality bill.

Grand juries need leverage to investigate cases that come before them, but other considerations sometimes have to take precedence. Legal lines should be — and have been — drawn.

If there is room for doubt, Connecticut should see to it that these lines protect the abused people who turn to a shelter for help.

HB 6290

THE STAR-LEDGER, Friday, April 1, 1983

## New rape law shields notes

By TOM JOHNSON

Gov. Thomas Kean yesterday signed a bill that protects the confidentiality of communications between rape victims and rape counselors.

The legislation (A-1500), sponsored by Assemblyman Richard Zimmer (R-Hunterdon), also frees a counselor from being required to testify in court concerning information supplied by the victim.

"This legislation strengthens our efforts to protect the rights of crime victims and to protect the rights of women," said Kean, during a public signing ceremony in his office.

"Establishing this kind of confidential relationship is a most logical and proper step," the Governor said. "Rape is one of the most violent of crimes, psychologically as well as physically."

Kean said counselors are in a position to help victims overcome the trauma of an assault and to provide the kind of support so desperately needed. "Given these circumstances, there is, in my view, no reason to compel a counselor to recount what is a most private conversation," he said.

Zimmer said the need for the legislation was vividly demonstrated by the recent jailing for contempt of a Rhode Island rape counselor who refused to turn over the notes of her counseling session with a 15-year-old rape victim to the alleged rapist's attorney.

"With the passage of this legislation, a victim of rape can be assured that the information she gives to her counselor will be kept confidential," Zimmer said.

"Counseling may well mean the difference between a recovery from the experience and lifelong emotional scars," Zimmer said. "If the victim fears that what she says to her counselor may be used in court to discredit her or to set her attacker free, the victim may be discouraged from seeking the aid she so desperately needs."

The law goes into effect immediately.

HB 6290

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TESTIMONY IN SUPPORT OF PB #6290

AN ACT CONCERNING CONFIDENTIAL COMMUNICATIONS BETWEEN  
VICTIM SERVICE COUNSELOR AND VICTIM

April 7, 1983

by

Sue Ellen Bordwell, ACSW  
Executive Director  
NASW, CT

Chairman Owens, Chairman Tulisano, members of the Judiciary Committee: I am here to speak in favor of Proposed Bill 6290, An Act Concerning Confidential Communications Between Victim Service Counselor and Victim.

My name is Sue Ellen Bordwell, Executive Director of the National Association of Social Workers, Connecticut Chapter. Our Chapter represents over 2,000 professional social workers, most of whom are daily confronted with the issues of confidentiality and the need for the protection of privileged communication.

The client's right to confidential communication with a counselor has long been the cornerstone of the helping process. While the issues involved are complex, I would like to address the following questions:

1. Why is the privilege of protected communication important?

2. What happens when protection is not guaranteed?

First, a counselor becomes privy to the client's innermost secrets. Victims of domestic violence had long been ignored by society and its agencies because it occurred behind closed doors and the privacy of the domicile. In seeking to escape the violence, a victim must often include a third person-a counselor- to the private horrors of abuse and violence. This/<sup>is,</sup> in a sense, an expansion of her domicile, expanded in order to receive help.



In order to help, counselors need to work in full co-operation and in full knowledge of the victim's circumstances. Divulging adequate knowledge, the trust in sharing that knowledge and the faith that the knowledge will only be used to address the specific problem for which it is shared is crucial to the helping process. Trusting and therefore helping relationships need assurance that confidence will be maintained.

What happens when that assurance is threatened or prevented by outside forces is not hard to predict. To the victim, it may mean the difference between seeking help, obtaining help or inaction. For victims of violence, that choice is often a choice between life and death. To the counselor, it may mean the deletion of relevant recorded data and loss of significant information, raising serious concerns for the counselor's ability to provide adequate services. Incomplete information could lead to incorrect interpretations. For agencies, the knowledge that records are not protected may lead to double record sets or destruction of records-a real cause for concern.

Shelters and victim services sprang primarily from a grass-roots, feminist, volunteer committment into a highly visable, politically popular atmosphere of high public interest and sympathy. "Women, most without prior social service experience-have put together effective low-budget programs..." Professionals have come late, if at all, to these services. If the victim service counselors and the programs are to maintain credibility and effectiveness the staff and victims must feel secure and unthreatened.

My name is Nancy Anderson and I am here to testify on behalf of the Bill # 6290 ensuring confidentiality between counselor and client. I was a victim of rape at fourteen years old and was assaulted no less than ten times by my step-father when I was between the ages of twelve and sixteen. In our household discipline was tough. Punishment came in the form of a belt buckle on a bare behind. Remembering those years is like going back into a darkness, feeling some omnipresent fear. The only people who knew what was going on between my step-father and myself were we two. It was made very clear to me that life could be worse and would be if it was discovered I talked to anyone about him. He never gave me any reason to believe it was an idle threat.

My mother knew I had problems, but she was confused and I think defensive about their origins. She also loved my step-father very much, as she still does. When I began seeking attention in inappropriate ways, my mother used punishment (on my step-father's advice) rather than deal with what was going on. When I was caught skipping a class at school, my step-father told my mother and the school counselors he was sure I spent that time in the woods with some guy. He told them I was "that kind of a girl" and he then demanded the school keep closer surveillance of me. No one ever asked me where I really was when I wasn't in class. I was busy socializing through all the lunch modules working over-time at being accepted with the "in" crowd. School was my only escape from home.

As previously stated, I was raped at fourteen. It could have been a blessing in disguise and almost was. My mother and step-father came home from the laundramat one night and heard me screaming and fending off an attack. My step-father caught the guy as he tried to escape. My mother was very supportive and sympathetic. For the first time in years I felt comforted and warmed by her. Sometime between that night and the trial, however, the support began to wane and soon turned to mistrust and disbelief. Somewhere along the line I ceased being a victim.

I had been instructed not to talk to anyone about what had happened so I didn't so now I was really going crazy. My guilt was overwhelming. My step-father was feeding my mother how he thought everything had happened, and I guess she thought that made sense. The trial ended up being declared a mistrial because of an emotional outburst from my mother in the midst of the defence atty's summation to the jury describing a fourteen year old slut. Neither my mother nor step-father talked to me for days. My step-father assaulted me twice that week though.

To recall these experiences is like going back to the dark ages. There was no one available to help me to understand I was not to blame for all this. There was only an incredible and unshakable fear of my mother finding out, confronting my step-father who had the power to make my mother believe what he wanted her to. I lived with these shadows for years, and am only now beginning to see what it has done to me and work at undoing the damage. I don't ask for sympathy, I just need to see change. I need to know that other young girls <sup>are</sup> will not

being assaulted behind closed doors. Families are not always what we would like them to be. It is because of this that we need to offer anyone who might be a victim someone to help them through it, someone they can trust, so that person might gain the strength and objectivity necessary to make the correct choice in dealing with the issue. They need to know someone does care, understand and believe them, someone they can trust. Without the assurance of confidentiality there is no one they can trust. The assurance my work with a counselor would not be available to the courts would have encouraged me to seek help in these years of suffering. I believe that help would have decreased the emotional impact of my victimization. I urge you to support Bill# 6290 so that others will not have to suffer as I did.

My name is Karen Prince and I am a counselor at the Sexual Assault Crisis Service of Waterbury. I am here to testify in support of Bill #6 which provides for privileged communications made to counselors in rape crisis or battered women's centers.

In my year as a counselor, I have provided crisis counseling and long term follow-up to four women who were sexually assaulted. In addition, I have conducted weekly group sessions for adult incest survivors. These experiences and the extensive reading that I have done in the field convince me that the client's understanding that the information shared during our sessions will be confidential is crucial to her ability to regain her emotional stability.

As a counselor, the protection of privileged communication would enhance my effectiveness with my clients. The knowledge that I will not be obligated to disclose confidential information shared with me by my client would free me to elicit additional information, especially that information pertaining to my client's deep feelings and perceptions about her assault. To truly help my client work through these feelings, I need to be able to assure her that she can confide in me without danger of the information going any further.

Counseling effectiveness would also be enhanced by greater detail in written reports if the counselor was protected by privileged communication. This is especially important in long term cases because it enables the counselor to observe the client's progress and to objectively assess the treatment approach.

My primary responsibility, as a counselor, is to the health and well being of my client. Being able to assure her of the confidentiality of the information we share in our sessions is essential to her recovery.

TESTIMONY

by

MARK MASSELLI

DIRECTOR OF COMMUNITY HEALTH CENTER  
MIDDLETOWN, CT

on

AN ACT CONCERNING CONFIDENTIAL COMMUNICATIONS  
BETWEEN VICTIM SERVICE COUNSELOR AND VICTIM

before

JUDICIARY COMMITTEE

STATE CAPITOL  
HARTFORD, CT.

HB 6290

Good Morning

I am Mark Masselli, Executive Director of the Community Health Center, a private, non-profit health and human service organization located in Middletown, which provides health and social services to the poor and working poor and which has been operating for the past two years the only shelter for battered women and their children in Middlesex County with a population of approximately 100,000.

The shelter called New Horizon provides safe temporary refuge for those who have been victimized by domestic violence. It is open 24 hours a day, seven days a week.

I am here today to testify in support of the House Bill #6290, An Act Concerning Confidential Communication Between Service Victim Counselors and Victims.

The issues of confidentiality and privileged communication are of prime importance in successfully operating battered women's shelters and rape crisis centers. Many women who come to the shelters (and rape crisis centers) have been through very traumatic situations involving emotional and physical abuse and sexual assault.

They need counseling and supportive services, which may involve sharing extremely private, painful and sensitive information and feelings. They may find this the only place and the only persons in whom they can confide and place their trust at the time. The nature of the environment requires the utmost promise and need for protection of confidentiality covering verbal and written communications.

Although we have always been aware generally of the need for privileged communication in this regard, we experienced rather compelling, firsthand reasons earlier this year, when a resident of our shelter had claimed "privileged communication" during a Grand Jury investigation into her husband's death, when the Court subpoenaed the file pertaining to her stay at the shelter.

While there existed no state statute granting confidentiality, we at the Health Center felt an obligation to resist making public any information which we felt should remain confidential. In this particular case, amid extraordinary circumstances and media coverage, in spite of legal attempts to subpoena the records, we managed to gain limited protection against disclosure of the shelter's location and the names of staff personnel and to have a double seal placed on the record

before it was turned over to the Grand Jury.

Our Motion to Quash the Subpoena cited the need for confidentiality and that relinquishment would cause great injury to the functional existence of battered women's shelters, and that potential harm would outweigh any inconvenience to the state. Our Motion for Protective Order sought to restrain confidential information about the shelter on grounds that revelation could cause reprisals by irate spouses or partners and that women would be seriously deterred from using the shelter. In overruling the Motion to Quash, the Judge cited the lack of state statute. He did however agree to delete specific information about the shelter before releasing the files recognizing the importance of the confidential nature of these items.

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However, the broader aspects of the issue and the underlying significance of our experience, which is being dealt with in other states, also, deserves our closer examination in order to understand more fully the nature of the need.

In a recent court case in the State of Pennsylvania, involving a rape case, the Director of the Rape Crisis Center invoked the privilege of confidential communication with her client but was overruled on the basis of the need for the truth. However, the author of the dissenting opinion in the appeal of this decision, made some telling observations about confidentiality and gave an eloquent basis for disagreeing with the majority decision, which is worth noting. He also recommended that the common law be expanded to recognize the testimonial privilege for all communications between rape victims and rape center counselors.

In his argument, he referred to Dean Wigmore's criteria for confidentiality as the acid test of whether a matter should be granted this privilege.

These criteria include:

1. The communication must originate in the confidence that it will not be disclosed; 2) The element of confidentiality must be essential to the full and satisfactory maintenance of the relationship between the parties; 3) The relationship must be one which the community sees ought to be sedulously fostered; and 4) The injury that inure to the relationship by the disclosure of the communication must be greater than the benefit gained for the correct disposal of litigation.

He further cited the revolution that has taken place in the social sciences, which has spawned new professions administering psychotherapy, in addition to the more traditional psychiatrists who customarily have been granted privileged communication with their patients and clients, similarly to the clergy, attorneys and their clients and in some cases, physicians



The Justice in this case felt it was the function that needed protection not just a particular group or class of individuals that this privilege was designed to protect. Subsequent to this ruling, Penn. did pass a law guaranteeing privileged communications.

In following up our court case, the Hartford Courant, in its lead editorial on February 3rd, called for PRIVACY FOR WOMEN' SHELTERS. It stated and I quote:

" Society has a legitimate interest in collectin information that might be relevant to a murder case. But there also should be concern about women who--often desperate and alone--turn to a shelter for sanctuary....Like a psychiatrist's clinic or clergyman's office , a battered women's shelter ought to be a place where women can confidently seek the private help they need to put their lives in order. Grand Jury information is sometimes made public."

The bill being considered by this body would provide protection and confidentiality for all communication between victim service counselors and victims, and assure the privacy of shelter information. These are necessary and fundamental needs. What we are asking for is something that other states are already addressing or considering. Some have passed laws regulating privacy for rape centers and victim's communications. As Judge Spallone, in our case, stated in recognizing the need for confidentiality for shelters and I quote: Obviously this operation (New Horizons) operating under privileges is going to operate better. There is no question in my mind, no question in any intelligent person's mind, it is going to work better. He also suggested that if there is a need for that kind of privilege then you should go to the state legislature and try to get it passed."

That is the objective and the opportunity being offered us. I strongly urge your support for this critical piece of legislation. Thank you for this opportunity to testify.

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4-7/83

Testimony in Support of HB 6290  
"An Act Concerning Confidential Communications  
Between Victim Service Counselor and Victim"  
Before Judiciary Committee, April 7, 1983

Good afternoon. My name is *MARGARET LEVY* I am testifying today in support of HB 6290, "An act concerning confidential communications between victim service counselor and victim."

The issue of privileged communication between battered women and sexual assault counselors and victims has recently come to the fore in Connecticut. The incident in Middletown has made us more aware of the need for a legal guarantee of privileged communication between victim service counselors and victims. HB 6290 would do this by making such communications privileged and providing that the counselor shall not disclose those communications in a civil or criminal proceeding, unless that privilege has been waived by the victim. It is important to note that the victim is the "holder" of the privilege, not the counselor, similar to the patient in the doctor-patient relationship. The victim can waive the privilege at any time. This would require the release of any pertinent information.

A similar situation was the impetus for the recent Pennsylvania law granting privileged communication to sexual assault counselors and their victims (42 Pa.C.S.A. Sec. 5945, 1981). The law was the result of a Pennsylvania Supreme Court case in which a contempt charge was brought against the executive director of a rape crisis center who refused to disclose counselor-victim communications. The Court ruled that upon the request of defendants, a trial judge could review victim records and exclude statements that did not bear on facts of the alleged offenses before allowing the defense attorney to see them. A dissenting opinion went further to say that "no therapeutic relationship can ever begin when there exists the threat of any breach of privacy." (482 A. 2d 126, 1981) Realizing that the Court had not gone far enough to protect victims, the Pennsylvania legislature passed a privileged communication statute eleven months later. Several other states have also passed similar legislation including California (3 Evid. Code Sec. 1035) and Minnesota (Witnesses Sec. 595.02).

Privileged communication already exists in Connecticut. The Connecticut General Statutes already protect communications with attorneys, teachers, juvenile judges and spouses. HB 6290 would add to a list of already privileged helping relationships, including those communications to psychologists (Sec. 52-146c), psychiatrists (Sec. 52-146d) and clergymen (Sec. 52-146b). The nature of these relationships are essentially the same as that of the victim service counselor and victim. Confidentiality is vital to that relationship.

John Henry Wigmore, Professor of Law and Dean of Faculty at Northwestern University in Illinois, authored the most exhaustive and authoritative treatise on evidence. In it he recognized the public

interest function involved in keeping the communications in various relationships privileged. He outlined four general categories into which a communication must fall in order to be properly granted privilege:

- "(1) the communication must originate in confidence that it will not be disclosed
- (2) the element of confidentiality must be essential to the full and satisfactory maintenance of the relationship between the parties
- (3) the relationship must be one which in the opinion of the community ought to be sedulously fostered
- (4) the injury that would inure to the relationship by the disclosure of the communication must be greater than the benefit thereby for the correct disposal of litigation." [8 Wigmore, Evidence Sec. 2285 at p. 527; (McNaughton rev. 1961)]

Communications between victims and victim service counselors could easily fit into any of the above categories. Confidentiality is vital to the victim-victim counselor relationship and society has an obligation to protect victims of abuse.

In closing, I would urge you to support HB6290. There is more than adequate legal precedent to support the passage of this Bill and guarantee privileged communication to victim service counselors and victims. Thank you.