

CALIFORNIA CODES EVIDENCE CODE
SECTION 1037-1037.7

1037. As used in this article, "victim" means any person who suffers domestic violence, as defined in Section **1037.7**.

1037.1. As used in this article "domestic violence counselor" means any of the following:

- (a) A person who is employed by any organization providing the programs specified in Section 18294 of the Welfare and Institutions Code, whether financially compensated or not, for the purpose of rendering advice or assistance to victims of domestic violence, who has received specialized training in the counseling of domestic violence victims, and who meets one of the following requirements:
 - (1) Has a master's degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in the counseling of domestic violence victims.
 - (2) Has at least 40 hours of training as specified in this paragraph and is supervised by an individual who qualifies as a counselor under paragraph (1); or is a psychotherapist, as defined in Section 1010. The training, supervised by a person qualified under paragraph (1), shall include, but need not be limited to, the following areas: history of domestic violence, civil and criminal law as it relates to domestic violence, societal attitudes towards domestic violence, peer counseling techniques, housing, public assistance and other financial resources available to meet the financial needs of domestic violence victims, and referral services available to domestic violence victims.
- (b) A person who is employed by any organization providing the programs specified in Section 13835.2 of the Penal Code, whether financially compensated or not, for the purpose of counseling and assisting victims of domestic violence, and who meets one of the following requirements:
 - (1) Is a psychotherapist as defined in Section 1010; has a master's degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in counseling victims of domestic violence.
 - (2) Has the minimum training for counseling victims of domestic violence required by guidelines established by the employing agency pursuant to subdivision (c) of Section 13835.10 of the Penal Code, and is supervised by an individual who qualifies as a counselor under paragraph (1). The training, supervised by a person qualified under paragraph (1), shall include, but not be limited to, the following areas: law, victimology, counseling techniques, client and system advocacy, and referral services.

1037.2. As used in this article, "confidential communication" means information transmitted between the victim and the counselor in the course of their relationship and in confidence by a means which, so far as the victim is aware, discloses the information to no third persons other than those who are present to further the interests of the victim in the consultation or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the domestic violence counselor is consulted. It includes all information regarding the facts and circumstances involving all incidences of domestic violence, as well as all information about the children of the victim or abuser and the relationship of the victim with the abuser.

The court may compel disclosure of information received by a domestic violence counselor which constitutes relevant evidence of the facts and circumstances involving a crime allegedly perpetrated against the victim or another household member and which is the subject of a criminal proceeding, if the court determines that the probative value of the information outweighs the effect of disclosure of the information on the victim, the counseling relationship, and the counseling services. The court may compel disclosure if the victim is either dead or not the complaining witness in a criminal action against the perpetrator. The court may also compel disclosure in proceedings related to child abuse if the court determines that the probative value of the evidence outweighs the effect of the disclosure on the victim, the counseling relationship, and the counseling services.

When a court rules on a claim of privilege under this article, it may require the person from whom disclosure is sought or the person authorized to claim the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the person authorized to claim the privilege and such other persons as the person authorized to claim the privilege consents to have present. If the judge determines that the information is privileged and shall not be disclosed, neither he nor she nor any other person may disclose, without the consent of a person authorized to permit disclosure, any information disclosed in the course of the proceedings in chambers.

If the court determines that information shall be disclosed, the court shall so order and inform the defendant in the criminal action. If the court finds there is a reasonable likelihood that any information is subject to disclosure pursuant to the balancing test provided in this section, the procedure specified in subdivisions (1), (2), and (3) of Section 1035.4 shall be followed.

1037.3. Nothing in this article shall be construed to limit any obligation to report instances of child abuse as required by Section 11166 of the Penal Code.

1037.3. As used in this article, "holder of the privilege" means:

- (a) The victim when he or she has no guardian or conservator.
- (b) A guardian or conservator of the victim when the victim has a guardian or conservator.

1037.4. A victim of domestic violence, whether or not a party to the action, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a domestic violence counselor if the privilege is claimed by any of the following persons:

- (a) The holder of the privilege.
- (b) A person who is authorized to claim the privilege by the holder of the privilege.
- (c) The person who was the domestic violence counselor at the time of the confidential communication. However, that person may not claim the privilege if there is no holder of the privilege in existence or if he or she is otherwise instructed by a person authorized to permit disclosure.

1037.6. The domestic violence counselor who received or made a communication subject to the privilege granted by this article shall claim the privilege whenever he or she is present when the communication is sought to be disclosed and he or she is authorized to claim the privilege under subdivision (c) of Section **1037.5**.

1037.7. As used in this article, "domestic violence" means "domestic violence" as defined in Section 6211 of the Family Code.