

Article - Courts and Judicial Proceedings

§9-121.

(a) (1) In this section the following words have the meanings indicated.

(2) “Client” means a person who communicates to or receives services from a licensed certified social worker regarding his mental or emotional condition, or from any other person participating directly or vitally with a licensed certified social worker in rendering those services, in consultation with or under direct supervision of a licensed certified social worker.

(3) “Licensed certified social worker” means any person licensed as a certified social worker under Title 19 of the Health Occupations Article.

(4) “Witness” means a licensed certified social worker or any other person participating directly or vitally with a licensed certified social worker in rendering services to a client, in consultation with or under direct supervision of a licensed certified social worker.

(b) Unless otherwise provided, in all judicial or administrative proceedings, a client has a privilege to refuse to disclose, and to prevent a witness from disclosing, communications made while the client was receiving counseling or any information that by its nature would show that such counseling occurred.

(c) If a client is incompetent to assert or waive this privilege, a guardian shall be appointed and shall act for the client. A previously appointed guardian has the same authority.

(d) There is no privilege if:

(1) A disclosure is necessary for the purpose of placing the client in a facility for mental illness;

(2) A judge finds that the client, after being informed there will be no privilege, makes communications in the course of an examination ordered by the court;

(3) In a civil or criminal proceeding:

(i) The client introduces the client’s mental condition as an element of the claim or defense; or

(ii) After the client's death, the client's mental condition is introduced by any party claiming or defending through or as a beneficiary of the client;

(4) The client or the personal representative of the client makes a claim against the licensed certified social worker for malpractice;

(5) The client expressly consents to waive the privilege, or in the case of death or disability, the client's personal representative waives the privilege for purpose of making a claim or bringing suit on a policy of insurance on life, health, or physical condition;

(6) In a criminal proceeding against a client or former client alleging that the client or former client has harassed or threatened or committed another criminal act against the licensed certified social worker, the disclosure is necessary to prove the charge;

(7) In a peace order proceeding under Title 3, Subtitle 15 of this article in which the licensed certified social worker is a petitioner and a client or former client is a respondent, the disclosure is necessary to obtain relief; or

(8) In an extreme risk protective order proceeding under Title 5, Subtitle 6 of the Public Safety Article in which the licensed certified social worker is a petitioner and a client or former client is a respondent, the disclosure is necessary to obtain relief.

(e) There is no privilege in:

(1) Any administrative or judicial nondelinquent juvenile proceeding;

(2) Any guardianship and adoption proceeding initiated by a child placement agency;

(3) Any guardianship and protective services proceeding concerning disabled persons; or

(4) Any criminal or delinquency proceeding in which there is a charge of child abuse or neglect or which arises out of an investigation of suspected child abuse or neglect.