

1 for themselves, advice, counseling, or assistance concerning a mental,
2 physical, or emotional condition caused or reasonably believed to be
3 caused by the domestic violence against the victim.

4 (5) Rape crisis center. – Any publicly or privately funded agency,
5 institution, organization, or facility that offers counseling and other
6 assistance to victims of sexual assault and their families.

7 (6) Sexual assault. – Any alleged violation of G.S. 14-27.2, 14-27.3, 14-
8 27.4, 14-27.5, 14-27.7, 14-27.7A, or 14-202.1, whether or not a civil or
9 criminal action arises as a result of the alleged violation.

10 (7) Sexual assault victim. – Any person alleging sexual assault, who
11 consults an agent of a rape crisis center for the purpose of obtaining,
12 for themselves, advice, counseling, or other assistance concerning
13 mental, physical, or emotional injuries suffered as a result of sexual
14 assault. The term shall also include those persons who have a
15 significant relationship with a victim of sexual assault and who have
16 sought, for themselves, advice, counseling, or assistance concerning a
17 mental, physical, or emotional condition caused or reasonably believed
18 to be caused by sexual assault of a victim.

19 (8) Victim. – A sexual assault victim or a domestic violence victim.

20 (b) Privileged Communications. – No agent of a center shall be required to
21 disclose any information which the agent acquired during the provision of services to a
22 victim and which information was necessary to enable the agent to render the services
23 set forth in subsections (a)(3) and (a)(7); provided, however, that this subsection shall
24 not apply where the victim waives the privilege conferred. Any resident or presiding
25 judge in the district in which the action is pending may compel disclosure, either at the
26 trial or prior thereto, if the court finds, by clear and convincing evidence, a good faith,
27 specific, and reasonable basis for believing that (i) the records or testimony sought
28 contain information that is relevant and material to factual issues to be determined in a
29 civil proceeding, or is relevant, material, and exculpatory upon the issue of guilt, degree
30 of guilt, or sentencing in a criminal proceeding for the offense charged or any lesser
31 included offense, (ii) the evidence is not sought merely for character impeachment
32 purposes, and (iii) the evidence sought is not merely cumulative of other evidence or
33 information available or already obtained by the party seeking the disclosure or the
34 party's counsel. If the case is in district court, the judge shall be a district court judge,
35 and if the case is in superior court, the judge shall be a superior court judge.

36 Before allowing disclosure, the court must find that the party seeking disclosure has
37 made a sufficient showing that the records are likely to contain information subject to
38 disclosure under this subsection. If the court finds a sufficient showing has been made,
39 the court shall receive the records under seal and examine the records in camera and
40 may allow disclosure of those portions of the records which the court finds contain
41 information subject to disclosure under this subsection. After all appeals in the action
42 have been exhausted, any records received by the court under seal shall be returned to

1 the center, unless otherwise ordered by the court. The privilege afforded under this
2 subsection terminates upon the death of the victim.

3 (c) Duty to Report Abuse or Neglect. – Nothing in the section shall be construed
4 to relieve any person of any duty pertaining to reporting abuse or neglect as required by
5 law."

6 **SECTION 2.** This act becomes effective December 1, 2001, and applies to
7 all actions and proceedings pending in the courts of this State on or after that date.