

SUPREME COURT OF NEW JERSEY

It is ORDERED that, pursuant to N.J.S.A. 2A:84A-38 and in conformance with L. 2015, c. 138, which amended N.J.S.A. 2A:84A-22, the attached amendment to **N.J.R.E. 509** of the New Jersey Rules of Evidence is adopted effective retroactive to November 9, 2015.

For the Court,



Chief Justice

Dated: December 8, 2015

Rule 509. Marital Privilege -- Confidential Communications

Except as otherwise provided in this rule, no [No] person shall disclose any communication made in confidence between such person and his or her spouse or civil union partner. There is no privilege under this rule (a) if [unless] both spouses or partners [shall] consent to the disclosure [or unless]; (b) if the communication is relevant to an issue in an action between [them or] the spouses or partners; (c) in a criminal action or proceeding in which either spouse or partner consents to the disclosure [, or]; (d) in a criminal action or proceeding coming within Rule 501(2); or (e) in a criminal action or proceeding if the communication relates to an ongoing or future crime or fraud in which the spouses or partners were or are joint participants at the time of the communication. When a spouse or partner is incapacitated or deceased, consent to the disclosure may be given for such spouse or partner by the guardian, executor or administrator. The requirement for consent shall not terminate with divorce, dissolution of a civil union, or separation. A communication between spouses or partners while living separate and apart under a divorce from bed and board or legal separation from a partner in a civil union shall not be a privileged communication.

HISTORY: Adopted September 15, 1992 to be effective July 1, 1993; section 2A:84A-22 amended by the Legislature, L. 1992, c. 142, § 2, effective Nov. 17, 1992; amended by the Legislature, L. 2015, c. 138, effective November 9, 2015, with conforming amendment to the rule adopted December 8, 2015 to be effective retroactive to November 9, 2015.