

Commonly-Recognized Privileges Table

See the Michigan Judicial Institute's *Evidence Benchbook*, Chapters 1.

Privilege	Authority
Attorney-client privilege	MCL 767.5a(2) ¹ ; MRPC 1.6
Attorney work product privilege ²	MCR 2.302(B)(3)(a)
Clergy-penitent privilege ³	MCL 767.5a(2)
Confidential communication to crime stoppers organization	MCL 600.2157b
Confidential informant (for journalists)	MCL 767.5a(1)
Confidential informant (for police)	<i>People v Underwood</i> , 447 Mich 695, 703-707 (1994)
CPA-client privilege	MCL 339.732
Dentist-patient privilege	MCL 333.16648
Hospital records-peer review privilege	MCL 333.21515
Mediation communications	MCR 2.411(C)(5); MCR 2.412
Physician-patient privilege	MCL 600.2157; MCL 767.5a(2)
Polygraph examiner privilege	MCL 338.1728(3)
Privilege against self-incrimination	US Const, Am V; Const 1963, art 1, § 17

Privilege	Authority
Probation records and reports	MCL 791.229
Psychologist-patient privilege ⁴	MCL 333.18237
School official-student privilege	MCL 600.2165
Spousal communication privilege	MCL 600.2162
Trade secrets	MCR 2.302(C)(8)

1. See *People v Joly*, 336 Mich App 388, 401-407 (2021), for discussion of how a knowing breach of attorney-client privilege by the government may constitute a due process violation.
2. The work-product privilege extends to “notes, working papers, memoranda or similar materials” that “were prepared in anticipation of litigation,” and the privilege applies “without regard to whether [the material was] prepared by an attorney or by some other person and whether such other person was engaged by an attorney.” *D’Alessandro Contracting Group, LLC v Wright*, 308 Mich App 71, 77-78 (2014) (quotation marks and citation omitted). MCR 2.302(B)(3)(a) “protects drafts of any interrogatory answer required under [MCR 2.302(B)(4)(a)(i)], regardless of the form in which the draft is recorded,” and “communications between the party’s attorney and any expert witness under [MCR 2.302(B)(4)], regardless of the form of the communications, except to the extent that the communications: (i) relate to compensation for the expert’s study or testimony; (ii) identify facts or data that the party’s attorney provided and that the expert considered in forming the opinions to be expressed; or (iii) identify assumptions that the party’s attorney provided and that the expert relied on in forming the opinions to be expressed.” MCR 2.302(B)(4)(e)-(f).
3. MCL 600.2156 (a provision often cited as one of the clergy-penitent privileges) “does not qualify as an evidentiary privilege.” *People v Bragg*, 296 Mich App 433, 453 (2012).
4. “The psychologist-patient privilege also extends to social workers.” *People v Cowhy*, 330 Mich App 452, 468 n 7 (2019).