

The House Committee on Judiciary offers the following substitute to HB 1184:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 24 of the Official Code of Georgia Annotated, relating to
2 privileges relative to evidence, so as to provide a privilege for participation in victim
3 centered programs; to provide for definitions; to provide for limitations; to provide for civil
4 immunity for facilitators in certain circumstances; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 5 of Title 24 of the Official Code of Georgia Annotated, relating to privileges
9 relative to evidence, is amended by revising paragraphs (8) and (9) of and adding a new
10 paragraph to subsection (a) of Code Section 24-5-501, relating to certain communications
11 privileged, to read as follows:

12 "(8) Communications between or among any psychiatrist, psychologist, licensed clinical
13 social worker, clinical nurse specialist in psychiatric/mental health, licensed marriage and
14 family therapist, and licensed professional counselor who are rendering psychotherapy
15 or have rendered psychotherapy to a patient, regarding that patient's communications
16 which are otherwise privileged by paragraph (5), (6), or (7) of this subsection; ~~and~~

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17 (9) Communications between accountant and client as provided by Code Section
18 43-3-29; and
19 (10) Communications made in the context of victim centered practices or victim-offender
20 dialogues as provided for in Code Section 24-5-511."

21 **SECTION 2.**

22 Said chapter is further amended by adding a new Code section to read as follows:

23 "24-5-511.

24 (a) As used in this Code section, the term:

25 (1) 'Facilitator' means a person who is trained to facilitate a victim centered practice or
26 victim-offender dialogue.

27 (2) 'Party' means a person, including a facilitator, a victim, an offender, a community
28 member, and any other participant, who voluntarily consents to participate with others
29 in a victim centered practice or victim-offender dialogue.

30 (3) 'Proceeding' means any legal action subject to the laws of this state, including, but
31 not limited to, civil, criminal, juvenile, or administrative hearings.

32 (4) 'Victim centered practice' or 'practice' means a gathering in which parties gather to
33 identify and respond to wrongdoing, repair harm, reduce the likelihood of further harm,
34 and strengthen community ties by focusing on the needs and obligations of all parties
35 involved through a participatory process.

36 (5) 'Victim-offender dialogue' or 'dialogue' means a process in which the victim of a
37 crime, or his or her surviving family members, and the offender who committed the crime
38 meet in a secure setting to engage in a dialogue facilitated by a facilitator with the goal
39 of repairing harm and addressing trauma.

40 (b)(1) Any communication or action made at any time while preparing for or
41 participating in a victim centered practice or a victim-offender dialogue or as a follow-up
42 to such practice or dialogue, or the fact that such practice or dialogue has been planned

43 or convened, shall be privileged and shall not be referred to, used, or admitted in any
44 civil, criminal, juvenile, or administrative proceeding unless such privilege is waived.
45 Such waiver may be made during the proceeding or in writing by the party or parties
46 protected by the privilege. Privileged information shall not be subject to discovery or
47 disclosure in any judicial or extrajudicial proceeding and shall not be subject to public
48 inspection as provided by Article 4 of Chapter 18 of Title 50.

49 (2) Parties of a victim centered practice or victim-offender dialogue may refuse to
50 disclose communications relating to a victim centered practice or victim-offender
51 dialogue and prevent others from disclosing such communications.

52 (3) Any waiver of privilege shall be limited to the participation and communications of
53 the waiving party only, and the participation or communications of any other participant
54 shall remain privileged unless waived by such other participant.

55 (c) Evidence that is created or discovered outside of the victim centered practice or
56 victim-offender dialogue shall not become inadmissible or protected from discovery solely
57 because it was discussed or used in a victim centered practice or victim-offender dialogue.

58 (d) The privilege afforded by this Code section shall not extend to a situation in which:

59 (1) There are threats of imminent violence to self or others; or

60 (2) The facilitator believes that a child is being abused or that the safety of any party or
61 other person is in danger.

62 A court, tribunal, or administrative body may require a report on a victim centered practice
63 or victim-offender dialogue, but such report shall be limited to the fact that a practice or
64 dialogue has taken place and whether further practices or dialogues are expected.

65 (e) The privilege created by this Code section shall not be grounds to fail to comply with
66 mandatory reporting requirements as set forth in Code Section 19-7-5 or Chapter 5 of
67 Title 30, the 'Disabled Adults and Elder Persons Protection Act.'

68 (f) No facilitator shall be held liable for civil damages for any statement, action, omission,
69 or decision made in the course of a victim centered practice or victim-offender dialogue
70 unless that statement, action, omission, or decision is:
71 (1) Grossly negligent and made with malice; or
72 (2) Made with willful disregard for the safety or property of any party to the victim
73 centered practice or victim-offender dialogue."

74 **SECTION 3.**

75 All laws and parts of laws in conflict with this Act are repealed.