

CAMPUS ADVOCATE CONFIDENTIALITY AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Angela Romero

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions related to confidential communications for advocacy services at an institution of higher education.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ prohibits the disclosure of confidential communications related to advocacy services at an institution of higher education, except under certain circumstances.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-38-204, as renumbered and amended by Laws of Utah 2008, Chapter 3

ENACTS:

53B-27-101, Utah Code Annotated 1953

53B-27-102, Utah Code Annotated 1953

53B-27-201, Utah Code Annotated 1953

53B-27-202, Utah Code Annotated 1953



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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53B-27-101** is enacted to read:

CHAPTER 27. STUDENT RIGHTS AND RESPONSIBILITIES

Part 1. General Provisions

53B-27-101. Title.

This chapter is known as "Student Rights and Responsibilities."

Section 2. Section **53B-27-102** is enacted to read:

53B-27-102. Definitions.

As used in this chapter, "institution" means a public or private postsecondary institution that is located in Utah, including an institution of higher education listed in Section [53B-1-102](#).

Section 3. Section **53B-27-201** is enacted to read:

Part 2. Confidential Communications for Institutional Advocacy Services Act

53B-27-201. Definitions.

As used in this part:

(1) "Certified advocate" means an individual who:

(a) is employed by or volunteers at a qualified institutional victim services provider;

(b) has completed at least 40 hours of training in counseling and assisting victims of sexual harassment, sexual assault, rape, dating violence, domestic violence, or stalking; and

(c) acts under the supervision of the director or director's designee of a qualified institutional victim services provider.

(2) (a) "Confidential communication" means information that is communicated by a victim, in the course of the victim seeking an institutional advocacy service, to:

(i) a certified advocate;

(ii) a qualified institutional victim services provider;

(iii) a person reasonably necessary for the transmission of the information;

(iv) an individual who is present at the time the information is transmitted for the purpose of furthering the victim's interests; or

(v) another individual, in the context of group counseling at a qualified institutional victim services provider.

(b) "Confidential communication" includes a record that is created or maintained as a

59 result of the communication described in Subsection (2)(a).

60 (3) "Institutional advocacy service" means a safety planning, counseling,
61 psychological, support, advocacy, medical, or legal service that:

62 (a) addresses issues involving:

63 (i) sexual harassment;

64 (ii) sexual assault;

65 (iii) rape;

66 (iv) domestic violence;

67 (v) dating violence; or

68 (vi) stalking; and

69 (b) is provided by a qualified institutional victim services provider.

70 (4) (a) "Qualified institutional victim services provider" means an organization that:

71 (i) is affiliated with an institution;

72 (ii) employs or provides volunteer opportunities for certified advocates;

73 (iii) provides an institutional advocacy service to victims or families of victims; and

74 (iv) is designated by the affiliated institution as a confidential resource.

75 (b) "Qualified institutional victim services provider" may include an institution's:

76 (i) sexual assault center;

77 (ii) victim advocacy center;

78 (iii) women's center;

79 (iv) health center; or

80 (v) counseling service center.

81 (5) "Record" means a book, letter, document, paper, map, plan, photograph, film, card,
82 tape, recording, electronic data, or other documentary material regardless of physical form or
83 characteristics.

84 (6) "Victim" means an individual who seeks an institutional advocacy service.

85 Section 4. Section **53B-27-202** is enacted to read:

86 **53B-27-202. Confidentiality of information -- Disclosure of confidential**
87 **communication.**

88 (1) Except as provided in Subsection (2), and notwithstanding Title 63G, Chapter 2,
89 Government Records Access and Management Act, a person may not disclose a confidential

90 communication.

91 (2) A person may disclose a confidential communication if:

92 (a) the victim gives written and informed consent to the disclosure;

93 (b) the person has an obligation to disclose the confidential communication under

94 Section 62A-3-305 or 63A-4a-403; or

95 (c) the disclosure is required by federal law.

96 Section 5. Section 77-38-204 is amended to read:

97 **77-38-204. Disclosure of confidential communications.**

98 [~~The~~] Notwithstanding Title 53B, Chapter 27, Part 2, Confidential Communications for

99 Institutional Advocacy Services Act, the confidential communication between a victim and a

100 sexual assault counselor is available to a third person only when:

101 (1) the victim is a minor and the counselor believes it is in the best interest of the

102 victim to disclose the confidential communication to the victim's parents;

103 (2) the victim is a minor and the minor's parents or guardian have consented to

104 disclosure of the confidential communication to a third party based upon representations made

105 by the counselor that it is in the best interest of the minor victim to make such disclosure;

106 (3) the victim is not a minor, has given consent, and the counselor believes the

107 disclosure is necessary to accomplish the desired result of counseling; or

108 (4) the counselor has an obligation under Title 62A, Chapter 4a, Child and Family

109 Services, to report information transmitted in the confidential communication.

Legislative Review Note

Office of Legislative Research and General Counsel