

CAMPUS ADVOCATE CONFIDENTIALITY AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Angela Romero

Senate Sponsor: Todd Weiler

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

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

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

31 **CHAPTER 27. STUDENT RIGHTS AND RESPONSIBILITIES**

32 **Part 1. General Provisions**

33 **53B-27-101. Title.**

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

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

36 **53B-27-102. Definitions.**

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

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

40 **Part 2. Confidential Communications for Institutional Advocacy Services Act**

41 **53B-27-201. Definitions.**

42 As used in this part:

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

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

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

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

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

51 (i) a certified advocate;

52 (ii) a qualified institutional victim services provider;

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

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

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

58 (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 qualified institutional victim services
75 provider.

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

77 (i) sexual assault center;

78 (ii) victim advocacy center;

79 (iii) women's center;

80 (iv) health center; or

81 (v) counseling service center.

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

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

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

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

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

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

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

94 (b) the person has an obligation to disclose the confidential communication under
95 Section 62A-3-305, 62A-4a-403, or 78B-3-502;

96 (c) the disclosure is required by federal law; or

97 (d) a court of competent jurisdiction orders the disclosure.

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

99 **77-38-204. Disclosure of confidential communications.**

100 [The] Notwithstanding Title 53B, Chapter 27, Part 2, Confidential Communications for
101 Institutional Advocacy Services Act, the confidential communication between a victim and a
102 sexual assault counselor is available to a third person only when:

103 (1) the victim is a minor and the counselor believes it is in the best interest of the
104 victim to disclose the confidential communication to the victim's parents;

105 (2) the victim is a minor and the minor's parents or guardian have consented to
106 disclosure of the confidential communication to a third party based upon representations made
107 by the counselor that it is in the best interest of the minor victim to make such disclosure;

108 (3) the victim is not a minor, has given consent, and the counselor believes the
109 disclosure is necessary to accomplish the desired result of counseling; or

110 (4) the counselor has an obligation under Title 62A, Chapter 4a, Child and Family
111 Services, to report information transmitted in the confidential communication.