

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:

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

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

(a) addresses issues involving:

(i) sexual harassment;

(ii) sexual assault;

(iii) rape;

(iv) domestic violence;

(v) dating violence; or

(vi) stalking; and

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

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

(i) is affiliated with an institution;

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

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

(iv) is designated by the affiliated institution as a qualified institutional victim services provider.

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

(i) sexual assault center;

(ii) victim advocacy center;

(iii) women's center;

(iv) health center; or

(v) counseling service center.

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

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

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

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

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

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

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

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

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

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

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

77-38-204. Disclosure of confidential communications.

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

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

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

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

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