

**CAMPUS ADVOCATE CONFIDENTIALITY AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Angela Romero**

Senate Sponsor: Todd Weiler

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**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.