

HB0251S01 compared with HB0251

~~deleted text~~ shows text that was in HB0251 but was deleted in HB0251S01.

Inserted text shows text that was not in HB0251 but was inserted into HB0251S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Angela Romero proposes the following substitute bill:

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

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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:

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- (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 ~~confidential resource~~; 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.

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(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 ~~†~~ or ~~63A-4a-403~~ ~~†~~, 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.

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~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel~~