

SENATE BILL 1205

By Campbell

AN ACT to amend Tennessee Code Annotated, Title 24;
Title 36 and Title 39, relative to a victim advocate's
communications.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 24, Chapter 1, Part 2, is amended by
adding the following as a new section:

(a) As used in this section:

(1) "Advocate" means an employee or volunteer of a domestic violence shelter, crisis line, or victim services provider that provides services for victims of domestic violence, sexual assault, stalking, or human trafficking and who has completed a minimum of twenty (20) hours of relevant training, including, but not limited to, training on the application of this section from a victim services provider;

(2) "Victim" means a person seeking assistance because the person is a domestic abuse victim as defined by § 36-3-601; victim of an offense under title 39, chapter 13, part 5; trafficked person as defined by § 39-13-314; or a victim of stalking as defined by § 39-17-315, regardless of where or how the person seeks or receives services; and

(3) "Victim services provider" is an entity or organization providing direct services to victims, but does not include a law enforcement agency, the department of children's services, the department of human services, the division of adult protective services, or the office of a district attorney general.

(b) An advocate shall not disclose any of the following in a judicial, legislative, or administrative proceeding, except as provided in this section or when a report of abuse is otherwise required by law:

(1) A communication, including verbal, written, or otherwise stored information, received by the advocate from a victim;

(2) Records regarding a victim stored by the advocate in the course of business;

(3) Counseling that a victim received;

(4) Crisis intervention services that a victim received; or

(5) The location of the shelter that accommodated a victim.

(c) This section does not limit the ability of a court to compel disclosure if, upon the motion of a party, the court determines after an in-camera review that:

(1) The information sought is relevant and material evidence of the facts and circumstances involved in an alleged criminal act that is the subject of a criminal proceeding;

(2) The probative value of the information outweighs the harmful effect of disclosure, if any, on the victim, the victim-advocate relationship, and the treatment services; and

(3) The information cannot be obtained by reasonable means from any other source.

(d) The victim may waive the privilege of the communication in subsection (b) only by express written consent. A victim's consent is not implied when the victim is a party to any judicial, legislative, or administrative proceeding. The privilege terminates upon the death of the victim.

(e) If the victim files a lawsuit against an advocate or a victim services provider, this section does not limit the ability of the advocate or victim services provider to raise a defense when the confidential communications are relevant to a claim or defense.

(f) This section does not apply to advocates with child advocacy centers and child protective investigator teams.

(g) This section does not limit access to records by the department of children's services when the department is investigating an allegation of child abuse or neglect.

(h) This section does not limit or expand the ability of law enforcement to make arrangements with a shelter in order to serve any legal papers or process regarding a person staying at a shelter, pursuant to § 71-6-208.

SECTION 2. This act takes effect July 1, 2023, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 1205

House Bill No. 686*

by deleting all language after the enacting clause and substituting:

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(1) "Advocate" means an employee or volunteer of a domestic violence shelter, crisis line, or victim services provider who provides services for victims of domestic violence, sexual assault, stalking, or human trafficking and who has completed a minimum of twenty (20) hours of relevant training, including, but not limited to, training on the application of this section, from a victim services provider;

(2) "Victim" means a person seeking assistance because the person is a domestic abuse victim as defined by § 36-3-601; victim of an offense under title 39, chapter 13, part 5; trafficked person as defined by § 39-13-314; or a victim of stalking as defined by § 39-17-315, regardless of where or how the person seeks or receives services; and

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(b) An advocate shall not disclose any of the following in a judicial, legislative, or administrative proceeding, except as provided in this section or when a report of abuse is otherwise required by law:

- (1) A communication, including verbal, written, or otherwise stored information, received by the advocate from a victim;
- (2) Records regarding a victim stored by the advocate in the course of business;
- (3) Counseling that a victim received;
- (4) Crisis intervention services that a victim received; or
- (5) The location of the shelter that accommodated a victim.

(c) This section does not limit the ability of a court to compel disclosure if, upon the motion of a party, the court determines after an in-camera review that:

- (1) The information sought is relevant and material evidence of the facts and circumstances involved in an alleged criminal act that is the subject of a criminal proceeding or a proceeding brought by the department of children's services under title 37;
- (2) The probative value of the information outweighs the harmful effect of disclosure, if any, on the victim, the victim-advocate relationship, and the treatment services; and
- (3) The information cannot be obtained by reasonable means from any other source.

(d) The victim may waive the privilege of the communication in subsection (b) only by express written consent. A victim's consent is not implied when the victim is a party to any judicial, legislative, or administrative proceeding. The privilege terminates upon the death of the victim.

(e) If the victim files a lawsuit against an advocate or a victim services provider, this section does not limit the ability of the advocate or victim services provider to raise a defense when the confidential communications are relevant to a claim or defense.

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