

1-1 By: Herrero, Guillen (Senate Sponsor - Hinojosa) H.B. No. 3649
1-2 (In the Senate - Received from the House May 8, 2017;
1-3 May 17, 2017, read first time and referred to Committee on State
1-4 Affairs; May 21, 2017, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 May 21, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>Huffman</u>	X		
1-10	<u>Hughes</u>	X		
1-11	<u>Birdwell</u>	X		
1-12	<u>Creighton</u>	X		
1-13	<u>Estes</u>	X		
1-14	<u>Lucio</u>	X		
1-15	<u>Nelson</u>	X		
1-16	<u>Schwertner</u>	X		
1-17	<u>Zaffirini</u>	X		

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 3649 By: Hughes

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to confidential communications of victims of certain
1-22 family violence offenses.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. The heading to Subtitle C, Title 4, Family Code,
1-25 is amended to read as follows:

1-26 SUBTITLE C. ~~[REPORTING]~~ FAMILY VIOLENCE REPORTING AND SERVICES

1-27 SECTION 2. Subtitle C, Title 4, Family Code, is amended by
1-28 adding Chapter 93 to read as follows:

1-29 CHAPTER 93. CONFIDENTIAL AND PRIVILEGED COMMUNICATIONS

1-30 Sec. 93.001. DEFINITIONS. In this chapter:

1-31 (1) "Advocate" means a person who has at least 20 hours
1-32 of training in assisting victims of family violence and is an
1-33 employee or volunteer of a family violence center.

1-34 (2) "Family violence center" means a public or private
1-35 nonprofit organization that provides, as its primary purpose,
1-36 services to victims of family violence, including the services
1-37 described by Section 51.005(b)(3), Human Resources Code.

1-38 (3) "Victim" has the meaning assigned to "victim of
1-39 family violence" by Section 51.002, Human Resources Code.

1-40 Sec. 93.002. CONFIDENTIAL COMMUNICATIONS. A written or
1-41 oral communication between an advocate and a victim made in the
1-42 course of advising, advocating for, counseling, or assisting the
1-43 victim is confidential and may not be disclosed.

1-44 Sec. 93.003. PRIVILEGED COMMUNICATIONS. (a) A victim has a
1-45 privilege to refuse to disclose and to prevent another from
1-46 disclosing a confidential communication described by Section
1-47 93.002.

1-48 (b) The privilege may be claimed by:

1-49 (1) a victim or a victim's attorney on a victim's
1-50 behalf;

1-51 (2) a parent, guardian, or conservator of a victim
1-52 under 18 years of age; or

1-53 (3) an advocate or a family violence center on a
1-54 victim's behalf.

1-55 Sec. 93.004. EXCEPTIONS. (a) A communication that is
1-56 confidential under this chapter may be disclosed only:

1-57 (1) to another individual employed by or volunteering
1-58 for a family violence center for the purpose of furthering the
1-59 advocacy process;

1-60 (2) for the purpose of seeking evidence that is

2-1 admissible under Article 38.49, Code of Criminal Procedure,
2-2 following an in camera review and a determination that the
2-3 communication is admissible under that article;

2-4 (3) to other persons in the context of a support group
2-5 or group counseling in which a victim is a participant; or

2-6 (4) for the purposes of making a report under Chapter
2-7 261 of this code or Section 48.051, Human Resources Code.

2-8 (b) Notwithstanding Subsection (a), the Texas Rules of
2-9 Evidence govern the disclosure of a communication that is
2-10 confidential under this chapter in a criminal or civil proceeding
2-11 by an expert witness who relies on facts or data from the
2-12 communication to form the basis of the expert's opinion.

2-13 (c) If the family violence center, at the request of the
2-14 victim, discloses a communication privileged under this chapter for
2-15 the purpose of a criminal or civil proceeding, the family violence
2-16 center shall disclose the communication to all parties to that
2-17 criminal or civil proceeding.

2-18 SECTION 3. This Act takes effect September 1, 2017.

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