

BILL ANALYSIS

Senate Research Center
85R32637 JSC-D

C.S.H.B. 3649
By: Herrero; Guillen (Hinojosa)
State Affairs
5/21/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Thirty-nine states have some form of enhanced state-level victim information privacy protections for victims of domestic violence. However, Texas lacks strong legal protections for private conversations between domestic violence victims and their family violence advocates.

Currently, batterers or others who seek this information can obtain these private conversations with a court subpoena. As a result, advocates document little information in victim files, significantly reducing their usefulness.

Disclosure of the intimate details of abuse in court re-traumatizes victims of domestic violence and jeopardizes victim safety. Victims of family violence need safe spaces to share details of the abuse. Enhanced privacy and confidentiality stand as critical elements of fostering a therapeutic and effective environment for victims to seek help.

H.B. 3649 shields information family violence survivors share with victim advocates from disclosure, ensuring they can seek assistance without fear that their story will be used against them. H.B. 3649 adds Chapter 93 (Confidential and Privileged Communications) to the Family Code creating confidential communication and records for victims of domestic violence to protect them from their abuser. (Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 3649 amends current law relating to confidential communications of victims of certain family violence offenses.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Subtitle C, Title 4, Family Code, to read as follows:

SUBTITLE C. FAMILY VIOLENCE REPORTING AND SERVICES

SECTION 2. Amends Subtitle C, Title 4, Family Code, by adding Chapter 93, as follows:

CHAPTER 93. CONFIDENTIAL AND PRIVILEGED COMMUNICATIONS

Sec. 93.001. DEFINITIONS. Defines "advocate," "family violence center," and "victim."

Sec. 93.002. CONFIDENTIAL COMMUNICATIONS. Provides that a written or oral communication between an advocate and a victim made in the course of advising, advocating for, counseling, or assisting the victim is confidential and is prohibited from being disclosed.

Sec. 93.003. PRIVILEGED COMMUNICATIONS. (a) Provides that a victim has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication described by Section 93.002.

(b) Authorizes the privilege to be claimed by certain persons.

Sec. 93.004. EXCEPTIONS. (a) Provides that a communication that is confidential under this chapter is authorized to be disclosed only under certain conditions.

(b) Provides that, notwithstanding Subsection (a) (relating to disclosing certain communication that is confidential), the Texas Rules of Evidence govern the disclosure of a communication that is confidential under this chapter in a criminal or civil proceeding by an expert witness who relies on facts or data from the communication to form the basis of the expert's opinion.

(c) Requires that the family violence center, if the family violence center, at the request of the victim, discloses a communication privileged under this chapter for the purpose of a criminal or civil proceeding, disclose the communication to all parties to that criminal or civil proceeding.

SECTION 3. Effective date: September 1, 2017.