

SENATE AMENDMENTS

2nd Printing

By: Herrero, Guillen

H.B. No. 3649

A BILL TO BE ENTITLED

1 AN ACT

2 relating to confidential communications of victims of certain
3 family violence offenses.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. The heading to Subtitle C, Title 4, Family Code,
6 is amended to read as follows:

7 SUBTITLE C. [~~REPORTING~~] FAMILY VIOLENCE REPORTING AND SERVICES

8 SECTION 2. Subtitle C, Title 4, Family Code, is amended by
9 adding Chapter 93 to read as follows:

10 CHAPTER 93. CONFIDENTIAL AND PRIVILEGED COMMUNICATIONS

11 Sec. 93.001. DEFINITIONS. In this chapter:

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

15 (2) "Family violence center" means a public or private
16 nonprofit organization that provides, as its primary purpose,
17 services to victims of family violence, including the services
18 described by Section 51.005(b)(3), Human Resources Code.

19 (3) "Victim" has the meaning assigned to "victim of
20 family violence" by Section 51.002, Human Resources Code.

21 Sec. 93.002. CONFIDENTIAL COMMUNICATIONS. A written or
22 oral communication between an advocate and a victim made in the
23 course of advising, advocating for, counseling, or assisting the
24 victim is confidential and may not be disclosed.

1 Sec. 93.003. PRIVILEGED COMMUNICATIONS. (a) A victim has a
2 privilege to refuse to disclose and to prevent another from
3 disclosing a confidential communication described by Section
4 93.002.

5 (b) The privilege may be claimed by:

6 (1) a victim or a victim's attorney on a victim's
7 behalf;

8 (2) a parent, guardian, or conservator of a victim
9 under 18 years of age; or

10 (3) an advocate or a family violence center on a
11 victim's behalf.

12 Sec. 93.004. EXCEPTIONS. (a) A communication that is
13 confidential under this chapter may be disclosed only:

14 (1) to another individual employed by or volunteering
15 for a family violence center for the purpose of furthering the
16 advocacy process;

17 (2) to other persons in the context of a support group
18 or group counseling in which a victim is a participant; or

19 (3) for the purposes of making a report under Chapter
20 261 of this code or Section 48.051, Human Resources Code.

21 (b) Notwithstanding Subsection (a), the Texas Rules of
22 Evidence govern the disclosure of a communication that is
23 confidential under this chapter in a criminal or civil proceeding
24 by an expert witness who relies on facts or data from the
25 communication to form the basis of the expert's opinion.

26 SECTION 3. This Act takes effect September 1, 2017.

ADOPTED

MAY 23 2017

Leticia Spaw
Secretary of the Senate

By: Herrero / Hinojosa

H..B. No. 3649

Substitute the following for H..B. No. 3649:

By: Roger Poyser

C.S. H..B. No. 3649

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9 adding Chapter 93 to read as follows:

10 CHAPTER 93. CONFIDENTIAL AND PRIVILEGED COMMUNICATIONS

11 Sec. 93.001. DEFINITIONS. In this chapter:

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

15 (2) "Family violence center" means a public or private
16 nonprofit organization that provides, as its primary purpose,
17 services to victims of family violence, including the services
18 described by Section 51.005(b)(3), Human Resources Code.

19 (3) "Victim" has the meaning assigned to "victim of
20 family violence" by Section 51.002, Human Resources Code.

21 Sec. 93.002. CONFIDENTIAL COMMUNICATIONS. A written or
22 oral communication between an advocate and a victim made in the
23 course of advising, advocating for, counseling, or assisting the
24 victim is confidential and may not be disclosed.

1 Sec. 93.003. PRIVILEGED COMMUNICATIONS. (a) A victim has a
2 privilege to refuse to disclose and to prevent another from
3 disclosing a confidential communication described by Section
4 93.002.

5 (b) The privilege may be claimed by:

6 (1) a victim or a victim's attorney on a victim's
7 behalf;

8 (2) a parent, guardian, or conservator of a victim
9 under 18 years of age; or

10 (3) an advocate or a family violence center on a
11 victim's behalf.

12 Sec. 93.004. EXCEPTIONS. (a) A communication that is
13 confidential under this chapter may be disclosed only:

14 (1) to another individual employed by or volunteering
15 for a family violence center for the purpose of furthering the
16 advocacy process;

17 (2) for the purpose of seeking evidence that is
18 admissible under Article 38.49, Code of Criminal Procedure,
19 following an in camera review and a determination that the
20 communication is admissible under that article;

21 (3) to other persons in the context of a support group
22 or group counseling in which a victim is a participant; or

23 (4) for the purposes of making a report under Chapter
24 261 of this code or Section 48.051, Human Resources Code.

25 (b) Notwithstanding Subsection (a), the Texas Rules of
26 Evidence govern the disclosure of a communication that is
27 confidential under this chapter in a criminal or civil proceeding

1 by an expert witness who relies on facts or data from the
2 communication to form the basis of the expert's opinion.

3 (c) If the family violence center, at the request of the
4 victim, discloses a communication privileged under this chapter for
5 the purpose of a criminal or civil proceeding, the family violence
6 center shall disclose the communication to all parties to that
7 criminal or civil proceeding.

8 SECTION 3. This Act takes effect September 1, 2017.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 24, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3649 by Herrero (Relating to confidential communications of victims of certain family violence offenses.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would amend the Family Code to allow communications between an advocate and a victim of domestic violence to be confidential.

The bill would take effect September 1, 2017.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, SD, AG, KJo, GG, BM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 21, 2017

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3649 by Herrero (Relating to confidential communications of victims of certain family violence offenses.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Family Code to allow communications between an advocate and a victim of domestic violence to be confidential.

The bill would take effect September 1, 2017.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, AG, KJo, GG, BM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 18, 2017

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3649 by Herrero (Relating to confidential communications of victims of certain family violence offenses.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Family Code to allow communications between an advocate and a victim of domestic violence to be confidential.

The bill would take effect September 1, 2017.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, AG, KJo, GG, BM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 26, 2017

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3649 by Herrero (relating to confidential communications of victims of certain family violence offenses.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Family Code to allow communications between an advocate and a victim of domestic violence to be confidential.

The bill would take effect September 1, 2017.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, KJo, GG, BM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 15, 2017

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3649 by Herrero (Relating to confidential communications of victims of certain family violence offenses.), **As Introduced**

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|---|
| No fiscal implication to the State is anticipated. |
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The bill would amend the Family Code to allow communications between an advocate and a victim of domestic violence to be confidential.

The bill would take effect September 1, 2017.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, KJo, GG, BM