

**Senate Committee On Judiciary**

**Fiscal:** Has minimal fiscal impact

**Revenue:** No Revenue Impact

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**Action Date:** 05/13/15

**Action:** Do Pass.

**Meeting Dates:** 05/13

**Vote:**

Yeas: 5 - Burdick, Gelser, Kruse, Prozanski, Thatcher

**Prepared By:** Jeff Rhoades, Counsel

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**WHAT THE MEASURE DOES:**

Creates privilege in civil, criminal, administrative and school proceedings for certain communications between victims seeking services related to sexual assault, domestic violence or stalking and qualified victim advocates and services programs. Prohibits disclosure of confidential communications without consent of victim. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Increase of sexual assault on college campuses
- The need for victims of sexual assault to have a safe place to report
- Victim's fear of "victim blame" in sexual assault cases
- Failure of the current system to address victim's needs

**EFFECT OF COMMITTEE AMENDMENT:**

No amendment.

**BACKGROUND:**

Confidentiality is commonplace in many relationships involving positions of confidence. These include, but are not limited to, doctor-patient, psychologist-patient, lawyer-client, husband-wife and priest-penitent relationships. The rules for confidentiality are set out in ORS 40.225-40.295 in the Oregon Evidence Code.

House Bill 3476 creates a new type of communications privilege in the evidence code. The bill states that "confidential communications" between a victim of sexual assault, domestic violence or stalking and victim advocates or services programs are to be kept confidential from disclosure, and by default will not be admissible in court. "Confidential communications" are defined as "a written or oral communication that is not intended for disclosure, except to: A) persons present at the time the communication is made who are present to further the interests of the victim in the course of seeking safety planning, counseling, support or advocacy services; B) persons reasonably necessary for the transmission of the communication; or C) other persons, in the context of group counseling." Victims are permitted to waive confidentiality if they so choose.

The bill specifies that, in order for the privilege to take effect, the communication must be between a victim and a certified advocate working at a qualified victims' services program. A qualified victims' services program may be either: A) A nongovernmental, nonprofit, community-based program that offers safety planning, counseling, support or advocacy services for victims; or B) A sexual assault center, victim advocacy office, women's center, student affairs center, health center or other program providing victims' services on campus or affiliated with a two or four year post-secondary institution.