

# Senate Bill 826

Sponsored by Senators GELSER, KNOPP; Senators FERRIOLI, ROBLAN

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Expands provisions establishing privilege for and confidentiality of certain communications and records of certified advocate at qualified victim services program to include program administered by tribal government.

## A BILL FOR AN ACT

1  
2 Relating to victim services programs; amending ORS 40.264 and 147.600.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 40.264 is amended to read:

5 40.264. (1) As used in this section:

6 (a) "Certified advocate" means a person who:

7 (A) Has completed at least 40 hours of training in advocacy for victims of domestic violence,  
8 sexual assault or stalking, approved by the Attorney General by rule; and

9 (B) Is an employee or a volunteer of a qualified victim services program.

10 (b) "Confidential communication" means a written or oral communication that is not intended  
11 for further disclosure, except to:

12 (A) Persons present at the time the communication is made who are present to further the in-  
13 terests of the victim in the course of seeking safety planning, counseling, support or advocacy ser-  
14 vices;

15 (B) Persons reasonably necessary for the transmission of the communication; or

16 (C) Other persons, in the context of group counseling.

17 (c) "Qualified victim services program" means:

18 (A) A nongovernmental, nonprofit, community-based program receiving moneys administered by  
19 the state Department of Human Services or the Oregon or United States Department of Justice, **or**  
20 **a program administered by a tribal government**, that offers safety planning, counseling, support  
21 or advocacy services to victims of domestic violence, sexual assault or stalking; or

22 (B) A sexual assault center, victim advocacy office, women's center, student affairs center,  
23 health center or other program providing safety planning, counseling, support or advocacy services  
24 to victims that is on the campus of or affiliated with a two- or four-year post-secondary institution  
25 that enrolls one or more students who receive an Oregon Opportunity Grant.

26 (d) "Victim" means a person seeking safety planning, counseling, support or advocacy services  
27 related to domestic violence, sexual assault or stalking at a qualified [*victims*] **victim** services pro-  
28 gram.

29 (2) Except as provided in subsection (3) of this section, a victim has a privilege to refuse to  
30 disclose and to prevent any other person from disclosing:

31 (a) Confidential communications made by the victim to a certified advocate in the course of

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 safety planning, counseling, support[,] or advocacy services.

2 (b) Records that are created or maintained in the course of providing services regarding the  
3 victim.

4 (3) The privilege established by this section does not apply to the disclosure of confidential  
5 communications, only to the extent disclosure is necessary for defense, in any civil, criminal or ad-  
6 ministrative action that is brought against the certified advocate, or against the qualified victim  
7 services program, by or on behalf of the victim.

8 (4) The privilege established in this section is not waived by disclosure of the communications  
9 by the certified advocate to another person if the disclosure is reasonably necessary to accomplish  
10 the purpose for which the certified advocate is consulted.

11 (5) This section does not prohibit the disclosure of aggregate, nonpersonally identifying data.

12 (6) This section applies to civil, criminal and administrative proceedings and to institutional  
13 disciplinary proceedings at a two-year or four-year post-secondary institution that enrolls one or  
14 more students who receive an Oregon Opportunity Grant.

15 **SECTION 2.** ORS 147.600 is amended to read:

16 147.600. (1) As used in this section:

17 (a) "Certified advocate" means a person who:

18 (A) Has completed at least 40 hours of training in advocacy for victims of domestic violence,  
19 sexual assault or stalking, approved by the Attorney General by rule; and

20 (B) Is an employee or a volunteer of a qualified victim services program.

21 (b) "Confidential communication" means a written or oral communication that is not intended  
22 for further disclosure to third persons except to:

23 (A) Persons present at the time the communication is made who are present to further the in-  
24 terests of the victim in the course of seeking safety planning, counseling, support or advocacy ser-  
25 vices;

26 (B) Persons reasonably necessary for the transmission of the communication; or

27 (C) Other persons, in the context of group counseling.

28 (c) "Qualified victim services program" means:

29 (A) A nongovernmental, nonprofit, community-based program receiving moneys administered by  
30 the state Department of Human Services or the Oregon or United States Department of Justice, **or**  
31 **a program administered by a tribal government**, that offers safety planning, counseling, support  
32 or advocacy services to victims of domestic violence, sexual assault or stalking; or

33 (B) A sexual assault center, victim advocacy office, women's center, student affairs center,  
34 health center or other program providing safety planning, counseling, support or advocacy services  
35 to victims that is on the campus of or affiliated with a two-year or four-year post-secondary insti-  
36 tution that enrolls one or more students who receive an Oregon Opportunity Grant.

37 (d) "Victim" means a person seeking safety planning, counseling, support or advocacy services  
38 related to domestic violence, sexual assault or stalking at a qualified [*victims*] **victim** services pro-  
39 gram.

40 (2) Except as provided in ORS 40.252 and 40.264, without the written, informed consent of the  
41 victim that is reasonably limited in duration, a certified advocate or a qualified victim services  
42 program may not disclose:

43 (a) Confidential communications between a victim and the certified advocate or qualified victim  
44 services program made in course of safety planning, counseling, support or advocacy services.

45 (b) Records that are created or maintained in the course of providing services regarding the

1 victim.

2 (3) Notwithstanding subsection (2) of this section, a certified advocate or a qualified victim  
3 services program may disclose confidential communications or records without the victim's consent  
4 only:

5 (a) To the extent necessary for defense in any civil, criminal or administrative action that is  
6 brought against the certified advocate, or against the qualified victim services program, by or on  
7 behalf of the victim; and

8 (b) As otherwise required by law.

9 (4) This section does not prohibit the disclosure of aggregate, nonpersonally identifying data.

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