OAESV
Ohio Alliance to End Sexual Violence

Fact Sheet Series for the 133rd General Assembly
Advocate Privilege

Senate Bill 196
Regards Managing Information Related to Sex Crimes
House Bill 337
Provides Privileged Communications for Victim Advocacy Services

Sponsors: Senator John Eklund, Representatives Tavia Galonski & Dick Stein

Under Current Law:

Currently, Ohio law provides no testimonial privilege for communications between qualified advocates and survivors of certain sex, stalking, trafficking, or domestic violence crimes. Thus, an advocate could be required to testify about their conversations with a victim in criminal, civil, or administrative proceedings.

These Bills Would:

Create an absolute privilege for communications between a qualified advocate and a victim of specified Ohio Revised Code offenses. Specifically, this legislation would:

- Define a qualified advocate as an employees or volunteer of a community-based, qualified victim services program who completed at least 40 hours of training in advocacy for victims of certain sexually-based crimes. This would not apply to prosecutor-based advocates because that would violate the Ohio and United States constitutions.
- Apply to both written and oral confidential communications (1) made to further the victim's interest in the course of services and not intended for further disclosure; and (2) made in the context of group counseling or in front of a third party present to further the victim's interest (subject to qualifications), as long as the communications remain confidential after disclosure.
- Apply the privilege to records created/maintained in the course of provided services.
- Create conformity between federal Violence Against Women Act (VAWA) funding, which requires confidentiality unless a state statute requires submitting to subpoena, and Ohio law. Rape crisis centers receiving VAWA funding are required to expend resources moving to quash subpoenas that would risk survivor information. This bill would remove the conflict between Ohio law and federal regulations.
- Classify qualified advocates as mandatory reporters of child abuse but exempt from the felony reporting statute for adult crimes, in conformance other statutory privilege holders.

Why This Bill is Important:

- Privilege creates true confidentiality between advocates and survivors, providing a safe space for survivors to provide complete information, which allows advocates to provide better support.
- Survivors face continued victimization when they relive the incident throughout legal proceedings, often with little to no control over the situation. When advocates may be forced to testify, survivors lose yet more control and autonomy in their own case, increasing the experience of victimization.
- Data demonstrates that enhancing confidentiality increases reporting to law enforcement, aligning with the overall goal of holding more offenders accountable.
- Ohio is one of only 14 states with no privilege for communications between victims and advocates.

OAESV's Legislative Fact Sheet Series is funded by a generous grant from the George Gund Foundation, a private Ohio non-profit organization that has donated $722 million dollars since 1952 to projects that advance human welfare and society.
THE GEORGE GUND FOUNDATION