

SUBJECT: Making certain communications of family violence victims confidential

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Moody, Canales, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

1 absent — Hunter

WITNESSES: For — Jaime Esparza, District Attorney 34th Judicial District; Ashley Juraska, The SAFE Alliance; Molly Voyles, Texas Council on Family Violence; G.G.; (*Registered, but did not testify*: Tom Tagliabue, City of Corpus Christi; Jennifer Tharp, Comal County Criminal District Attorney; Gary Tittle, Dallas Police Department, Office of the Chief of Police; Jim Grace, Houston Area Women's Center; James Jones, San Antonio Police Department; Chris Kaiser, Texas Association Against Sexual Assault)

Against — None

BACKGROUND: Some suggest that advocates may be hesitant to record notes when meeting with family violence victims if the communication is not confidential and that this could hinder the advocacy process, requiring victims to recount unnecessarily the details of abuse.

DIGEST: CSHB 3649 would make written or oral communication between an advocate and a victim of family violence made during advising, advocacy, counseling, or other assistance confidential and not subject to disclosure.

The bill would give a victim the privilege to refuse to disclose and prevent others from disclosing confidential communication. This privilege could be claimed by a victim or the victim's attorney; the parent, guardian or conservator of a victim under 18 years old; or an advocate or family violence center working on the victim's behalf.

A confidential communication described above could be disclosed only:

- to an employee or volunteer of a family violence center who was furthering the advocacy process;
- to other people in the context of a support group or group counseling in which the victim was a participant; or
- to report instances of abuse or neglect involving a child, elderly person, or person with a disability.

The Texas Rules of Evidence would govern the disclosure of confidential communication in a criminal or civil proceeding by an expert witness who relied on facts or data from the communication to form the basis of the expert's opinion.

The bill would take effect September 1, 2017.

NOTES:

A companion bill, SB 1757 by Hinojosa, was referred to the Senate State Affairs Committee on March 23.