



Ninety-Seventh Legislature - Second Session - 2002  
Committee Statement  
LB 779

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**Hearing Date:** 3/14/01  
**Committee On:** Judiciary

**Introducer(s):** (Bourne)

**Title:** Provide for confidential communications in cases of domestic violence and sexual assault

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**Roll Call Vote – Final Committee Action:**

- X Advanced to General File
  - Advanced to General File with Amendments
  - Indefinitely Postponed
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**Vote Results:**

- 6 Yes                                      Senators Baker, Brashear, Chambers, Connealy, Pedersen, Robak
  - No
  - 2 Present, not voting      Senators Quandahl, Tyson
  - Absent
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**Proponents:**

Senator Pat Bourne  
Tara Muir

Kristen Houser

Karin Prest  
Elizabeth Peterson  
Rev. Fritz Hudson  
Susan Koenig

**Representing:**

Introducer  
Nebraska Domestic Violence Sexual Assault  
Coalition  
Nebraska Domestic Violence Sexual Assault  
Coalition  
YWCA  
NCSW  
Unitarian Church  
Nebraska Women's Bar Association

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

LB 779 creates the victim-advocate testimonial privilege for all civil, criminal and administrative proceedings.

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Specifically, LB 779 provides that a victim, domestic violence or sexual assault advocate, or a necessary third party to the victim-advocate relationship, cannot be compelled to give testimony or produce records pertaining to the victim-advocate relationship.

The privilege extends to any information regarding the location or identity of “safe houses”.

In a court proceeding, a party may seek disclosure of a confidential communication by filing a motion setting forth the reasons for disclosure and why disclosure is necessary. Such motion shall be accompanied by affidavits supporting his or her assertions. The court or hearing would then review the confidential communication seeking to be disclosed in camera, with the victim and advocate present, to determine whether failing to disclose such information would violate the moving party’s constitutional rights.

The privilege is waived if the victim files suit against an advocate. The privilege is not waived if the victim testifies in court about “the offense” unless “justice” requires such to be waived.

A “victim” is defined as any person who communicates with an advocate for assistance in overcoming the adverse effects of a domestic violence or sexual assault situation.

An “advocate” is defined as any employee or supervised volunteer of a domestic violence and sexual assault program, not affiliated with law enforcement or a prosecutor’s office, whose primary purpose is assisting domestic violence and sexual assault victims. To qualify as an “advocate” for purposes of the privilege, such person must have completed at least a twenty-hour course of training provided by his or her employer or the Nebraska Domestic Violence Sexual Assault Coalition. Such training shall include various components of the victimization process, laws relating to violent crime, and the criminal justice process, among other subjects.

Exceptions to the privilege are made for the advocate’s duty to report child abuse and abuse of adults.

**Explanation of amendments, if any:**

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**Senator Kermit A. Brashear, Chairperson**