GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2001

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HOUSE BILL 643 Committee Substitute Favorable 4/18/01

	Short Title	: Te	stimonial Privilege for Violence Victims.	(Public)
	Sponsors:			
	Referred to:			
	March 15, 2001			
1			A BILL TO BE ENTITLED	
2			ABLISHING A QUALIFIED TESTIMONIAL PRIVI	
3			CATIONS WITH AGENTS OF RAPE CRISIS CEN	TERS AND
4			VIOLENCE PROGRAMS.	
5	The General	al Ass	embly of North Carolina enacts:	
6			ION 1. Article 7 of Chapter 8 of the General Statutes is	amended by
7	•		etion to read:	
8			ommunications with agents of rape crisis centers at	<u>nd domestic</u>
9	_		ce programs privileged.	
10			tions. – The following definitions apply in this section:	
11	<u>(</u>	<u>(1)</u>	Agent. – An employee or agent of a center who has	
12			minimum of 20 hours of training as required by the	
13			volunteer, under the direct supervision of a center supervi	
14			completed a minimum of 20 hours of training as requ	uired by the
15			<u>center.</u>	
16		<u>(2)</u>	Center. – A domestic violence program or rape crisis center	
17	<u>(</u>	<u>(3)</u>	Domestic violence program A nonprofit organization	
18			whose primary purpose is to provide services to dome	
19			victims. The services provided may include, but are no	
20			crisis hotlines; safe homes or shelters; children of viole	
21			community education; counseling systems, intervention a	and interface;
22		. 45	transportation and referral; and victim assistance.	
23	<u>(</u>	<u>(4)</u>	Domestic violence victim. – Any person alleging domesti	
24			defined by G.S. 50B-1, who consults an agent of a dome	
25			program for the purpose of obtaining, for themsel	
26			counseling, or other assistance concerning mental, en	
27			physical injuries suffered as a result of the domestic v	
28			term shall also include those persons who have a	
29			relationship with a victim of domestic violence and who	nave sought,

- for themselves, advice, counseling, or assistance concerning a mental,
 physical, or emotional condition caused or reasonably believed to be
 caused by the domestic violence against the victim.
 - (5) Rape crisis center. Any publicly or privately funded agency, institution, organization, or facility that offers counseling and other assistance to victims of sexual assault and their families.
 - (6) Sexual assault. Any alleged violation of G.S. 14-27.2, 14-27.3, 14-27.4, 14-27.5, 14-27.7, 14-27.7A, or 14-202.1, whether or not a civil or criminal action arises as a result of the alleged violation.
 - (7) Sexual assault victim. Any person alleging sexual assault, who consults an agent of a rape crisis center for the purpose of obtaining, for themselves, advice, counseling, or other assistance concerning mental, physical, or emotional injuries suffered as a result of sexual assault. The term shall also include those persons who have a significant relationship with a victim of sexual assault and who have sought, for themselves, advice, counseling, or assistance concerning a mental, physical, or emotional condition caused or reasonably believed to be caused by sexual assault of a victim.
 - (8) Victim. A sexual assault victim or a domestic violence victim.
 - Privileged Communications. No agent of a center shall be required to (b) disclose any information which the agent acquired during the provision of services to a victim and which information was necessary to enable the agent to render the services set forth in subsections (a)(3) and (a)(7); provided, however, that this subsection shall not apply where the victim waives the privilege conferred. Any resident or presiding judge in the district in which the action is pending may compel disclosure, either at the trial or prior thereto, if the court finds, by clear and convincing evidence, a good faith, specific, and reasonable basis for believing that (i) the records or testimony sought contain information that is relevant and material to factual issues to be determined in a civil proceeding, or is relevant, material, and exculpatory upon the issue of guilt, degree of guilt, or sentencing in a criminal proceeding for the offense charged or any lesser included offense, (ii) the evidence is not sought merely for character impeachment purposes, and (iii) the evidence sought is not merely cumulative of other evidence or information available or already obtained by the party seeking the disclosure or the party's counsel. If the case is in district court, the judge shall be a district court judge, and if the case is in superior court, the judge shall be a superior court judge.

Before allowing disclosure, the court must find that the party seeking disclosure has made a sufficient showing that the records are likely to contain information subject to disclosure under this subsection. If the court finds a sufficient showing has been made, the court shall receive the records under seal and examine the records in camera and may allow disclosure of those portions of the records which the court finds contain information subject to disclosure under this subsection. After all appeals in the action have been exhausted, any records received by the court under seal shall be returned to

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6 7 the center, unless otherwise ordered by the court. The privilege afforded under this subsection terminates upon the death of the victim.

3 (c) <u>Duty to Report Abuse or Neglect. – Nothing in the section shall be construed</u>
4 to relieve any person of any duty pertaining to reporting abuse or neglect as required by
5 <u>law.</u>"

SECTION 2. This act becomes effective December 1, 2001, and applies to all actions and proceedings pending in the courts of this State on or after that date.