

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 697

S.P. 261

In Senate, February 28, 1995

**An Act Governing Privileged Communications between Victims of
Domestic Violence and Their Advocates.**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator AMERO of Cumberland.
Cosponsored by Senators: ABROMSON of Cumberland, LONGLEY of Waldo,
Representatives: DAGGETT of Augusta, MITCHELL of Vassalboro, O'GARA of
Westbrook, THOMPSON of Naples, TYLER of Windham, WATERHOUSE of Bridgton.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 16 MRSA §53-B is enacted to read:**

6 **§53-B. Privileged communications to victim advocate; family violence**

8 **1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

12 A. "Advocate" means an employee of or volunteer for a program for victims of domestic or family violence who:

14 (1) Has undergone at least 30 hours of training; and

16 (2) As a primary function with the program gives advice to, counsels or assists victims, supervises employees or volunteers who perform that function or administers the program.

18 B. "Victim" means a victim of domestic or family violence.

22 **2. Privileged communication.** Communications are privileged from disclosure as follows.

24 A. A victim may refuse to disclose and may deny permission to an advocate to disclose confidential written or oral communications between the victim and the advocate and written records, notes, memoranda or reports concerning the victim.

26 B. Except as provided in subsection 3, a victim, advocate or advocate's agency may not be required through oral or written testimony or through production of documents to disclose to a court in criminal or civil proceedings or to any other agency or person confidential communications between the victim and the advocate.

28 **3. Exceptions.** A person may not be required to publicly disclose the address or location of a domestic or family violence shelter or safe house, except that privileged communications may be disclosed in the following cases:

30 A. When disclosure is required in proceedings under Title 22, chapter 1071 and that disclosure is in accordance with the provisions of that chapter;

32 B. When a court in the exercise of its discretion determines the disclosure of the information necessary to the proper administration of justice, an inspection of

2 records may be held in camera by the judge to determine
3 whether those records contain relevant information. This
4 proceeding does not entitle an opposing party to examine the
5 records unless those records are made available by the
6 court; or

7 C. When a victim dies or is in a persistent vegetative
8 state and disclosure is required for an official law
9 enforcement investigation or criminal proceeding regarding
10 the cause of that victim's death or incapacitation.

12

14 **STATEMENT OF FACT**

16 This bill establishes the parameters of privilege for
17 confidential communications between victims of domestic or family
18 violence and advocates who provide services and counseling for
19 the victims. The addresses of family violence shelters and safe
20 houses are protected absolutely. Other confidential
21 communications and records are protected unless disclosure is
22 needed for official proceedings concerning child abuse or the
death of a victim or in other court proceedings when in camera
examination of privileged information may be allowed.