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SENATE BILL NO. 665

Senate Amendments in [] — February 9, 2004

A BILL to amend the Code of Virginia by adding a section numbered 8.01-400.3 and by adding in Article 1 of Chapter 16 of Title 19.2 a section numbered 19.2-271.4, relating to certain communications with victims of domestic violence or sexual assault.

Patrons Prior to Engrossment—Senators Mims, Cuccinelli, Howell, Ticer and Whipple

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-400.3 and by adding in Article 1 of Chapter 17 of Title 19.2 a section numbered 19.2-271.4 as follows:

§ 8.01-400.3. Communications between domestic violence or sexual assault advocates and victims.

[A In a civil proceeding, a] domestic violence advocate or sexual assault advocate, or an interpreter translating the communications between such advocate and a victim, shall not disclose any oral or written confidential communications between the advocate and a victim and shall not be compelled to testify or provide any evidence regarding any oral or written confidential communications between a victim and advocate, without the written consent of the victim. The privileges conferred by this section shall not (i) relieve an advocate or interpreter from the reporting requirements set forth in § 63.2-1509 [or § 63.2-1606] , or (ii) extend to testimony in matters relating to child abuse and neglect [or adult abuse, neglect or exploitation] .

For purposes of this section:

"Domestic violence advocate" or "sexual assault advocate" means a person who has undergone domestic violence training or sexual assault crisis training and works or volunteers under the direction of a supervisor in a domestic violence or sexual assault center or program, whose primary purpose is to provide counseling, or assistance to victims of domestic violence or sexual assault.

"Victim" shall be defined as in § 19.1-11.02.

§ 19.2-271.4. Communications between domestic violence or sexual assault advocates and victims.

[A In a criminal proceeding, a] domestic violence advocate or sexual assault advocate, or an interpreter translating the communications between such advocate and a victim, shall not disclose any oral or written confidential communications between the advocate and a victim and shall not be compelled to testify or provide any evidence regarding any oral or written confidential communications between a victim and advocate, without the written consent of the victim. The privilege created by this section shall not (i) relieve an advocate or interpreter from the reporting requirements set forth in § 63.2-1509 [or § 63.2-1606] , or (ii) extend to testimony in matters relating to child abuse and neglect [or adult abuse, neglect or exploitation] . The privilege created by this section shall not apply to [potentially exculpatory] information or materials which [have been provided to] the attorney for the Commonwealth [and which he has may have] a duty to disclose.

For purposes of this section:

"Domestic violence advocate" or "sexual assault advocate" means a person who has undergone domestic violence training or sexual assault crisis training and works or volunteers under the direction of a supervisor in a domestic violence or sexual assault center or program, whose primary purpose is to provide counseling, or assistance to victims of domestic violence or sexual assault.

"Victim" shall be defined as in § 19.1-11.02.

ENGROSSED

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