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HOUSE BILL NO. 2802

Offered January 18, 2005

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 confidential communications.

Patron—Moran

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 16 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.

All written and oral communications between a victim and a domestic violence or sexual assault advocate, serving in the capacity of an advocate, or an interpreter for an advocate or a victim, shall be confidential and shall not be subject to disclosure in any judicial or administrative proceeding, without the written consent of the victim. Furthermore, such an advocate or interpreter shall not be compelled to testify or provide any evidence regarding any oral or written information communicated by the victim to the advocate in his capacity as an advocate, without the written consent of the victim. The privileges conferred by this section shall not relieve an advocate or interpreter from the reporting or testimony requirements set forth in § 63.2-1509 or 63.2-1606 in matters relating to child abuse and neglect, or adult abuse, neglect, or exploitation. In the case of the death of the victim this privilege shall be waived.

For purposes of this section, "domestic violence advocate" or "sexual assault advocate," means a person (i) who works or volunteers under the direction of a supervisor in a domestic violence or sexual assault center or program, which exists primarily to provide direct services to victims of domestic violence or sexual assault; (ii) who has undergone training in domestic violence or sexual assault; and (iii) whose primary function is to provide counseling or assistance to victims of domestic violence or sexual assault.

"Victim" means a person who consults a domestic violence or sexual assault program to receive assistance following a domestic violence or sexual assault incident.

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

All written and oral communications between a victim and a domestic violence or sexual assault advocate, serving in the capacity of an advocate, or an interpreter for an advocate or a victim, shall be confidential and shall not be subject to disclosure in any judicial or administrative proceeding, without the written consent of the victim. Furthermore, such an advocate or interpreter shall not be compelled to testify or provide any evidence regarding any oral or written information communicated by the victim to the advocate in his capacity as an advocate, without the written consent of the victim. The privileges conferred by this section shall not relieve an advocate or interpreter from the reporting or testimony requirements set forth in § 63.2-1509 or 63.2-1606 in matters relating to child abuse and neglect, or adult abuse, neglect, or exploitation. In the case of the death of the victim this privilege shall be waived.

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INTRODUCED

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