

House Bill 656

By: Representative Jacobs of the 80th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 2 of Chapter 9 of Title 24 of the Official Code of Georgia
2 Annotated, relating to general provisions relative to privilege of witnesses, so as to provide
3 for confidentiality of communications between a family violence or sexual assault victim and
4 agents providing services to such victims at family violence shelters and rape crisis centers;
5 to provide for definitions; to provide for a waiver of confidentiality; to provide for
6 admissibility of certain information; to provide for related matters; to repeal conflicting laws;
7 and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Part 1 of Article 2 of Chapter 9 of Title 24 of the Official Code of Georgia Annotated,
11 relating to general provisions relative to privilege of witnesses, is amended by adding a new
12 Code section to read as follows:

13 "24-9-31.

14 (a) As used in this Code section, the term:

15 (1) 'Agent' means a current or former employee or volunteer of a program who has
16 successfully completed a minimum of 20 hours of training approved by the Criminal
17 Justice Coordinating Council for victim assistance programs.

18 (2) 'Family violence' shall have the same meaning as provided in Code Section 19-13-1.

19 (3) 'Family violence shelter' means a program whose primary purpose is to provide
20 services to victims of family violence and their families that is not under the direct
21 supervision of a law enforcement agency, prosecuting attorney's office, or an agency of
22 this state or any of its political subdivisions.

23 (4) 'Family violence victim' means a person who consults a family violence shelter for
24 the purpose of securing advice or other services concerning an act of family violence, an
25 alleged act of family violence, or an attempted act of family violence. Such term shall
26 include persons who have a significant relationship with such a person who have sought,

27 for themselves, advice or other services concerning a mental, physical, or emotional
 28 condition caused or reasonably believed to be caused by family violence against such
 29 person.

30 (5) 'Program' means a family violence shelter or rape crisis center.

31 (6) 'Rape crisis center' means a program whose primary purpose is to provide services
 32 to sexual assault victims and such victim's family that is not under the direct supervision
 33 of a law enforcement agency, prosecuting attorney's office, or an agency of this state or
 34 any of its political subdivisions.

35 (7) 'Services' means any services provided to a victim by a program including but not
 36 limited to crisis hot lines, safe homes and shelters, assessment and intake, counseling,
 37 services for children who are victims of family violence or sexual assault, support in
 38 medical, administrative, and judicial systems, transportation, relocation, and crisis
 39 intervention. Such term shall not include mandatory reporting as required by Code
 40 Section 19-7-5 or 30-5-4.

41 (8) 'Sexual assault' shall have the same meaning as provided in Code Section 17-5-70.

42 (9) 'Sexual assault victim' means a person who consults a rape crisis center for the
 43 purpose of securing advice or other services concerning a sexual assault, an alleged
 44 sexual assault, or an attempted sexual assault. Such term shall include those persons who
 45 have a significant relationship with such a person who has been sexually assaulted and
 46 who have sought, for themselves, advice or other services concerning a mental, physical,
 47 or emotional condition caused or reasonably believed to be caused by sexual assault
 48 against such person.

49 (10) 'Victim' means a person who is a victim of family violence or of sexual assault.

50 (b) No agent of a program shall be required to disclose any information in any judicial
 51 proceeding that the agent acquired while providing services to a victim, provided that such
 52 information was necessary to enable the agent to render services, unless the privilege has
 53 been waived or the court finds at a pretrial hearing or hearing outside the presence of the
 54 jury by a preponderance of the evidence that:

55 (1) The information or testimony sought is material and relevant:

56 (A) To factual issues to be determined in a civil proceeding;

57 (B) And exculpatory on the issue of guilt, degree of guilt, or sentencing for the offense
 58 charged or a lesser included offense in a criminal proceeding; or

59 (C) To factual issues in a criminal proceeding and the victim is deceased;

60 (2) The evidence is not sought solely for the purpose of impeachment of character;

61 (3) The evidence sought is not cumulative of other evidence or information available or
 62 already obtained by the party seeking disclosure; and

63 (4) The effect of the disclosure on the victim, including the impact of the disclosure on
64 the relationship between the victim and the agent and the delivery and accessibility of
65 services, is outweighed by the public interest and need for disclosure."

66 **SECTION 2.**

67 All laws and parts of laws in conflict with this Act are repealed.