

109TH CONGRESS
1ST SESSION

H. R. 3837

To ensure that the confidential communications of a member of the Armed Forces with a victim service organization or a health care professional are not disclosed, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2005

Ms. SLAUGHTER (for herself, Mr. ABERCROMBIE, Mrs. CAPITO, Mrs. CAPPS, Mr. CROWLEY, Mr. FILNER, Mr. GRIJALVA, Ms. HART, Ms. KILPATRICK of Michigan, Mr. LEWIS of Georgia, Mrs. MALONEY, Mr. McDERMOTT, Mr. OWENS, Ms. SCHAKOWSKY, Ms. SOLIS, and Mr. WEXLER) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To ensure that the confidential communications of a member of the Armed Forces with a victim service organization or a health care professional are not disclosed, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Military Victims of
5 Violence Confidentiality Act of 2005”.

1 **SEC. 2. VICTIM SERVICE ORGANIZATION PRIVILEGE, AND**
 2 **HEALTH CARE PROFESSIONAL PRIVILEGE, IN**
 3 **CASES ARISING UNDER THE UNIFORM CODE**
 4 **OF MILITARY JUSTICE.**

5 (a) PRIVILEGE ESTABLISHED.—

6 (1) IN GENERAL.—Subchapter XI of chapter 47
 7 of title 10, United States Code (the Uniform Code
 8 of Military Justice), is amended by adding at the
 9 end the following new section:

10 **“§ 941. Art. 141. Privilege for communication with**
 11 **victim service organization or health**
 12 **care professional**

13 “(a) GENERAL RULE OF PRIVILEGE.—A client has
 14 a privilege to refuse to disclose and to prevent any other
 15 person from disclosing a confidential communication made
 16 between the client and a victim service organization or any
 17 representative of the organization, or between the client
 18 and a health care professional or any representative of the
 19 professional, in a case arising under this chapter, if such
 20 communication was made for the purpose of securing ad-
 21 vice, counseling, treatment, or assistance concerning the
 22 client’s mental, physical, or emotional condition caused by
 23 domestic violence, family violence, dating violence, stalk-
 24 ing, or sexual assault.

25 “(b) DEFINITIONS.—As used in this section:

1 “(1) The term ‘client’ means a person who
2 consults with or is examined or interviewed by a vic-
3 tim service organization or any representative of the
4 organization, or by a health care professional or any
5 representative of the professional.

6 “(2) The term ‘victim service organization’
7 means an organization (whether public or private)
8 that provides advice, counseling, or assistance to vic-
9 tims of domestic violence, family violence, dating vio-
10 lence, stalking, or sexual assault, or to the families
11 of such victims.

12 “(3) The term ‘representative’, with respect to
13 an organization or professional, means a person di-
14 rected by or assigned to assist that organization or
15 professional, respectively, in providing advice, coun-
16 seling, treatment, or assistance.

17 “(4) The term ‘confidential communication’—

18 “(A) means a communication not intended
19 to be disclosed to third persons other than—

20 “(i) those to whom disclosure is in
21 furtherance of providing advice, counseling,
22 treatment, or assistance to the client; and

23 “(ii) those reasonably necessary for
24 disclosing under clause (i); and

1 “(B) in addition to communications under
2 subparagraph (A), also includes any informa-
3 tion that provides the client’s identity or that
4 provides any clue that can be used to help de-
5 duce the client’s identity, such as—

6 “(i) a first or last name;

7 “(ii) a home or other physical address,
8 including street name and name of city or
9 town;

10 “(iii) active duty, reservist, guard, or
11 veteran status;

12 “(iv) assigned rate or rank;

13 “(v) duty station or deployment sta-
14 tus;

15 “(vi) squad, unit, company, platoon,
16 ship, squadron, wing command, fleet, com-
17 mand, or battalion of the Army, Navy, Ma-
18 rine Corps, or Air Force;

19 “(vii) an email address or other online
20 contact information, such as an instant
21 messaging user identifier or a screen name
22 that reveals an individual’s email address;

23 “(viii) a telephone number;

24 “(ix) a Social Security Number;

1 “(x) an Internet Protocol (IP) address
2 or host name that identifies an individual;

3 “(xi) a persistent identifier, such as a
4 customer number held in a cookie or proc-
5 essor serial number, that is combined with
6 other available data that identifies an indi-
7 vidual; or

8 “(xii) any other descriptive informa-
9 tion, such as grade point average, date of
10 birth, academic or occupational assign-
11 ments or interests, athletic or extra-
12 curricular interests, racial or ethnic back-
13 ground, or religious affiliation.

14 “(c) WHO MAY CLAIM THE PRIVILEGE.—The privi-
15 lege may be claimed by the client or the guardian or con-
16 servator of the client. A person who may claim the privi-
17 lege may authorize trial counsel or defense counsel to
18 claim the privilege on his or her behalf. The victim service
19 organization, health care professional, or representative
20 who received the communication may claim the privilege
21 on behalf of the client. The authority of such an organiza-
22 tion, professional, representative, guardian, or conservator
23 to so assert the privilege is presumed in the absence of
24 evidence to the contrary.

1 “(d) EXCEPTIONS.—There is no privilege under this
2 section—

3 “(1) when the client is dead;

4 “(2) to the extent the communication reports
5 child abuse;

6 “(3) when a victim service organization, health
7 care professional, or representative believes that a
8 client’s mental or emotional condition makes the cli-
9 ent a danger to any person, including the client; or

10 “(4) if the communication clearly contemplated
11 the future commission of a fraud or crime or if the
12 services of the victim service organization or health
13 care professional are sought or obtained to enable or
14 aid anyone to commit or plan to commit what the
15 client knew or reasonably should have known to be
16 a crime or fraud.”.

17 (2) CLERICAL AMENDMENT.—The table of sec-
18 tions at the beginning of such subchapter is amend-
19 ed by adding at the end the following new item:

“941. 141. Privilege for communication with victim service organization or
health care professional.”.

20 (b) APPLICABILITY.—Section 941 of title 10, United
21 States Code, as added by subsection (a), applies to com-
22 munications made after the date of the enactment of this
23 Act.

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