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SB-331 Evidentiary privileges: domestic violence counselor-victim privilege. (2017-2018)

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Senate Bill No. 331

CHAPTER 178

An act to amend Section 1037.1 of the Evidence Code, relating to evidence.

[Approved by Governor August 07, 2017. Filed with Secretary of State August 07, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 331, Jackson. Evidentiary privileges: domestic violence counselor-victim privilege.

Existing law relating to legal proceedings generally provides that a person does not have a privilege to refuse to disclose any matter or produce any writing, object, or other thing. However, a victim of domestic violence has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a domestic violence counselor. Existing law requires the domestic violence counselor who received or made a communication subject to this privilege to claim the privilege whenever he or she is present when the communication is sought to be disclosed. Existing law defines "domestic violence counselor" to mean a specified person who is employed at a domestic violence victim service organization. Existing law defines "domestic violence victim service organization" to mean a nongovernmental organization or entity that provides shelter, programs, or services to victims of domestic violence and their children, as specified.

This bill would expand the definition of "domestic violence victim service organization" to include a public or private institution of higher education, as specified, thereby expanding the scope of the privilege.

The California Constitution requires that a statute that would exclude relevant evidence in any criminal proceeding be enacted by a $\frac{2}{3}$ vote of each house of the Legislature.

Because this bill would exclude certain communications between a victim of domestic violence and a domestic violence counselor in criminal proceedings, the bill would require a $\frac{2}{3}$ vote.

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1037.1 of the Evidence Code is amended to read:

1037.1. (a) (1) As used in this article, "domestic violence counselor" means a person who is employed by a domestic violence victim service organization, as defined in this article, whether financially compensated or not, for the purpose of rendering advice or assistance to victims of domestic violence and who has at least 40 hours of training as specified in paragraph (2).

(2) The 40 hours of training shall be supervised by an individual who qualifies as a counselor under paragraph (1), and who has at least one year of experience counseling domestic violence victims for the domestic violence victim service organization. The

training shall include, but need not be limited to, the following areas: history of domestic violence, civil and criminal law as it relates to domestic violence, the domestic violence victim-counselor privilege and other laws that protect the confidentiality of victim records and information, societal attitudes towards domestic violence, peer counseling techniques, housing, public assistance and other financial resources available to meet the financial needs of domestic violence victims, and referral services available to domestic violence victims.

(3) A domestic violence counselor who has been employed by the domestic violence victim service organization for a period of less than six months shall be supervised by a domestic violence counselor who has at least one year of experience counseling domestic violence victims for the domestic violence victim service organization.

(b) As used in this article, "domestic violence victim service organization" means either of the following:

(1) A nongovernmental organization or entity that provides shelter, programs, or services to victims of domestic violence and their children, including, but not limited to, either of the following:

(A) Domestic violence shelter-based programs, as described in Section 18294 of the Welfare and Institutions Code.

(B) Other programs with the primary mission to provide services to victims of domestic violence whether or not that program exists in an agency that provides additional services.

(2) Programs on the campus of a public or private institution of higher education with the primary mission to provide support or advocacy services to victims of domestic violence.