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Senator John Eklund - Sponsor Testimony
Substitute Senate Bill 41
Senate Judiciary Committee
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Good Morning Chairman Bacon, Vice-Chair Dolan, Ranking Member Thomas, and members of the committee. Thank you the opportunity to give sponsor testimony on Substitute Senate Bill 41 and to encourage your support on this legislation.

Ohio law requires certain people to report cases of actual or suspected child abuse, and all persons to report felonies that have been or are being committed. There are statutory exceptions that apply to each of those obligations. For example, in the case of reporting felonies, exemptions exist for counselors, physicians, lawyers, social workers, and other persons with whom clients must provide candid information to receive the services sought.

Sub SB 41 will create a testimonial privilege for “qualified advocates”, defined as people who are specifically trained and engaged in providing advocacy services to victims of sexual violence, stalking, human trafficking, or domestic violence. This bill also would exempt “qualified advocates” from the felony disclosure obligation if such disclosures that would reveal information acquired in the course of their work in a community-based victim advocacy office. At the same time, Sub SB 41 would add “qualified advocates” to the list of people who are required to report actual or suspected child abuse or neglect.

The existing statutory exceptions to the disclosure laws are grounded in special relationships in which the utmost candor and trust are essential to the functioning of a free society, such as the attorney/client, physician/patient and cleric/penitent relationships. I believe the victim advocate/victim relationship shares many of the same characteristics, highlighted by the singular position of vulnerability that victims of sexual violence, stalking, human trafficking, and domestic violence face. Survivor access to safety and healing depends on their ability to speak freely and frankly with specially trained advocates. Knowing that advocates can be forced to disclose that information later curbs survivors’ ability to seek services after being trafficked or experiencing an act of domestic violence or sexual assault. This results in some survivors declining to seek sexual assault forensic examinations, emergency room care, or counseling that will help them heal sufficiently to complete their education, retain employment, separate from their abuser, or generally live a happy and productive life.

The “qualified advocate” exception proposed in the bill is designed to function in much the same way as existing exceptions do, and I believe it will enhance the effectiveness of the important work that these professionals do. For example, survivors of covered crimes often

seek services from shelters and crisis centers for referrals to hospitals, connection to law enforcement to make police reports, information on trauma counseling, access to attorneys for divorce or custody actions, assistance applying for expungement related to human trafficking charges, and help obtaining crime victim compensation. To match survivors to the appropriate resources, advocates need accurate information as soon as possible. Privilege permits candor, which leads to better response services.

Significantly, data suggests that an increase in confidential advocacy services leads to an increase in reporting to law enforcement. The recent increase in confidential sexual assault services provides an illustration. In 2014, Ohio's then-new Rape Crisis Program Fund increased the number of counties receiving services from 32 to 42. With this increase in services came a corresponding increase in reports to law enforcement.

- 2013: 4,391 reports to law enforcement¹
- 2014 (First year with expanded services): 5,228 reports to law enforcement²
- 2015: 5,441 reports to law enforcement³
- 2016: 5,589 reports to law enforcement⁴

This data demonstrates that with increased survivor assistance and confidence in advocacy providers comes an increase in police reports. If survivors know that their advocates cannot be compelled to testify regarding their requests for services, the number of reports for human trafficking, sexual and domestic violence, and stalking should increase even more, enabling law enforcement and prosecutors to hold offenders accountable and protect Ohioans from further harm.

As of 2017, 36 states have privilege laws protecting communications between domestic violence and/or sexual violence advocates and survivors. I have been working with the Ohio Domestic Violence Network (ODVN) and Ohio Alliance to End Sexual Violence (OAESV) on this legislation, which will allow Ohio survivors the same level of privileged service available across the United States. With privilege, the shelters and crisis centers ODVN and OAESV represent can better support survivor safety and healing. Establishing privileged communications between advocates and survivors will ensure that survivors feel protected and safe accessing services.

Thank you for the opportunity to provide testimony on Sub SB 41, and I will be glad to answer any questions you may have.

¹ Ohio Statistical Analysis Center, OCJS Special Report: Crime in the United States 2014, *Ohio Data* (Oct. 22, 2015), available at http://www.publicsafety.ohio.gov/links/ocjs_crime_in_us2014.pdf.

² Ohio Statistical Analysis Center, OCJS Special Report: Crime in the United States 2015, *Ohio Data* (Sept. 26, 2016), available at http://www.publicsafety.ohio.gov/links/ocjs_crime_in_us2015.pdf.

³ Ohio Statistical Analysis Center, *OCJS Special Report: Crime in the United States 2016, Ohio Data* (Sept. 25, 2017), available at http://www.publicsafety.ohio.gov/links/ocjs_CrimeintheUS2016.pdf.

⁴ *Id.*