



**Proponent testimony submitted to the  
Ohio Senate Judiciary Committee  
Senate Bill 196  
Rosa Beltre, Executive Director  
Ohio Alliance to End Sexual Violence  
November 6, 2019**

Chair Eklund, Vice Chair Manning, Ranking Member Thomas, and members of the Ohio Senate Judiciary Committee. Thank you for the opportunity to testify today in support of Senate Bill 196. As Ohio's statewide coalition, the Ohio Alliance to End Sexual Violence (OAESV) advocates for comprehensive responses and rape crisis services for survivors and empowers communities to prevent sexual violence.

Senate Bill 196 is OAESV's highest priority bill, as it would empower survivors to decide if, and when, they tell their story. Many OAESV employees have worked in states with advocate privilege - they and our counterparts across the country know that the increased confidentiality leads more survivors toward feeling empowered to report abuse. Prosecutors we have spoken with in many of the 36 states with advocate privilege share that they feel survivors receive more holistic and high quality services when community-based programs provide the protection of privileged communications.<sup>1</sup> We urge the legislature to pass this bill expeditiously.

I cannot emphasize how important this legislation truly is, without touching on the experience of victimization and the qualified advocate's role. Sexual violence impacts survivors across our state, irrespective of demographics. In 2017, Ohio rape crisis centers provided over 54,000 services to survivors, and we know that significantly more survivors needing services did not come forward. For many survivors, sex crime victimization results in long-term impacts that extend far past intrusive medical examinations, police interviews, trial, appeals, and parole hearings.

Though the term "qualified advocate" was created for this legislation, persons meeting the definition of "qualified advocate" have worked across Ohio for decades as the only professionals specifically employed to support survivors as holistic case managers, assisting survivors in any way ethically permissible to meet short-term health and safety needs, as well as long-term justice system goals. When a centralized advocate is available to provide confidential support in an overlapping web of systems, the survivor experiences increased stability and recovery.

The role of an advocate cannot function without confidentiality, and Ohio's lack of advocate privilege creates the potential for deeply damaging breaches. The Violence Against Women Act funding stream provides critical financial support to Ohio's rape crisis and domestic violence programs. This Federal funding stream mandates that no recipient disclose victim information unless a state statute requires

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<sup>1</sup> See Appendix A and B.

disclosure. Thus, Ohio is among one of only 14 states that cannot provide its victims with the confidentiality required by the grants that fund much of the necessary advocacy services.

Survivors deserve a safe space to talk about the crimes they suffer, a safe space to discuss options and resources, a safe space that cannot be compromised to cause the survivor employment consequences, victim blaming, shame, punishment from family members, education barriers, or safety concerns.

It is time for Ohio survivors to know they are seen, heard, and respected, and we urge this committee to pass this critically important legislation.

Thank you for the opportunity to provide testimony today. I am happy to answer your questions in person or via email at [rbeltre@oacsv.org](mailto:rbeltre@oacsv.org).

## Appendix A

### Statements from Prosecuting Attorneys in States with Advocate Privilege

OAESV interviewed prosecuting attorneys from an array of states with an existing privilege for advocate/survivor communications. These are their statements:

- “I think the advocate privilege is important because it gives our victims a person to feel they can discuss anything with. We are not the victim's lawyer, so anything we are told, we have to tell the defense. Sometimes victims are concerned about things like immigration status or their own recreational drug use, and I think it's important for the victim to have a person they can talk to about things like that. And ultimately, that helps us as prosecutors keep our victims engaged with the prosecution process, and to feel comfortable letting us know some of the difficult things that will likely come out at trial anyway. This way we are prepared.”- Jennifer Gonzalez, Cook County State’s Attorney’s Office, Illinois
- “Whatever is good for the victim, is ultimately good for the State. If there is something in place - like the advocate privilege in Florida - that makes a victim more at ease when coming forward, it can only facilitate a more successful prosecution in the long run.” - Kerrie Ann Harper, Esq., Assistant State Attorney, 17th Judicial Circuit
- “The primary barrier communities have to effective confrontation of sexual crimes is that the criminal justice system demands too much incursion into a complainant's life. We know from decades of relevant research that justice system-related privacy violations create additional psychological trauma for the individual crime victim. The entire community benefits if some of these limited protections can be put in place to allow an individual survivor to seek justice without placing her--or his--entire life on display. Accountability for offenses is the key to stopping serial offending by sex offenders.” - Claire Harwell, Former Director of the New Mexico Attorney General’s Office Violence Against Women Division
- “N.M. Stat. §31-25-1 to -6, the Victim Counselor Confidentiality Act,” has not negatively affected or hindered the prosecution of criminal cases involving victims of a sexual assault or family violence who seek treatment or counseling.” - Susan Stinson, Deputy District Attorney, Albuquerque, New Mexico
- “In Washington State, we feel victims are best served when having access to both system based and community advocates. System based usually have initial contact and provide victims communication with the investigation and prosecution. Community based provide vital services beyond the investigation and prosecution. Privilege or confidentiality is different between system based and community, but we have found it to be workable as long as we respect the differing roles of the advocates. System based advocates are by court ruling, part of the prosecution team and subject to Ethics/Brady requirements. This can mean that if the victim provides information exculpatory to the defendant, it will have to be disclosed by the system based advocate.” Tom McBride, Executive Secretary, Washington Prosecuting Attorneys Association

▪ “Based on my experience (34 years as a prosecutor, and I’m in my 20th year as county attorney) having such a privilege enacted into law is useful, both to the survivor and to the advocate. The “rules of the game” become more certain. It is always difficult and stressful for an advocate (system-based or grassroots) to be asked to give opinions to a survivor about whether and to what extent the survivor’s comments might be repeated in court. When survivors learn of the existence of the privilege it should empower them to more fully and completely describe matters surrounding a sexual assault.” – Marty Lambert, Galatan County Attorney, Montana

▪ “In Maine we have had sexual assault (and domestic violence) advocate privilege for several decades. It hasn’t negatively impacted our ability to prosecute sex crimes in fact it has enhanced our ability to prosecute. The advocates provide a level of victim support that a busy prosecutor’s office cannot do. This increases the likelihood that a victim will be able to withstand the rigors of trial. Our greatest success is when we all work together and we can only do that when open and honest communication is allowed.” – Megan Maloney, District Attorney, Kennebec and Somerset Counties, Maine

Appendix B – Letter from Ramsey County Prosecuting Attorney

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February 5, 2018

Re: Advocacy Privilege

To whom it may concern:

I have been a prosecutor since 1996, with the exception of four years I spent as the staff attorney of the Minnesota Coalition Against Sexual Assault. I have handled a wide variety of felony cases, although my case specialty is sexual assault involving teen and adult victim-survivors. The state of Minnesota protects the confidentiality of those seeking sexual-assault advocacy services, and it serves our state very well.

One of the most difficult decisions for victims of sexual violence is whether to report the crime to the police. Most do not. But for those considering reporting, it is usually essential to have supportive services. Allowing survivors confidentiality to discuss their options with an advocate is essential for many to feel secure enough to come forward. That confidentiality does not interfere with the criminal-justice process - it often is the only reason the criminal process is initiated by survivors in the first place. Confidential victim services allows victims to get support and begin feeling steady enough to assist in the prosecution of the case. This improves their ability to work with police and prosecutors without feeling overwhelmed or alone. A sexual-assault survivor who cannot talk through her concerns and fears confidentially often will keep quiet, and we hold no offenders accountable that way.

I have never experienced a problem with confidential advocacy. It helps victims to be good witnesses and has never hindered me from getting the information I need to prosecute the offender. Our office has a close working relationship with our local advocacy programs and we actively encourage victims to work with those programs, as our ability to provide needed support is limited. There is nothing unfair or improper about giving a sexual-violence survivor the space and privacy she or he needs to recover.

I recommend the implementation of a privilege for communications with sexual-assault advocates.

Respectfully,

Kaarin Long  
Assistant Ramsey County Attorney