

*I MINA' TRENTAI TRES NA LIHESLATURAN GUÅHAN*  
2015 (FIRST) Regular Session

Bill No. 79 -33 (COR)

Introduced by:

B. J.F. Cruz 

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**AN ACT TO ADD A NEW CHAPTER 163 TO TITLE 8 OF THE  
GUAM CODE ANNOTATED; RELATIVE TO CREATING A  
CATEGORY OF PRIVILEGED COMMUNICATIONS  
BETWEEN VICTIM AND VICTIM ADVOCATE.**

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Section 1.** A *new* Chapter 163 is *added* to Title 8 of the Guam Code  
Annotated to read as follows:

**“CHAPTER 163**

**VICTIM-ADVOCATE PRIVILEGE**

§ 163.10. Definition.

§ 163.20. Victim-Advocate Privilege.

§ 163.30. Consultation Between Crime Victim Advocate and Victim;  
Privileged Information.

§ 163.40. Severability.

**§ 163.10. Definition.** As used in this Chapter, *crime victim advocate* means a person who is employed or authorized by a public or private entity to provide counseling, treatment or other support assistance to crime victims.

**§ 163.20. Victim-Advocate Privilege.**

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1 (a) A crime victim has a privilege to refuse to disclose, and to prevent  
2 any other person from disclosing, a confidential communication made by the  
3 victim to a crime victim advocate or any record made in the course of  
4 advising, counseling or assisting the victim. The privilege applies to  
5 confidential communications made between the victim and the advocate, and  
6 to records of those communications. This privilege *does not* include  
7 communications excluded under § 163.30(c).

8 (b) The privilege may be claimed by the following:

9 (1) The victim, or the victim's attorney on behalf of the victim.

10 (2) A guardian or conservator of the victim.

11 (3) The personal representative of a deceased victim.

12 (4) The crime victim advocate, but only on behalf of the victim.

13 The authority of the advocate to claim the privilege is presumed in the  
14 absence of evidence to the contrary.

15 **§ 163.30. Consultation Between Crime Victim Advocate and**  
16 **Victim; Privileged Information; Exception.**

17 (a) A crime victim advocate *shall not* disclose as a witness or  
18 otherwise, any communication made by or with the victim, including any  
19 communication made to or in the presence of others, unless the victim  
20 consents in writing to the disclosure.

21 (b) Unless the victim consents either verbally or in writing to the  
22 disclosure, a crime victim advocate *shall not* disclose records, notes,  
23 documents, correspondence, reports or memoranda that contain opinions,  
24 theories or other information made while advising, counseling or assisting  
25 the victim or that are based on communications made by or with the victim,  
26 including communications made to or in the presence of others.

1 (c) The communication is not privileged *if* the crime victim advocate  
2 knows that the victim will give or has given perjured testimony or *if* the  
3 communication contains exculpatory material.

4 (d) Notwithstanding subsections (a) and (b), with the written or verbal  
5 consent of the victim, a crime victim advocate who is employed by the  
6 Attorney General’s Office may disclose information to the prosecutor

7 (e) *If*, with the written or verbal consent of the victim, the crime  
8 victim advocate discloses to the prosecutor or a law enforcement agency any  
9 communication between the victim and the advocate, or any records, notes,  
10 document, correspondence, reports or memoranda; the prosecutor or law  
11 enforcement agent *shall* disclose the material to the defendant’s attorney  
12 only *if* such information is otherwise exculpatory.

13 (f) Notwithstanding subsections (a) and (b), with the written or verbal  
14 consent of the victim, a crime victim advocate may disclose information to  
15 other professional and administrative support persons with whom the  
16 advocate works for the purpose of assisting the advocate in providing  
17 services to the victim.

18 **§ 163.40. Severability.** If any of the provisions of this Chapter, or the  
19 application thereof to any person or circumstance, are held invalid, such  
20 invalidity *shall not* affect any other provision or application of this Chapter  
21 which can be given effect without the invalid provision or application, and to  
22 this end the provisions of this Chapter are severable.”

23 **Section 2. Enactment.** This Act *shall* become effective upon enactment.