

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> 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.

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## 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

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## 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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