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2 Councilmember Kathy Patterson

Councilmember Kwame Brown

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8 A BILL

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11 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
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16 Councilmember Kathy Patterson introduced the following bill, which was referred to the  
17 Committee on \_\_\_\_\_.

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19 To amend the District of Columbia Mental Health Information Act of 1978 to provide for  
20 confidentiality of information revealed by a victim of domestic violence to a domestic violence  
21 advocate.

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23 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may  
24 be cited as the “Domestic Violence Victim Confidentiality Protection Act of 2005”.

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26 Sec. 2. The “District of Columbia Mental Health Information Act of 1978” (D.C. Act No.  
27 2-292; D.C. Official Code Title 14, Chapter 3) is amended to add a new section (§ 14-310) as  
28 follows:

29 “§ 14-310. Domestic Violence Advocates

30 (a) Definitions:

31 (1) “Domestic violence advocate” means any person who has undergone forty  
32 (40) hours of training which shall include, but not be limited to, domestic violence advocacy,  
33 crisis intervention, information about community domestic violence resources and who provides  
34 services to victims through a domestic violence program either on an employed, contractual, or

35 volunteer basis at the time of the confidential communication and whose primary purpose is the  
36 rendering of advice, counseling, or assistance to victims of domestic violence.

37 (2) “Victim” means a person who consults a domestic violence advocate for the  
38 purpose of securing advice, counseling, or assistance.

39 (3) “Confidential communication” means oral or written information exchanged  
40 in the course of victim advice, counseling or assistance between a victim and a domestic violence  
41 advocate, or between a domestic violence advocate and any person to whom disclosure is  
42 reasonably necessary to accomplish the purpose for which the advocate is consulted, or in the  
43 presence of a third party who is present to facilitate communication or further the interests of the  
44 victim in the consultation.

45 (b) A domestic violence advocate shall not disclose any confidential communications or  
46 be examined as a witness in any civil or criminal case or proceeding or in any legislative or  
47 administrative proceeding as to the confidential communication unless the victim making the  
48 confidential communications waives the privilege by giving express written consent.

49 (c) The authority of a domestic violence advocate to claim the privilege is presumed in  
50 the absence of evidence to the contrary.

51 (d) Exceptions:

52 (1) When a victim is deceased or has been adjudged incompetent  
53 by a court of competent jurisdiction, the victim’s guardian or the executor or administrator of the  
54 estate of the victim may decide whether to waive the privilege established by this Section, except  
55 where the guardian, executor or administrator of the estate has been charged with a violent crime  
56 against the victim or has had a Protection Order entered against him or her at the request of or  
57 on behalf of the victim or otherwise has an interest adverse to that of the victim with respect to

58 the waiver of the privilege. In these cases, the court shall appoint an attorney for the estate of the  
59 victim.

60 (2) A domestic violence advocate shall not be required to treat as confidential  
61 information provided by a victim in a case in which the victim waives the privilege by instituting  
62 charges against the domestic violence advocate or the program through which the domestic  
63 violence advocate provides services. The domestic violence advocate shall be permitted to  
64 disclose confidential communications only to the extent necessary to defend against allegations  
65 from the victim.

66 (e) The assertion of any privilege under this section shall not result in an inference  
67 unfavorable to the government's cause or to the cause of the domestic violence victim.

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69 Sec. 3. Fiscal Impact Statement. The council adopts the fiscal impact statement in the  
70 committee report as the fiscal impact statement required by section 603(c)(3) of the District of  
71 Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code 9 1-  
72 206.02(c)(3)).

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74 Sec. 4. Effective Date. This act shall take effect following approval by the Mayor (or in  
75 the event of veto by the Mayor, action by the council to override the veto), a 30-day period of  
76 Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule  
77 Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and  
78 publication in the District of Columbia Register.

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