

IN THE SENATE

SENATE BILL NO. 1332

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO WITNESSES; AMENDING SECTION 9-203, IDAHO CODE, TO PROVIDE FOR
2 CONFIDENTIAL RELATIONS AND COMMUNICATIONS FOR EMPLOYEES AND VOLUNTEERS
3 AT A DOMESTIC OR SEXUAL VIOLENCE PROGRAM IN CERTAIN INSTANCES, TO PRO-
4 VIDE CERTAIN EXEMPTIONS, TO DEFINE TERMS, AND TO MAKE TECHNICAL CORREC-
5 TIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 9-203, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 9-203. CONFIDENTIAL RELATIONS AND COMMUNICATIONS. There are particu-
11 lar relations in which it is the policy of the law to encourage confidence and
12 to preserve it inviolate; therefore, a person cannot be examined as a witness
13 in the following cases:

14 1. A husband cannot be examined for or against his wife, without her
15 consent, nor a wife for or against her husband, without his consent; nor can
16 either, during the marriage or afterwards, be, without the consent of the
17 other, examined as to any communication made by one to the other during the
18 marriage; but this exception does not apply to a civil action or proceeding
19 by one against the other nor to a criminal action or proceeding for a crime
20 committed by violence of one against the person of the other, nor does this
21 exception apply to any case of physical injury to a child where the injury has
22 been caused as a result of physical abuse or neglect by one or both of the par-
23 ents, nor does this exception apply to any case of lewd and lascivious con-
24 duct or attempted lewd and lascivious conduct where either party would oth-
25 erwise be protected by this privilege.

26 2. An attorney cannot, without the consent of his client, be examined as
27 to any communication made by the client to him, or his advice given thereon,
28 in the course of professional employment. The word client used herein shall
29 be deemed to include a person, a corporation or an association.

30 3. A clergyman or priest cannot, without the consent of the person mak-
31 ing the confession, be examined as to any confession made to him in his pro-
32 fessional character in the course of discipline enjoined by the church to
33 which he belongs.

34 4. A physician or surgeon cannot, without the consent of his patient,
35 be examined in a civil action as to any information acquired in attending
36 the patient which was necessary to enable him to prescribe or act for the pa-
37 tient, provided, however, that:

38 (A) Nothing herein contained shall be deemed to preclude physicians
39 from reporting of and testifying at all cases of physical injury to
40 children, where it appears the injury has been caused as a result of
41 physical abuse or neglect by a parent, guardian or legal custodian of
42 the child.

1 (B) Nothing herein contained shall be deemed to preclude physicians
2 from testifying at all cases of physical injury to a person where it ap-
3 pears the injury has been caused as a result of domestic violence.

4 (C) After the death of a patient, in any action involving the valid-
5 ity of any will or other instrument executed, or claimed to have been
6 executed, by him, conveying or transferring any real or personal prop-
7 erty or incurring any financial obligation, such physician or surgeon
8 may testify to the mental or physical condition of such patient and in so
9 testifying may disclose information acquired by him concerning such pa-
10 tient which was necessary to enable him to prescribe or act for such de-
11 ceased.

12 (D) ~~That w~~Where any person or his heirs or representatives brings an
13 action to recover damages for personal injuries or death, such action
14 shall be deemed to constitute a consent by the person bringing such ac-
15 tion that any physician who has prescribed for or treated said injured
16 or deceased person and whose testimony is material in the action may
17 testify.

18 (E) ~~That i~~If the patient be dead and during his lifetime had not given
19 such consent, the bringing of an action by a beneficiary, assignee or
20 payee or by the legal representative of the insured, to recover on any
21 life, health or accident insurance policy, shall constitute a consent
22 by such beneficiary, assignee, payee or legal representative to the
23 testimony of any physician who attended the deceased.

24 5. A public officer cannot be examined as to communications made to him
25 in official confidence, when the public interests would suffer by disclo-
26 sure.

27 6. Any certificated counselor, psychologist or psychological exam-
28 iner, duly appointed, regularly employed and designated in such capacity
29 by any public or private school in this state for the purpose of counseling
30 students, shall be immune from disclosing, without the consent of the stu-
31 dent, any communication made by any student so counseled or examined in any
32 civil or criminal action to which such student is a party. Such matters so
33 communicated shall be privileged and protected against disclosure.

34 7. Any parent, guardian or legal custodian shall not be forced to
35 disclose any communication made by their minor child or ward to them con-
36 cerning matters in any civil or criminal action to which such child or ward
37 is a party. Such matters so communicated shall be privileged and protected
38 against disclosure; excepting, this section does not apply to a civil action
39 or proceeding by one against the other nor to a criminal action or proceeding
40 for a crime committed by violence of one against the person of the other, nor
41 does this section apply to any case of physical injury to a minor child where
42 the injury has been caused as a result of physical abuse or neglect by one or
43 both of the parents, guardian or legal custodian.

44 8. A person employed by or volunteering at a nongovernmental domestic
45 or sexual violence program shall not, without the written and signed consent
46 of the recipient of services, be required to or compelled to disclose any
47 communication made between the person in the course of employment or volun-
48 teer services for the domestic or sexual violence program and a recipient of
49 the program's services or to disclose information or records about a recip-
50 ient of the services of a domestic or sexual violence program, provided that

1 disclosure of communications during or as part of court proceedings is sub-
2 ject to the rules of the Idaho supreme court. The provisions of this subsec-
3 tion shall not apply to communications made to a provider or employee during
4 medical services, medical procedures, medical exams, medical evaluations,
5 or forensic interviews.

6 9. For purposes of this section:

7 (A) "Recipient" means any individual who has received or inquired about
8 receiving services or assistance from a domestic or sexual violence
9 program, including shelter, advocacy, counseling, or other services
10 offered by a domestic or sexual violence program.

11 (B) "Domestic or sexual violence program" means any nonprofit or-
12 ganization, nongovernmental organization, private entity, or tribe
13 or tribal organization that has as its primary purpose the operation
14 of shelters or supportive services for victims of domestic or sexual
15 violence and their dependents or counseling, advocacy, or self-help
16 services to victims of domestic or sexual violence.

17 SECTION 2. An emergency existing therefor, which emergency is hereby
18 declared to exist, this act shall be in full force and effect on and after
19 July 1, 2022.