



TO: House Judiciary Finance and Civil Law Chair Jamie Becker-Finn  
Senate Judiciary and Public Safety Chair Ron Latz

FROM: David Valentini, President  
Jill Oleisky, Executive Director  
Minnesota Association of Criminal Defense Lawyers (MACDL)

DATE: February 21, 2024

RE: MACDL opposition to limiting disclosure of certain information by domestic abuse advocates, HF 3509 (Moller)/SF 3441 (Gustafson)

MACDL is the Minnesota Chapter of the National Association of Criminal Defense Lawyers, the preeminent organization in the United States advancing the mission of the nation's criminal defense lawyers to ensure justice and due process for persons accused of crime or other misconduct. MACDL is a non-profit, state-wide organization of defense lawyers seeking to uphold Constitutional rights and ensure justice for all, particularly from unchecked power of the government against the rights of individuals. A professional bar association founded in 1958, the National Association of Criminal Defense Lawyers has more than 10,400 direct members – and 80 state and local affiliate organizations with another 28,000 members – which includes private criminal defense lawyers, public defenders, active U.S. military defense counsel, law professors and judges committed to preserving fairness within America's criminal justice system. MACDL shares its view of the following proposed statute for this legislative session.

MACDL opposes HF No. 3509/SF No. 3441: A bill limiting the disclosure of certain information by domestic abuse advocates. The Constitution requires that criminal defendants have access to any and all exculpatory information in the possession of the prosecution or known to others acting on the government's behalf in a criminal matter. Because this bill would prevent a defendant from accessing statements or information provided by an alleged victim, it raises serious due process concerns.

Of particular concern is that the bill allows for domestic abuse advocates to disclose information *with the permission of the victim*. This could lead to situations where victims allow the disclosure of information that is advantageous to the prosecution, while refusing to allow the disclosure of information that is advantageous to the defense. Such a situation would likely violate the due process rights of defendants.

Additionally, without having access to statements of the alleged victim, defense counsel has no way to verify that what domestic abuse advocates are communicating is accurate. Members of MACDL have had advocates misrepresent the views of the victims for whom they are supposed to advocate. For example, sometimes victims have not wanted to prosecute or have changed their story as to what allegedly happened.

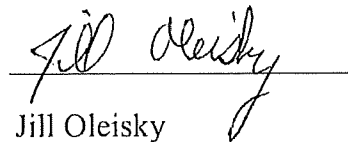
Moreover, while protecting the constitutional rights of criminal defendants is valuable in and of itself, equal access to evidence – exculpatory or otherwise – related to a criminal matter is also imperative for preventing wrongful convictions.

Finally, the Constitution and rules of evidence already regulate what evidence is relevant and admissible. These rules already make it very difficult for defendants to access victim statements to domestic assault advocates. Taking away judicial discretion on the admissibility of these statements, which can only be offered under limited circumstances as is, increases the likelihood of wrongful convictions and contravenes a person's right to a fair trial and to confront their accuser.

Sincerely, on behalf of MACDL,



David Valentini



Jill Oleisky