

By the Council for Smarter Government and Representatives  
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Pickens, Ritter, Brummer, Melvin and Kyle

1                                   A bill to be entitled  
2           An act relating to sexual assault counselors;  
3           amending s. 90.5035, F.S.; providing a  
4           definition; providing for confidential  
5           communication between a sexual crime victim and  
6           a trained volunteer at a rape crisis center;  
7           expanding the privilege of refusal to disclose  
8           certain information to include communications  
9           between a victim and a trained volunteer;  
10          amending s. 794.024, F.S.; prohibiting  
11          disclosure of certain identifying information  
12          relating to sexual crime victims by public  
13          officers or employees; providing a penalty;  
14          providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

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18           Section 1. Section 90.5035, Florida Statutes, is  
19 amended to read:

20           90.5035 Sexual assault counselor-victim privilege.--

21           (1) For purposes of this section:

22           (a) A "rape crisis center" is any public or private  
23 agency that offers assistance to victims of sexual assault or  
24 sexual battery and their families.

25           (b) A "sexual assault counselor" is any employee of a  
26 rape crisis center whose primary purpose is the rendering of  
27 advice, counseling, or assistance to victims of sexual assault  
28 or sexual battery.

29           (c) A "trained volunteer" is a person who volunteers  
30 at a rape crisis center, has completed 30 hours of training in  
31 assisting victims of sexual violence and related topics

1 provided by the rape crisis center, is supervised by members  
2 of the staff of the rape crisis center, and is included on a  
3 list of volunteers that is maintained by the rape crisis  
4 center.

5 (d)~~(c)~~ A "victim" is a person who consults a sexual  
6 assault counselor or a trained volunteer for the purpose of  
7 securing advice, counseling, or assistance concerning a  
8 mental, physical, or emotional condition caused by a sexual  
9 assault or sexual battery, an alleged sexual assault or sexual  
10 battery, or an attempted sexual assault or sexual battery.

11 (e)~~(d)~~ A communication between a sexual assault  
12 counselor or a trained volunteer and a victim is  
13 "confidential" if it is not intended to be disclosed to third  
14 persons other than:

15 1. Those persons present to further the interest of  
16 the victim in the consultation, examination, or interview.

17 2. Those persons necessary for the transmission of the  
18 communication.

19 3. Those persons to whom disclosure is reasonably  
20 necessary to accomplish the purposes for which the sexual  
21 assault counselor or the trained volunteer is consulted.

22 (2) A victim has a privilege to refuse to disclose,  
23 and to prevent any other person from disclosing, a  
24 confidential communication made by the victim to a sexual  
25 assault counselor or trained volunteer or any record made in  
26 the course of advising, counseling, or assisting the victim.  
27 Such confidential communication or record may be disclosed  
28 only with the prior written consent of the victim. This  
29 privilege includes any advice given by the sexual assault  
30 counselor or trained volunteer in the course of that  
31 relationship.

- 1           (3) The privilege may be claimed by:  
2           (a) The victim or the victim's attorney on his or her  
3 behalf.  
4           (b) A guardian or conservator of the victim.  
5           (c) The personal representative of a deceased victim.  
6           (d) The sexual assault counselor or trained volunteer,  
7 but only on behalf of the victim. The authority of a sexual  
8 assault counselor or trained volunteer to claim the privilege  
9 is presumed in the absence of evidence to the contrary.

10           Section 2. Section 794.024, Florida Statutes, is  
11 amended to read:

12           794.024 Unlawful to disclose identifying  
13 information.--

14           (1) A public employee or officer who has access to the  
15 photograph, name, or address of a person who is alleged to be  
16 the victim of an offense described in this chapter, chapter  
17 800, s. 827.03, s. 827.04, or s. 827.071 may not willfully and  
18 knowingly disclose it to a person who is not assisting in the  
19 investigation or prosecution of the alleged offense or to any  
20 person other than the defendant, the defendant's attorney, or  
21 a person specified in an order entered by the court having  
22 jurisdiction of the alleged offense, ~~or~~ to organizations  
23 authorized to receive such information made exempt by pursuant  
24 to s. 119.07(3)(f), or to a rape crisis center or sexual  
25 assault counselor as defined in s. 90.5035(1)(b) who will be  
26 offering services to the victim.

27           (2) A violation of subsection (1) constitutes a  
28 misdemeanor of the second degree, punishable as provided in s.  
29 775.082 or s. 775.083.

30           Section 3. This act shall take effect July 1, 2002.

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