

By Senator Burt

16-1384-02

1                                   A bill to be entitled  
2           An act relating to rape crisis centers;  
3           amending s. 90.5035, F.S.; defining the term  
4           "trained volunteer"; providing for an  
5           evidentiary privilege with respect to  
6           information received by a trained volunteer;  
7           amending s. 794.024, F.S.; authorizing public  
8           employees or officers to disclose specified  
9           information to a rape crisis center, sexual  
10          assault counselor, or trained volunteer;  
11          providing an effective date.

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13 Be It Enacted by the Legislature of the State of Florida:

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15           Section 1. Section 90.5035, Florida Statutes, is  
16 amended to read:

17           90.5035 Sexual assault counselor-victim privilege.--

18           (1) For purposes of this section:

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

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

26           (c) A "trained volunteer" is a person who volunteers  
27 with a rape crisis center, has completed 30 hours of training  
28 in assisting victims of sexual violence and related topics  
29 provided by the rape crisis center, is supervised by staff of  
30 the rape crisis center, and whose name is maintained on a  
31 volunteer list by the rape crisis center.

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

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

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

13           2. Those persons necessary for the transmission of the  
14 communication.

15           3. Those persons to whom disclosure is reasonably  
16 necessary to accomplish the purposes for which the sexual  
17 assault counselor or the trained volunteer is consulted.

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

28           (3) The privilege may be claimed by:

29           (a) The victim or the victim's attorney on his or her  
30 behalf.

31           (b) A guardian or conservator of the victim.

1 (c) The personal representative of a deceased victim.

2 (d) The sexual assault counselor or the trained  
3 volunteer, but only on behalf of the victim. The authority of  
4 a sexual assault counselor or the trained volunteer to claim  
5 the privilege is presumed in the absence of evidence to the  
6 contrary.

7 Section 2. Section 794.024, Florida Statutes, is  
8 amended to read:

9 794.024 Unlawful to disclose identifying  
10 information.--

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

24 (2) A violation of subsection (1) constitutes a  
25 misdemeanor of the second degree, punishable as provided in s.  
26 775.082 or s. 775.083.

27 Section 3. This act shall take effect upon becoming a  
28 law.

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SENATE SUMMARY

Provides an evidentiary privilege with respect to information received by a trained volunteer of a rape crisis center. Permits public employees or officers to disclose specified confidential information to specified agents of a rape crisis center.