

By the Committees on Children and Families; Judiciary; and
Senators Burt and Saunders

300-2115-02

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.

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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 trained volunteer and a victim is "confidential"
13 if it is not intended to be disclosed to third persons other
14 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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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS for SB 1656

Adds "trained volunteer" to paragraphs (d) and (e) of s. 90.5035(1), F.S., to provide a consistent reference to privileged communication being provided to the trained volunteers by the bill.

Clarifies that s. 119.07(3)(f), F.S., makes information pertaining to victims of sexual battery exempt from public disclosure and does not authorize organizations to receive information prohibited from disclosure as contained in existing statutory language.