

Committee Substitute for
Committee Substitute for Senate Bill No. 1656

An act relating to sexual assault counselors; amending s. 90.5035, F.S.; providing a definition; providing for confidential communication between a sexual crime victim and a trained volunteer at a rape crisis center; expanding the privilege of refusal to disclose certain information to include communications between a victim and a trained volunteer; amending s. 794.024, F.S.; prohibiting disclosure of certain identifying information relating to sexual crime victims by public officers or employees; providing a penalty; providing an effective date.

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

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

90.5035 Sexual assault counselor-victim privilege.—

(1) For purposes of this section:

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

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

(c) A “trained volunteer” is a person who volunteers at a rape crisis center, has completed 30 hours of training in assisting victims of sexual violence and related topics provided by the rape crisis center, is supervised by members of the staff of the rape crisis center, and is included on a list of volunteers that is maintained by the rape crisis center.

(d)(e) A “victim” is a person who consults a sexual assault counselor or a trained volunteer for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by a sexual assault or sexual battery, an alleged sexual assault or sexual battery, or an attempted sexual assault or sexual battery.

(e)(d) A communication between a sexual assault counselor or trained volunteer and a victim is “confidential” if it is not intended to be disclosed to third persons other than:

1. Those persons present to further the interest of the victim in the consultation, examination, or interview.
2. Those persons necessary for the transmission of the communication.
3. Those persons to whom disclosure is reasonably necessary to accomplish the purposes for which the sexual assault counselor or the trained volunteer is consulted.

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

(3) The privilege may be claimed by:

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

(b) A guardian or conservator of the victim.

(c) The personal representative of a deceased victim.

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

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

794.024 Unlawful to disclose identifying information.—

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

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

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

Approved by the Governor May 13, 2002.

Filed in Office Secretary of State May 13, 2002.