

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 1656

SPONSOR: Children and Families Committee, Judiciary Committee and Senator Burt

SUBJECT: Sexual Assault Counselors

DATE: March 9, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Johnson</u>	<u>JU</u>	<u>Favorable/CS</u>
2.	<u>Dowds</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/CS</u>
3.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

CS/CS/SB 1656 amends s. 90.5035, F.S., to provide that information disclosed by a victim of sexual violence to a trained volunteer providing services through a rape crisis center is privileged and confidential in the same manner as information provided to a sexual assault counselor.

Section 794.024, F.S., is amended to allow government employees or officers to provide rape crisis centers or sexual assault counselors with personal information related to victims or alleged victims of sexual offenses.

This bill substantially amends sections 90.5035 and 794.024 of the Florida Statutes.

II. Present Situation:

In 1999, a total of 12,288 sexual offenses were reported to law enforcement according to the Florida Department of Law Enforcement, 6,480 of which were forcible rape. These numbers do not reflect the total number of individuals who were victimized by sexual offenses. The Bureau of Justice Statistics estimates that only 30.7 percent of the victims of sexual violence report the crime to law enforcement.

There are currently 38 rape crisis centers in the State of Florida. The service availability varies from county to county and the structure of the programs varies widely. Services are performed by community-based programs in some areas and by county or city funded programs in others. Most service providers rely upon Victims of Crime Act (VOCA) funding from the Office of the Attorney General to augment their community's support for their programs. A few programs also receive funds from the Violence Against Women Act funding administered by the Department of

Children and Families and from prevention education and service funding administered by the Department of Health.

Generally, when a victim is identified, the medical facility, law enforcement or the victim notifies the rape crisis center hotline directly and an advocate is requested. The hotline worker then pages the on-call advocate to meet with the victim. The page is usually answered by a staff member during the day or an on-call volunteer at night and on weekends. The assigned advocate provides support and information to the victim during the medical exam and legal proceedings and arranges for aftercare. The volunteers generally receive 30 hours of training in addition to on-going updates and in-service training. According to Florida's 2001 Sexual Violence Needs Assessment conducted by the Institute for Family Violence at Florida State University, the volunteers comprise 50.4 percent of the staff of rape crisis centers.

Section 90.5035, F. S., provides that communications between a sexual assault counselor employed by a rape crisis center and a victim of a sexual assault or sexual battery or an alleged or attempted sexual assault or sexual battery is confidential if it is not intended to be disclosed to third persons. The victim has the right to refuse to disclose and to prevent any sexual assault counselor from disclosing any confidential communication or any record made in the course of advising, counseling or assisting the victim. The communications may be disclosed with the prior written consent of the victim. The privilege may be claimed by the victim, the victim's attorney on the victim's behalf, a guardian or conservator of the victim, the personal representative of the victim or the sexual assault counselor on behalf of the victim.

Section 794.024, F. S., provides that public employees or officers may not willfully and knowingly disclose information regarding a person who is alleged to be the victim of sexual battery, lewdness, indecent exposure, child abuse or acts causing child delinquency or child sexual performance. Information that may not be disclosed includes photographs or the victim's name or address. Information may only be disclosed to a person assisting in the investigation or prosecution of the alleged offense, to the defendant, the defendant's attorney, a person specified in an order entered by the court having jurisdiction, or to organizations authorized to receive such information made exempt by s. 119.07(3)(f), F.S. Any person who provides information in violation of this section commits a misdemeanor of the second degree.

III. Effect of Proposed Changes:

CS/CS/SB 1656 amends s. 90.5035, F.S., to provide that information disclosed by a victim of sexual violence to a trained volunteer with a rape crisis center has the same confidentiality as information provided to a sexual assault counselor. A "trained volunteer" is defined as a person who has completed 30 hours of training in assisting victims of sexual violence and related topics, who is supervised by the staff of a rape crisis center and who is included on a list of volunteers that is maintained by the rape crisis center.

Section 794.024, F.S., is amended to allow a public employee or officer with access to information on victims of sexual offenses to provide that information to a rape crisis center or sexual assault counselor for a rape crisis center.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

It is important to note that this bill amends the evidence code in ch.90, F.S., not the public records act in ch. 119, F.S. The distinction is important, as a privileged communication is not covered in the public records and meetings provisions of Article I, s. 24, State Constitution.

VIII. Amendments:

None.