

FLORIDA DOMESTIC VIOLENCE CENTER CONFIDENTIALITY AND PRIVILEGE LAWS



FCADV

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All calls to FCADV and services provided by FCADV are confidential

Florida's 41 certified domestic violence centers provide shelter and other services to victims of domestic violence and their children to keep them safe. The Florida legislature has enacted laws governing domestic violence center confidentiality and victim-advocate privilege to further ensure the safety of victims and their families. These laws provide that:

- Information about the location of a domestic violence center is confidential and exempt from public records law.
- Domestic violence center staff, including volunteers, cannot disclose any information about domestic violence center clients without the written consent of the client, except in certain circumstances listed in the statute.
- A victim of domestic violence has a privilege to refuse to disclose, and to prevent any other person from disclosing, a confidential communication made by the victim to a domestic violence advocate or any record made in the course of advising, counseling, or assisting the victim.
- The domestic violence victim-advocate privilege applies only to domestic violence advocates who have received 30 hours of domestic violence training, who work or volunteer at a certified domestic violence center, and who are registered as domestic violence advocates under section 39.905, Fla. Stat., at the time the communications were made.
- A victim of sexual assault 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.
- The authority of the domestic violence advocate and sexual assault counselor to claim the privilege is presumed in the absence of evidence to the contrary.

Pertinent Florida Statutes (2006)

§39.908. Confidentiality of information received by department or domestic violence center

- (1) Information about clients received by the department or by authorized persons employed by or volunteering services to a domestic violence center, through files, reports, inspection, or otherwise, is confidential and exempt from the provisions of s.119.07(1). Information about the location of domestic violence centers and facilities is confidential and exempt from the provisions of s. 119.07(1).

- (2) Information about domestic violence center clients may not be disclosed without the written consent of the client to whom the information or records pertain. For the purpose of state law regarding searches and seizures, domestic violence centers shall be treated as private dwelling places. Information about a client or the location of a domestic violence center may be given by center staff or volunteers to law enforcement, firefighting, medical, or other personnel in the following circumstances:
 - (a) To medical personnel in a medical emergency.
 - (b) Upon a court order based upon an application by a law enforcement officer for a criminal arrest warrant which alleges that the individual sought to be arrested is located at the domestic violence shelter.
 - (c) Upon a search warrant that specifies the individual or object of the search and alleges that the individual or object is located at the shelter.
 - (d) To firefighting personnel in a fire emergency.
 - (e) To any other person necessary to maintain the safety and health standards in the domestic violence shelter.
 - (f) Information solely about the location of the domestic violent shelter may be given to those with whom the agency has an established business relationship.

- (3) The restriction on the disclosure or use of the information about domestic violence center clients does not apply to:
 - (a) Communications from domestic violence shelter staff or volunteers to law enforcement officers when the information is directly related to a client's commission of a crime or threat to commit a crime on the premises of a domestic violence shelter; or
 - (b) Reporting suspected abuse of a child or a vulnerable adult as required by law. However, when cooperating with protective investigation services staff, the domestic violence shelter staff and volunteers must protect the confidentiality of other clients at the domestic violence center.

§90.5036. Domestic violence advocate-victim privilege

- (1) For purposes of this section:
 - (a) A "domestic violence center" is any public or private agency that offers assistance to victims of domestic violence, as defined in s. 741.28, and their families.

- (b) A “domestic violence advocate” means any employee or volunteer who has 30 hours of training in assisting victims of domestic violence and is an employee of or volunteer for a program for victims of domestic violence whose primary purpose is the rendering of advice, counseling, or assistance to victims of domestic violence.
- (c) A “victim” is a person who consults a domestic violence advocate for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by an act of domestic violence, an alleged act of domestic violence, or an attempted act of domestic violence.
- (d) A communication between a domestic violence advocate and a victim is “confidential” if it relates to the incident of domestic violence for which the victim is seeking assistance and 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, assessment, or interview.
 - 2. Those persons to whom disclosure is reasonably necessary to accomplish the purpose for which the domestic violence advocate 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 domestic violence advocate or any record made in the course of advising, counseling, or assisting the victim. The privilege applies to confidential communications made between the victim and the domestic violence advocate and to records of those communications only if the advocate is registered under s. 39.905 at the time the communication is made. This privilege includes any advice given by the domestic violence advocate in the course of that relationship.

- (3) The privilege may be claimed by:
- (a) The victim or the victim’s attorney on behalf of the victim.
 - (b) A guardian or conservator of the victim.
 - (c) The personal representative of a deceased victim.
 - (d) The domestic violence advocate, but only on behalf of the victim. The authority of a domestic violence advocate to claim the privilege is presumed in the absence of evidence to the contrary.

§90.5035. Sexual assault counselor-victim privilege

- (1) For purposes of this section:
- (a) A “rape crises 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) 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) 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.

(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.

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