

Title 15 CRIMINAL PROCEDURE -Chapter 23 ALABAMA CRIME VICTIMS
Article 2 Crime Counselor Confidentiality

Section 15-23-40

Short title.

This article shall be entitled "The Victim Counselor Confidentiality Act of 1987."

(Acts 1987, No. 87-598, p. 1040, §1.)

Section 15-23-41

Definitions.

As used in this article, unless a contrary meaning is clearly intended from the context in which the term appears, the following terms have the respective meanings hereinafter set forth and indicated:

(1) **CONFIDENTIAL COMMUNICATION.** Any information exchanged between a victim and a victim counselor in private or in the presence of a third party who is necessary to facilitate communication or further the counseling process and which is disclosed in the course of the counselor's treatment of the victim for any emotional or psychological condition resulting from a sexual assault or family violence.

(2) **VICTIM.** A person who consults a victim counselor for assistance in overcoming adverse emotional or psychological effects of a sexual assault or family violence.

(3) **SEXUAL ASSAULT.** Any sexual offense enumerated in Sections 13A-6-60 through 13A-6-70.

(4) **FAMILY VIOLENCE.** The occurrence of one or more of the following acts between family or household members:

- a. Attempting to cause or causing physical harm.
- b. Placing another in fear of imminent serious physical harm.

(5) **FAMILY or HOUSEHOLD MEMBERS.** Children, spouses, former spouses, persons of the opposite sex living as spouses now or in the past, or persons 60 years of age or older living in the same household and related by blood or marriage.

(6) **VICTIM COUNSELING.** Assessment, diagnosis, and treatment to alleviate the adverse emotional or psychological impact of a sexual assault or family violence on the victim. Victim counseling includes, but is not limited to, crisis intervention.

(7) **VICTIM COUNSELING CENTER.** A private organization or unit of a government agency which has as one of its primary purposes the treatment of victims for any emotional or psychological condition resulting from a sexual assault or family violence.

(8) **VICTIM COUNSELOR.** Any employee or supervised volunteer of a victim counseling center or other agency, business, or organization that provides counseling to victims who is not affiliated with a law

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enforcement agency or a prosecutor's office and whose duties include treating victims for any emotional or psychological condition resulting from a sexual assault or family violence.

(Acts 1987, No. 87-598, p. 1040, §2.)

Section 15-23-42

Confidentiality of communications with victim counselor.

(a) A victim, a victim counselor without the consent of the victim, or a minor or incapacitated victim without the consent of a custodial guardian or a guardian ad litem appointed upon application of either party, cannot be compelled to give testimony or to produce records concerning confidential communications for any purpose in any criminal proceeding.

(b) A victim counselor or a victim cannot be compelled to provide testimony in any civil or criminal proceeding that would identify the name, address, location, or telephone number of a safe house, abuse shelter, or other facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding unless the facility is a party to the proceeding.

(c) The confidential communication privilege of a victim counselor with respect to communications made between the counselor and the victim shall terminate upon the death of the victim.

(Acts 1987, No. 87-598, p. 1040, §2; Acts 1995, No. 95-536, p. 1094, §1.)

Section 15-23-43

Waiver of protection; exception for suit against counselor by victim.

(a) A victim does not waive the protections afforded by this article by testifying in court about the crime.

(1) However, if the victim partially discloses the contents of a confidential communication in the course of testifying, then either party may request the court to rule that justice requires the protections of this section be waived, to the extent they apply to that portion of the communication.

(2) Any waiver shall apply only to the extent necessary to require any witness to respond to counsel's questions concerning the confidential communication that are relevant to the facts and circumstances of the case.

(b) A victim counselor cannot waive the protections afforded to a victim under this section. However, if a victim brings suit against a victim counselor or the agency, business, or organization in which the victim counselor was employed or served as a volunteer at the time of the counseling relationship and the suit alleges malpractice during the counseling relationship, the victim counselor may testify or produce records regarding confidential communications with the victim and is not liable for doing so.

(Acts 1987, No. 87-598, p. 1040, §2.)

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Section 15-23-44

Other testimonial privilege not limited by provisions.

Nothing in this article shall be construed to limit any other testimonial privilege available to any person under other statutes or rules.

(Acts 1987, No. 87-598, p. 1040, §2.)

Section 15-23-45

Victim counselors not relieved of duty to report certain crimes.

This article shall not be construed to relieve victim counselors of any duty to report suspected child abuse or neglect or any evidence that the victim is about to commit a crime.

(Acts 1987, No. 87-598, p. 1040, §2.)

Section 15-23-46

Victim counselors not to prescribe drugs, practice medicine, or practice other professions without license.

Nothing in this article shall be construed to permit a victim counselor to administer or prescribe drugs in any form, or in any manner to engage in the practice of medicine as defined by the laws of this state or to engage in any act or to perform any service which act or service requires a license as described in Chapters 8A, 21, 24, 26, or 30 of Title 34, unless such victim counselor is duly licensed by the appropriate licensing agency. Nothing in this article shall be construed to enlarge or expand the scope of practice of any of the licensed professions or occupations enumerated above by virtue of an individual being designated as or holding the position of victim counselor.

(Acts 1987, No. 87-598, p. 1040, §2.)