

FINAL BILL REPORT

HB 1425

C 240 L 95

Synopsis as Enacted

Brief Description: Protecting privileged communication.

Sponsors: Representatives Scott, Padden, Appelwick, Costa, Sheldon, Dickerson, Chappell, Hatfield, Brown and Basich.

House Committee on Law & Justice
Senate Committee on Law & Justice

Background: The judiciary has inherent power to compel witnesses to appear and testify in judicial proceedings so that the court will receive all relevant evidence. However, the common law and statutory law recognize exceptions to compelled testimony in some circumstances, including "privileged communications." Privileges are recognized when certain classes of relationships or communications within those relationships are deemed of such importance that they are to be protected.

Under the common law, four criteria must be satisfied to find a privilege: (1) the communication must be made in confidence; (2) the element of confidentiality must be essential to the relationship; (3) the relationship must be one which, in the opinion of the community, ought to be fostered; and (4) the injury of disclosing the communication must be greater than the benefit of disclosure.

Washington statutory law establishes a number of privileged communications, including communications between the following persons: (1) husband and wife, with some exceptions; (2) attorney and client; (3) clergy and confessor; (4) physician and patient with some exceptions; and (5) public officers and witnesses, if the public interest would suffer by disclosure.

Summary: A new privileged communication is created.

A peer support group counselor may not be compelled to testify about any communication made to the counselor by a law enforcement officer while receiving counseling, unless the law enforcement officer consents. The counselor must be designated as such by the sheriff, police chief, or chief of the State Patrol prior to the incident that results in counseling. This privilege applies only to communications made to a counselor acting in his or her capacity as a peer support group counselor. The privilege does not apply if the counselor was an initial responding officer, a

witness, or a party to any incident which prompted the delivery of peer support group counseling services to the law enforcement officer.

"Peer support group counselor" means a law enforcement officer or employee trained to provide emotional and moral support or a non-employee counselor designated to provide emotional and moral support to an officer as a result of an incident that occurred while the officer acted in his or her official capacity.

Votes on Final Passage

House	98	0	
Senate	47	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 23, 1995