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HOUSE BILL 1861

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State of Washington                      54th Legislature                      1995 Regular Session

By Representatives Scott, Appelwick and Delvin

Read first time 02/13/95. Referred to Committee on Law & Justice.

1            AN ACT Relating to privileged communications; and amending RCW  
2 5.60.060.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 5.60.060 and 1989 c 271 s 301 are each amended to read  
5 as follows:

6            (1) A husband shall not be examined for or against his wife,  
7 without the consent of the wife, nor a wife for or against her husband  
8 without the consent of the husband; nor can either during marriage or  
9 afterward, be without the consent of the other, examined as to any  
10 communication made by one to the other during marriage. But this  
11 exception shall not apply to a civil action or proceeding by one  
12 against the other, nor to a criminal action or proceeding for a crime  
13 committed by one against the other, nor to a criminal action or  
14 proceeding against a spouse if the marriage occurred subsequent to the  
15 filing of formal charges against the defendant, nor to a criminal  
16 action or proceeding for a crime committed by said husband or wife  
17 against any child of whom said husband or wife is the parent or  
18 guardian, nor to a proceeding under chapter 70.96A or 71.05 RCW:  
19 PROVIDED, That the spouse of a person sought to be detained under

1 chapter 70.96A or 71.05 RCW may not be compelled to testify and shall  
2 be so informed by the court prior to being called as a witness.

3 (2) An attorney or counselor shall not, without the consent of his  
4 or her client, be examined as to any communication made by the client  
5 to him or her, or his or her advice given thereon in the course of  
6 professional employment.

7 (3) A member of the clergy or a priest shall not, without the  
8 consent of a person making the confession, be examined as to any  
9 confession made to him or her in his or her professional character, in  
10 the course of discipline enjoined by the church to which he or she  
11 belongs.

12 (4) Subject to the limitations under RCW 70.96A.140 or 71.05.250,  
13 a physician or surgeon or osteopathic physician or surgeon shall not,  
14 without the consent of his or her patient, be examined in a civil  
15 action as to any information acquired in attending such patient, which  
16 was necessary to enable him or her to prescribe or act for the patient,  
17 except as follows:

18 (a) In any judicial proceedings regarding a child's injury,  
19 neglect, or sexual abuse or the cause thereof; and

20 (b) Ninety days after filing an action for personal injuries or  
21 wrongful death, the claimant shall be deemed to waive the physician-  
22 patient privilege. Waiver of the physician-patient privilege for any  
23 one physician or condition constitutes a waiver of the privilege as to  
24 all physicians or conditions, subject to such limitations as a court  
25 may impose pursuant to court rules.

26 (5) A public officer shall not be examined as a witness as to  
27 communications made to him or her in official confidence, when the  
28 public interest would suffer by the disclosure.

29 (6)(a) A law enforcement officer who is a designated peer support  
30 group counselor shall not, without consent of the other officer making  
31 the communication, be compelled to testify in any judicial proceeding  
32 about any communication the other law enforcement officer made to the  
33 counselor while receiving counseling from that counselor. The  
34 privilege only applies when the communication was made to the counselor  
35 when acting in his or her capacity as a peer support group counselor.  
36 The privilege does not apply if the counselor was a witness or a party  
37 to any incident which prompted the delivery of peer support group  
38 counseling services to the law enforcement officer. The role of the  
39 designated peer support group counselor is to provide emotional and

1 moral support and counseling to an officer who needs peer support  
2 services as a result of an incident in which the officer was involved  
3 while acting in his or her official capacity.

4 (b) If a law enforcement officer or designated peer support group  
5 counselor refuses to disclose the records of their counseling sessions,  
6 a judge may not order the jury to consider those records to be damaging  
7 to the credibility of either the law enforcement officer or the  
8 designated peer support group counselor.

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