
SUBSTITUTE SENATE BILL 6188

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Sheldon, Prentice, Wojahn, Thibaudeau, Fairley, Kohl, Rinehart, Spanel, Snyder, Winsley and Rasmussen)

Read first time 02/01/96.

1 AN ACT Relating to communications between victims of sexual
2 assaults and their personal representatives; and amending RCW 5.60.060.

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

4 **Sec. 1.** RCW 5.60.060 and 1995 c 240 s 1 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

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

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

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

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

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

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

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

(6)(a) A peer support group counselor shall not, without consent of the law enforcement officer making the communication, be compelled to testify about any communication made to the counselor by the officer while receiving counseling. The counselor must be designated as such by the sheriff, police chief, or chief of the Washington state patrol, prior to the incident that results in counseling. The privilege only applies when the communication was made to the counselor while 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 the incident which prompted the

1 delivery of peer support group counseling services to the law
2 enforcement officer.

3 (b) For purposes of this section, "peer support group counselor"
4 means a:

5 (i) Law enforcement officer, or civilian employee of a law
6 enforcement agency, who has received training to provide emotional and
7 moral support and counseling to an officer who needs those services as
8 a result of an incident in which the officer was involved while acting
9 in his or her official capacity; or

10 (ii) Nonemployee counselor who has been designated by the sheriff,
11 police chief, or chief of the Washington state patrol to provide
12 emotional and moral support and counseling to an officer who needs
13 those services as a result of an incident in which the officer was
14 involved while acting in his or her official capacity.

15 (7) A sexual assault advocate may not, without the consent of the
16 victim, be examined as to any communication made by the victim to the
17 sexual assault advocate.

18 (a) For purposes of this section, "sexual assault advocate" means
19 the employee or volunteer from a rape crisis center, victim assistance
20 unit, program, or association, that provides information, medical or
21 legal advocacy, counseling, or support to victims of sexual assault,
22 who is designated by the victim to accompany the victim to the hospital
23 or other health care facility and to proceedings concerning the alleged
24 assault, including police and prosecution interviews and court
25 proceedings.

26 (b) A sexual assault advocate may disclose a confidential
27 communication without the consent of the victim if failure to disclose
28 is likely to result in a clear, imminent risk of serious physical
29 injury or death of the victim or another person. Any sexual assault
30 advocate participating in good faith in the disclosing of records and
31 communications under this section shall have immunity from any
32 liability, civil, criminal, or otherwise, that might result from the
33 action. In any proceeding, civil or criminal, arising out of a
34 disclosure under this section, the good faith of the sexual assault
35 advocate who disclosed the confidential communication shall be
36 presumed.

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