
HOUSE BILL 2483

State of Washington

56th Legislature

2000 Regular Session

By Representative Carrell

Read first time 01/14/2000. Referred to Committee on Judiciary.

1 AN ACT Relating to communications between emergency service
2 providers and trained peer supporters; amending RCW 5.60.060; and
3 adding a new section to chapter 38.52 RCW.

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

5 **Sec. 1.** RCW 5.60.060 and 1998 c 72 s 1 are each amended to read as
6 follows:

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

1 PROVIDED, That the spouse of a person sought to be detained under
2 chapter 70.96A or 71.05 RCW may not be compelled to testify and shall
3 be so informed by the court prior to being called as a witness.

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

8 (b) A parent or guardian of a minor child arrested on a criminal
9 charge may not be examined as to a communication between the child and
10 his or her attorney if the communication was made in the presence of
11 the parent or guardian. This privilege does not extend to
12 communications made prior to the arrest.

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

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

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

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

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

35 (6)(a) A trained peer (~~((support group counselor))~~) supporter shall
36 not, without consent of the law enforcement officer making the
37 communication, be compelled to testify about any communication made to
38 the (~~((counselor))~~) trained peer supporter by the officer while receiving
39 (~~((counseling))~~) peer support services. The (~~((counselor))~~) trained peer

1 supporter must be designated as such by the sheriff, police chief, or
2 chief of the Washington state patrol, prior to the incident that
3 results in ~~((counseling))~~ receiving peer support services. The
4 privilege only applies when the communication was made to the
5 ~~((counselor))~~ trained peer supporter while acting in his or her
6 capacity as a trained peer ~~((support group counselor))~~ supporter. The
7 privilege does not apply if the ~~((counselor))~~ trained peer supporter
8 was an initial responding officer, a witness, or a party to the
9 incident which prompted the delivery of peer support ~~((group~~
10 ~~counseling))~~ services to the law enforcement officer.

11 (b) For purposes of this section, "trained peer ~~((support group~~
12 ~~counselor))~~ supporter" means a:

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

18 (ii) Nonemployee counselor or other mental health services provider
19 who has been designated by the sheriff, police chief, or chief of the
20 Washington state patrol to provide emotional and moral support and
21 counseling to an officer who needs those services as a result of an
22 incident in which the officer was involved while acting in his or her
23 official capacity.

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

27 (a) For purposes of this section, "sexual assault advocate" means
28 the employee or volunteer from a rape crisis center, victim assistance
29 unit, program, or association, that provides information, medical or
30 legal advocacy, counseling, or support to victims of sexual assault,
31 who is designated by the victim to accompany the victim to the hospital
32 or other health care facility and to proceedings concerning the alleged
33 assault, including police and prosecution interviews and court
34 proceedings.

35 (b) A sexual assault advocate may disclose a confidential
36 communication without the consent of the victim if failure to disclose
37 is likely to result in a clear, imminent risk of serious physical
38 injury or death of the victim or another person. Any sexual assault
39 advocate participating in good faith in the disclosing of records and

1 communications under this section shall have immunity from any
2 liability, civil, criminal, or otherwise, that might result from the
3 action. In any proceeding, civil or criminal, arising out of a
4 disclosure under this section, the good faith of the sexual assault
5 advocate who disclosed the confidential communication shall be
6 presumed.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 38.52 RCW
8 to read as follows:

9 (1) Pursuant to the provisions of this section, any communication
10 made by an emergency service provider participating in a peer support
11 session conducted by a trained peer supporter is confidential and shall
12 not be disclosed by the trained peer supporter or an emergency service
13 provider participating in the session. A peer support session may
14 consist of a trained peer supporter and one or more emergency service
15 providers.

16 (2) The confidentiality provisions in this section apply when:

17 (a) The trained peer supporter was designated as such by the
18 emergency service provider agency or entity prior to the incident that
19 prompted the delivery of peer support services;

20 (b) The emergency service provider participating in the peer
21 support session was employed as such prior to the incident by the same
22 emergency service provider agency or entity that designated the trained
23 peer supporter;

24 (c) The emergency service provider participating in the peer
25 support session was part of the emergency service provider personnel
26 involved in responding to, or rendering assistance during, the incident
27 which prompted the delivery of peer support services; and

28 (d) The communication was made to the trained peer supporter while
29 acting in his or her capacity as a trained peer supporter or to another
30 emergency service provider during the peer support session.

31 (3) A trained peer supporter or emergency service provider
32 participating in a peer support session shall not disclose any
33 communication made to the trained peer supporter or participant by the
34 emergency service provider during the peer support session, unless:

35 (a) The disclosure is necessary to provide assistance pursuant to
36 the peer support session;

37 (b) The emergency service provider making the communication
38 consents to the disclosure; or

1 (c)(i) The person seeking disclosure of the communication makes a
2 written motion to the court requesting disclosure of the communication,
3 and states in an affidavit the reasons why the person is seeking
4 disclosure; and (ii) the court finds, after an in-camera review of the
5 communication, that the communication is material and relevant and the
6 probative value of the communication outweighs the emergency service
7 provider's privacy interest in the communication, and the court orders
8 disclosure.

9 (4) Any communication made during a peer support session is not
10 subject to the confidentiality provisions in this section merely
11 because it is made during the session if the communication is otherwise
12 not confidential.

13 (5) For purposes of this section, "trained peer supporter" means:

14 (a) An emergency service provider, or a civilian employee of an
15 emergency service provider agency or entity, who has received training
16 to provide emotional and moral support to an emergency service provider
17 who needs those services as a result of an incident in which the
18 emergency service provider was involved while acting in his or her
19 official capacity; or

20 (b) A nonemployee counselor or mental health service provider who
21 has been designated by the emergency service provider agency or entity
22 to provide emotional and moral support and counseling to an emergency
23 service provider who needs those services as a result of an incident in
24 which the emergency service provider was involved while acting in his
25 or her official capacity.

26 (6) For purposes of this section, "emergency service provider"
27 means a law enforcement officer, fire fighter, emergency medical
28 technician as defined in RCW 18.73.030, emergency worker as defined in
29 RCW 38.52.010, or ambulance or aid vehicle services personnel. The
30 provisions in this section are intended to supplement the provisions
31 granted to law enforcement officers under RCW 5.60.060, and if a
32 conflict exists, the statute granting the greater protection against
33 disclosure shall apply. However, any communication made in a peer
34 support session consisting of a trained peer supporter and more than
35 one law enforcement officer is governed under this section.

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