

# HOUSE BILL REPORT

## HB 2366

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### As Passed Legislature

**Title:** An act relating to privileged communications by fire fighters.

**Brief Description:** Making certain communications between fire fighters and peer support group counselors privileged.

**Sponsors:** By Representatives B. Sullivan, Appleton, Moeller, Buck, Haler, Fromhold, Ericks, Strow, Simpson, Campbell and Ormsby.

### Brief History:

#### Committee Activity:

Judiciary: 1/11/06, 1/18/06 [DP].

#### Floor Activity:

Passed House: 2/7/06, 98-0.

Passed Senate: 3/2/06, 47-0.

Passed Legislature.

### Brief Summary of Bill

- Creates a testimonial privilege for communications made by a fire fighter to a peer support group counselor while receiving counseling services.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass. Signed by Representatives Lantz, Chair; Flannigan, Vice Chair; Williams, Vice Chair; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Campbell, Kirby, Serben, Springer and Wood.

**Staff:** Edie Adams (786-7180).

### 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 "testimonial privileges." Privileges are recognized when certain classes of relationships or communications within those relationships are deemed of such importance that they should be protected.

Washington statutory law establishes a number of privileges, including communications between the following persons: (1) husband and wife; (2) attorney and client; (3) clergy and

confessor; (4) physician and patient; (5) psychologist and client; (6) optometrist and client; (7) law enforcement peer support counselor and a law enforcement officer; and (8) sexual assault advocate and victim.

The law enforcement peer support counselor privilege protects communications made by a law enforcement officer to a designated peer support group counselor while receiving counseling. The peer support group counselor cannot be compelled to testify in a judicial proceeding about the communication unless the law enforcement officer consents to disclosure. 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 the incident that prompted the counseling services to the law enforcement officer.

A peer support group counselor is a person who has received training to provide emotional and moral support and counseling to an officer who needs these services as a result of an incident in which the officer was involved while acting in his or her official capacity.

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**Summary of Bill:**

A testimonial privilege is created to protect communications made by a fire fighter to a peer support group counselor while receiving counseling as the result of an incident in which the fire fighter was involved while acting in his or her official capacity. The privilege applies under the same circumstances and conditions required for the law enforcement officer peer support group counselor privilege.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** This bill is a technical fix to an oversight when the 1999 legislation establishing a privilege for law enforcement officers was enacted. There is a joint peer group that is made up of both law enforcement officers and fire fighters and that is how this issue arose. It merely allows a privilege so that a fire fighter can obtain the counseling necessary for his or her well-being. It is a standard that is well-established in statute.

**Testimony Against:** None.

**Persons Testifying:** Representative Brian Sullivan, prime sponsor.

**Persons Signed In To Testify But Not Testifying:** None.