

SENATE BILL REPORT

HB 2762

As Passed Senate, March 3, 2020

Title: An act relating to extending the peer support group testimonial privilege to include staff persons of the department of corrections.

Brief Description: Extending the peer support group testimonial privilege to include staff persons of the department of corrections.

Sponsors: Representatives Rude, Irwin and Lovick.

Brief History: Passed House: 2/13/20, 98-0.

Committee Activity: Law & Justice: 2/20/20, 2/27/20 [DP].

Floor Activity:

Passed Senate: 3/03/20, 49-0.

Brief Summary of Bill

- Expands the category of persons entitled to claim testimonial privilege to any Department of Corrections staff person for communications made to a designated peer support group counselor.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Holy, Kuderer, Salomon and Wilson, L..

Staff: Shani Bauer (786-7468)

Background: Testimonial Privileges. The judiciary has inherent power to compel witnesses to appear and testify in judicial proceedings so the court will receive all relevant evidence. 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.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Washington statutory law establishes a number of testimonial privileges, including communications between (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) sexual assault advocate and victim, and (8) peer support group counselor and first responder or jail staff person.

Peer Support Group Counselor Privilege. The peer support group counselor privilege protects communications made by a first responder or jail staff person to a designated peer support group counselor while receiving counseling for an incident in which the person was involved while acting in their official capacity. The peer support group counselor may not be compelled to testify in a judicial proceeding about the communication unless the person consents to disclosure. This privilege applies only to communications made to a counselor acting in their capacity as a peer support group counselor. The privilege does not apply if the counselor was an initial responding officer or jail staff person, a witness, or a party to the incident that prompted the counseling services.

A first responder is defined to include a law enforcement officer, limited authority law enforcement officer, firefighter, emergency services dispatcher, emergency medical personnel, or a member or former member of the Washington National Guard. Limited authority law enforcement officer includes a full-time officer employed by the Department of Corrections (DOC) who is empowered by the agency to detect or apprehend violators of the law.

A peer support group counselor is a person who has received training to provide emotional and moral support and counseling to a first responder or jail staff person who needs these services as a result of an incident in which the person was involved while acting in their official capacity. The counselor must be designated as such by the agency employing the person prior to the incident that results in counseling.

Summary of Bill: The testimonial privilege for statements made to a designated peer support group counselor is extended to any DOC staff person.

Statutory language governing the privilege is revised to refer to "peer support group client," which is defined to mean a first responder, a DOC staff person, or a jail staff person.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Individuals who work in the corrections industry have ten times the amount of PTSD as the general population. DOC correctional personnel seem to have been left out as an oversight in last year's bill incorporating jail staff. This is a way to support all DOC personnel in their service of public safety.

Persons Testifying: PRO: Representative Skyler Rude, Prime Sponsor.

Persons Signed In To Testify But Not Testifying: No one.