

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 6188**

Chapter 156, Laws of 1996

54th Legislature  
1996 Regular Session

COMMUNICATIONS BETWEEN VICTIMS OF SEXUAL ASSAULTS AND  
THEIR PERSONAL REPRESENTATIVES--CONDITIONAL PRIVILEGE ESTABLISHED

EFFECTIVE DATE: 6/6/96

Passed by the Senate February 6, 1996  
YEAS 46 NAYS 0

JOEL PRITCHARD

**President of the Senate**

Passed by the House February 28, 1996  
YEAS 94 NAYS 0

CLYDE BALLARD

**Speaker of the  
House of Representatives**

Approved March 25, 1996

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6188** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

**Secretary**

FILED

March 25, 1996 - 4:32 p.m.

MIKE LOWRY

**Governor of the State of Washington**

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 6188**

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Passed Legislature - 1996 Regular Session

**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

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 peer support group counselor shall not, without consent of  
30 the law enforcement officer making the communication, be compelled to  
31 testify about any communication made to the counselor by the officer  
32 while receiving counseling. The counselor must be designated as such  
33 by the sheriff, police chief, or chief of the Washington state patrol,  
34 prior to the incident that results in counseling. The privilege only  
35 applies when the communication was made to the counselor while acting  
36 in his or her capacity as a peer support group counselor. The  
37 privilege does not apply if the counselor was an initial responding  
38 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.

Passed the Senate February 6, 1996.

Passed the House February 28, 1996.

Approved by the Governor March 25, 1996.

Filed in Office of Secretary of State March 25, 1996.