
HOUSE BILL 2454

State of Washington 59th Legislature 2006 Regular Session

By Representatives Williams, Lantz, Darneille, Morrell, O'Brien and Green

Prefiled 1/5/2006. Read first time 01/09/2006. Referred to Committee on Judiciary.

1 AN ACT Relating to the privilege for sexual assault advocates; and
2 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 2005 c 504 s 705 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, 70.96B, 71.05, or
19 71.09 RCW: PROVIDED, That the spouse of a person sought to be detained

1 under chapter 70.96A, 70.96B, 71.05, or 71.09 RCW may not be compelled
2 to testify and shall be so informed by the court prior to being called
3 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 71.05.360
19 (8) and (9), a physician or surgeon or osteopathic physician or surgeon
20 or podiatric physician or surgeon shall not, without the consent of his
21 or her patient, be examined in a civil action as to any information
22 acquired in attending such patient, which was necessary to enable him
23 or her to 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 peer support group counselor shall not, without consent of
36 the law enforcement officer making the communication, be compelled to
37 testify about any communication made to the counselor by the officer
38 while receiving counseling. The counselor must be designated as such

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

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

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

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

21 (7) A sexual assault advocate may not, without the consent of the
22 victim, be examined as to any communication made (~~by~~) between the
23 victim (~~to~~) and the sexual assault advocate.

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

32 (b) A sexual assault advocate may disclose a confidential
33 communication without the consent of the victim if failure to disclose
34 is likely to result in a clear, imminent risk of serious physical
35 injury or death of the victim or another person. Any sexual assault
36 advocate participating in good faith in the disclosing of records and
37 communications under this section shall have immunity from any
38 liability, civil, criminal, or otherwise, that might result from the

1 action. In any proceeding, civil or criminal, arising out of a
2 disclosure under this section, the good faith of the sexual assault
3 advocate who disclosed the confidential communication shall be
4 presumed.

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