

HOUSE BILL REPORT

HB 2762

As Passed Legislature

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:

Committee Activity:

Civil Rights & Judiciary: 1/29/20, 2/5/20 [DP].

Floor Activity:

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

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

Passed Legislature.

Brief Summary of Bill

- Extends the testimonial privilege that applies to communications between a peer support group counselor and a first responder or jail staff person to also apply to communications between a peer support group counselor and a Department of Corrections staff person.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 14 members: Representatives Kilduff, Chair; Thai, Vice Chair; Dufault, Assistant Ranking Minority Member; Goodman, Graham, Hansen, Kirby, Klippert, Orwall, Peterson, Rude, Valdez, Walen and Ybarra.

Staff: Edie Adams (786-7180).

Background:

Testimonial Privileges.

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.

The judiciary has inherent power to compel witnesses to appear and testify in judicial proceedings so that 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.

Washington statutory law establishes a number of testimonial 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) 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. The peer support group counselor may not be compelled to testify in a judicial proceeding about the communication unless the first responder or jail staff person 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 first responder or jail staff person, a witness, or a party to the incident that prompted the counseling services.

First responder is defined as: a law enforcement officer; a limited authority law enforcement officer; a firefighter; an emergency services dispatcher or record keeper; a licensed or certified emergency medical personnel; or a member or former member of the Washington National Guard acting in an emergency response capacity under the emergency management statutes.

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 first responder or jail staff person was involved while acting in his or her official capacity. The counselor must be designated as such by the agency employing the first responder or jail staff person prior to the incident that results in counseling.

Summary of Bill:

A testimonial privilege is established for communications made by a Department of Corrections (DOC) staff person to a peer support group counselor while receiving counseling as the result of an incident in which the DOC staff person was involved while acting in the person's official capacity. The privilege applies under the same conditions that apply to the privilege for communications by first responders and jail staff personnel to a peer support group counselor.

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.

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

Staff Summary of Public Testimony:

(In support) Department of Corrections (DOC) staff face many of the same challenges that their peers face when they respond to critical incidents, and they need peer counseling to help deal with these incidents. The bill simply extends the peer support privilege to communications between counselors and DOC staff. It is a simple fix to the bill from last session that added first responders and jail staff to this privilege. There is a huge need to cover DOC personnel. Department of Corrections staff have much higher rates of post-traumatic stress disorder (PTSD) and depression than the general population. When both PTSD and depression are present, the risk of suicide increases. The bill removes barriers that prevent DOC staff from seeking the peer-to-peer counseling that is important in helping them deal with these critical incidents.

(Opposed) None.

Persons Testifying: Representative Rude, prime sponsor; and Brenda Wiest, Teamsters 117.

Persons Signed In To Testify But Not Testifying: None.