
HOUSE BILL 2471

State of Washington

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By Representatives Scott, Berry, Pollet, Parshley, Doglio, and Macri

Read first time 01/14/26. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to collective bargaining for employees not
2 covered by the national labor relations act; amending RCW 49.32.020
3 and 5.60.060; and adding a new chapter to Title 49 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** Access to the collective and individual
6 protections afforded by established federal and state labor laws, as
7 well as ensuring stable, effective, and efficient labor-management
8 relations, is a vital state interest that has critical benefits to
9 the state's economic and social development. Should there be an
10 absence of applicable law setting forth the rights and obligations of
11 parties engaged in private sector labor-management relations, as well
12 as procedures for the enforcement of the same, the resulting loss of
13 the benefits of collective bargaining to the economy and social
14 fabric of the state would be immensely harmful.

15 NEW SECTION. **Sec. 2.** (1) This chapter applies to any employer,
16 employee, trade, or industry not regulated by the national labor
17 relations act or the railway labor act, except those governed by
18 chapters 49.37 and 49.39 RCW, or any other state law explicitly
19 covering collective bargaining for specified employers, employees,
20 trades, or industries.

1 (2) Should federal law cease to preempt the regulation of private
2 sector labor-management relations in the state, as a whole or any
3 portion thereof, with regard to any employer, employees, trade, or
4 industry, this chapter applies in full force and effect to such
5 employer, employees, and trade or industry entities. Additionally,
6 should the national labor relations board determine that any employer
7 or employees, as defined in section 3 of this act, or trade or
8 industry falls outside the jurisdiction of the national labor
9 relations act, or should the board decline jurisdiction or be
10 deprived of jurisdiction over the same, this chapter applies in full
11 force and effect to such employer, employees, trade, or industry.

12 NEW SECTION. **Sec. 3.** The definitions in this section apply
13 throughout this chapter unless the context clearly requires
14 otherwise.

15 (1) "Bargaining representative" means any labor organization
16 which has as one of its primary purposes the representation of
17 employees in their employment relations with employers, and which
18 does currently, or has in the past represented employees as defined
19 by this chapter.

20 (2) "Collective bargaining" means the performance of the mutual
21 obligations of the employer and the exclusive bargaining
22 representative to meet at reasonable times, to confer and negotiate
23 in good faith, and to execute a written agreement with respect to
24 grievance procedures and collective negotiations on personnel
25 matters, including wages, hours, and working conditions, which may be
26 peculiar to an appropriate bargaining unit of such employer, except
27 that by such obligation neither party may be compelled to agree to a
28 proposal or be required to make a concession unless otherwise
29 provided in this chapter.

30 (3) "Collective bargaining agreement" means any written contract
31 or agreement that is currently in effect, or that will be executed,
32 between an exclusive bargaining representative and an employer, as
33 defined by this chapter.

34 (4) "Commission" means the public employment relations
35 commission.

36 (5) (a) "Employee" means any employee of an employer, including of
37 a consumer directed employer as defined by RCW 74.39A.009, and is not
38 limited to the employees of a particular employer, and includes any
39 individual whose work has ceased as a consequence of, or in

1 connection with, any current labor dispute, and who has not obtained
2 any other regular and substantially equivalent employment.

3 (b) "Employee" does not include:

4 (i) Any individual employed by their parent or spouse unless also
5 employed by a third party for the work performed;

6 (ii) Any individual having the status of an independent
7 contractor;

8 (iii) Any individual employed as a supervisor;

9 (iv) Any person employed by the state or a political subdivision
10 of the state, or an employee as defined by RCW 49.37.010 or an
11 employee of an employer defined in RCW 49.39.005; or

12 (v) Any other person who is not employed by an employer as herein
13 defined.

14 (6) "Employer" means any employer, or any person acting as an
15 agent of an employer, except the state or political subdivision of
16 the state, or an employer as defined by RCW 49.37.010, or an employer
17 as defined in RCW 49.39.005.

18 (7) "Exclusive bargaining representatives" means a bargaining
19 representative that has been previously certified or recognized as
20 the representative of employees as defined by this chapter.

21 (8) "Labor dispute" includes any controversy concerning terms,
22 tenure, or conditions of employment, or concerning the association or
23 representation of persons in negotiating, fixing, maintaining, or
24 seeking to arrange terms or conditions of employment, regardless of
25 whether the disputants stand in the proximate relation of employer
26 and employee.

27 (9) "Labor organization" means any organization of any kind, or
28 any agency or employee representation committee or plan, in which
29 employees participate and which exists for the purpose, in whole or
30 in part, of dealing with employers concerning grievances, labor
31 disputes, wages, rates of pay, hours of employment, or conditions of
32 work.

33 NEW SECTION. **Sec. 4.** The privilege established by RCW
34 5.60.060(11) applies to all labor organizations covered by this
35 chapter and in all proceedings authorized by this chapter.

36 NEW SECTION. **Sec. 5.** Upon application by a labor organization
37 that held the status of an exclusive bargaining representative under
38 federal law by certification or voluntary recognition immediately

1 prior to the time that state regulation of private sector labor
2 relations is no longer preempted as applied to that collective
3 bargaining relationship, the commission shall promptly certify the
4 exclusive bargaining representative under this chapter. Absent
5 exceptional cause, the process to verify the exclusive bargaining
6 representative's status for certification must be completed within
7 one month of the filing of the application. All existing terms and
8 conditions of employment and any collective bargaining agreement
9 covering the affected bargaining unit remain in full force and effect
10 through the commission's verification process.

11 NEW SECTION. **Sec. 6.** (1) In the event that an employer and
12 employees are in disagreement as to the selection of an exclusive
13 bargaining representative, the commission must be invited to
14 intervene as is provided in sections 10 through 13 of this act.

15 (2) In the event that an employer and an exclusive bargaining
16 representative are in disagreement as to the merger of two or more
17 bargaining units in the employer's workforce that are represented by
18 the same exclusive bargaining representative, the commission must be
19 invited to intervene as is provided in section 10 through 13 of this
20 act.

21 NEW SECTION. **Sec. 7.** The commission, after hearing upon
22 reasonable notice, shall decide in each application for certification
23 as an exclusive bargaining representative or unit clarification,
24 other than applications submitted under section 5 of this act, the
25 unit appropriate for the purpose of collective bargaining. In
26 determining, modifying, or combining the bargaining unit, the
27 commission shall consider the duties, skills, and working conditions
28 of the employees; the history of collective bargaining by the
29 employer and their bargaining representatives; the extent of
30 organization among the employees; and the desire of the employees,
31 and the avoidance of excessive fragmentation.

32 NEW SECTION. **Sec. 8.** The commission shall determine the
33 exclusive bargaining representative by: (1) Conducting a cross-check
34 pursuant to section 9 of this act; or (2) conducting an election
35 pursuant to section 10 of this act.

1 NEW SECTION. **Sec. 9.** (1) If only one employee organization is
2 seeking certification as an exclusive bargaining representative of a
3 bargaining unit for which there is no incumbent exclusive bargaining
4 representative, the commission may determine the question concerning
5 representation by conducting a cross-check comparing the bargaining
6 authorization cards against the employment records of the employer. A
7 determination through a cross-check process may be made upon a
8 showing of interest submitted in support of the exclusive bargaining
9 representative by more than 50 percent of the employees.

10 (2) The exclusive bargaining representative that has been
11 determined through a cross-check to represent a majority of the
12 employees in the bargaining unit must be certified by the commission
13 as the exclusive bargaining representative of, and is required to
14 represent, all the employees within the unit without regard to
15 membership in said exclusive bargaining representative.

16 NEW SECTION. **Sec. 10.** (1) In the event the commission elects to
17 conduct an election to ascertain the exclusive bargaining
18 representative, and upon the request of a prospective bargaining
19 representative showing written proof of at least 30 percent
20 representation of the employees within the proposed unit, the
21 commission shall hold an election by secret ballot to determine the
22 issue. The ballot must contain the name of such bargaining
23 representative and of any other bargaining representative showing
24 written proof of at least 10 percent representation of the employees
25 within the unit, together with a choice for any employee to designate
26 that they do not desire to be represented by any bargaining agent.
27 Where more than one organization is on the ballot and neither of the
28 three or more choices receives a majority vote of the voting
29 employees within the bargaining unit, a runoff election must be held.
30 The runoff ballot must contain the two choices which received the
31 largest and second-largest number of votes.

32 (2) The bargaining representative which has been determined
33 through election to represent a majority of the voting employees must
34 be certified by the commission as the exclusive bargaining
35 representative of, and is required to represent, all the employees
36 within the unit without regard to membership in said bargaining
37 representative.

1 NEW SECTION. **Sec. 11.** No question concerning representation may
2 be raised within one year of a certification or attempted
3 certification. Where there is a valid collective bargaining agreement
4 in effect, no question of representation may be raised except during
5 the period not more than 90 nor less than 60 days prior to the
6 expiration date of the agreement. Any agreement which contains a
7 provision for automatic renewal or extension of the agreement is not
8 effective as a bar to a question of representation if it extends that
9 total term of the agreement's existence for more than three years.

10 NEW SECTION. **Sec. 12.** (1) The commission shares concurrent
11 jurisdiction with superior courts to prevent and to remedy any
12 violation of RCW 49.32.020.

13 (2) The commission applies the Washington courts' jurisprudence
14 in adjudicating alleged violations of RCW 49.32.020.

15 (3) If the commission determines that any person has engaged in
16 or is engaging in any violation of RCW 49.32.020, the commission
17 shall issue and cause to be served upon the person an order requiring
18 the person to cease and desist from such violation, and to take such
19 affirmative action as will effectuate the purposes and policy
20 declared in RCW 49.32.020 and of this chapter, such as the payment of
21 damages and the reinstatement of employees, and reasonable attorneys'
22 fees and costs.

23 (4) The commission or the affected employees, or the employees'
24 bargaining representative may petition the superior court for the
25 county in which the main office of the employer is located or in
26 which the person who has engaged or is engaging in such violation
27 resides or transacts business, for the enforcement of the
28 commission's order and for appropriate temporary relief.

29 NEW SECTION. **Sec. 13.** The commission shall provide, at the
30 mutual request of an employer and an exclusive bargaining
31 representative, mediation of any labor dispute between them. Any
32 party to mediation may request and receive fact finding by the
33 mediator at the conclusion of a failed mediation.

34 NEW SECTION. **Sec. 14.** (1) Notwithstanding the possible
35 cessation of any duty on the part of any employer or labor
36 organization to comply with the terms of any collective bargaining
37 agreement reached under the auspices of federal labor law, any such

1 agreement reached between any employer or exclusive bargaining
2 representative as defined in this chapter remains a contractually
3 binding agreement and is enforceable on its terms.

4 (2) Upon the certification of an exclusive bargaining
5 representative for the employer's employees, the employer has the
6 duty to engage in collective bargaining with the exclusive bargaining
7 representative before changing any wages, hours, or working
8 conditions of the represented employees. Any allegation by the
9 exclusive bargaining representative that the employer has made a
10 unilateral change in wages, hours, and working conditions may be
11 presented for resolution to an arbitrator mutually selected and
12 compensated by the parties, or by application of the exclusive
13 bargaining representative to the commission for provision of the
14 arbitrator.

15 (3) Should a collective bargaining agreement between the
16 exclusive bargaining representative and the employer expire, its
17 provisions, except any prohibition on strikes or lockouts, continue
18 in force until renegotiated. During the agreement's hiatus, any
19 allegation by the exclusive bargaining representative that the
20 employer has made a unilateral change in wages or economic benefits
21 may be presented for resolution to an arbitrator mutually selected
22 and compensated, or by application of the exclusive bargaining
23 representative to the commission for provision of the arbitrator.

24 (4) Upon the failure of the employer and the exclusive bargaining
25 representative to conclude a collective bargaining agreement within
26 six months of certification of the exclusive bargaining
27 representative or within six months of the expiration of the last
28 collective bargaining agreement, all matters remaining in dispute
29 must be submitted by the parties to the commission for resolution
30 through its interest arbitration procedures.

31 NEW SECTION. **Sec. 15.** (1) If an agreement through collective
32 bargaining has not been reached within six months of certification,
33 or within six months of the expiration of the last collective
34 bargaining agreement, the parties may agree in writing to continue to
35 bargain for an additional month. Thereafter, they may agree in
36 writing to continue bargaining on a month-to-month basis. If the
37 parties have not entered a written agreement to extend bargaining, or
38 final agreement to extend bargaining has expired, the parties must
39 submit their dispute to interest arbitration. Each party must submit

1 that party's last and final proposals upon which there exists an
2 impasse. All impasse items must be submitted to arbitration. The
3 arbitrator or arbitration panel is empowered to review the parties'
4 final proposals and to consider mediator findings, if any, and to
5 issue a decision on the submitted items along with the previously
6 agreed items, such that a complete agreement is imposed through the
7 arbitration. The arbitrator or arbitration panel is also empowered to
8 consider evidence submitted by the parties concerning factors such as
9 the employer's ability to meet the costs of a contract, employee
10 compensation at comparable employers, and cost of living in the
11 relevant geographic area in their decision-making process.

12 (2) (a) If the parties cannot agree on the arbitrator or
13 arbitration panel within five days of the expiration of the six-month
14 period following certification or expiration of the previous
15 agreement, or of the expiration of the final written extension of
16 bargaining, the parties must apply to the commission or, if both
17 parties agree, to the American arbitration association to provide a
18 list of five qualified arbitrators from which the arbitrator must be
19 chosen.

20 (b) Each party must pay the fees and expenses of the arbitrator
21 or arbitration panel, and the fees and expenses of the neutral chair
22 must be shared equally between the parties.

23 (3) In consultation with the parties, the arbitrator or
24 arbitration panel shall promptly establish a date, time, and place
25 for a hearing which may be no later than two months following the
26 appointment of the arbitrator. The arbitrator or arbitration panel
27 shall provide reasonable notice thereof to the parties to the
28 dispute. The parties must exchange final positions in writing, with
29 copies to the arbitrator or arbitration panel, with respect to every
30 issue to be arbitrated, on a date mutually agreed upon, but in no
31 event later than 10 working days before the date set for hearing. A
32 hearing must be held, and each party must have the opportunity to
33 present evidence and make arguments. The rules of evidence prevailing
34 in judicial proceedings may be considered, but are not binding, and
35 any oral testimony or documentary evidence or other data deemed
36 relevant by the chair of the arbitration panel may be received in
37 evidence. A recording of the proceedings must be taken. The
38 arbitrator or arbitration panel has the power to administer oaths,
39 require the attendance of witnesses, and require the production of
40 such books, papers, contracts, agreements, and documents as may be

1 deemed by the arbitrator to be material to a just determination of
2 the issues in dispute. If any person refuses to obey a subpoena
3 issued by the arbitrator or arbitration panel, or refuses to be sworn
4 or to make an affirmation to testify, or any witness, party, or
5 attorney for a party is guilty of any contempt while in attendance at
6 any hearing held hereunder, the arbitrator may invoke the
7 jurisdiction of the superior court in the county where the labor
8 dispute exists, and the court has jurisdiction to issue an
9 appropriate order. Any failure to obey the order may be punished by
10 the court as a contempt thereof.

11 (4) Within 30 days following the conclusion of the hearing, the
12 arbitrator or arbitration panel shall make written findings of fact
13 and a written determination of the issues in dispute, based on the
14 evidence presented. A copy thereof must be served on each of the
15 parties to the dispute. That determination is final and binding upon
16 both parties, subject to review by the superior court upon the
17 application of either party.

18 (5) The superior court's scope of review is limited to whether:

19 (a) The arbitrator or arbitration panel acted without, or in
20 excess of, their powers;

21 (b) The arbitration has proceeded in the manner required by law;

22 (c) The order or decision of the arbitrator or arbitration panel
23 was procured by fraud or was an abuse of discretion;

24 (d) The decision of the arbitrator or arbitration panel was
25 arbitrary or capricious; and

26 (e) The arbitrator or arbitration panel's decision violated
27 either of the parties' constitutional or statutory rights.

28 NEW SECTION. **Sec. 16.** (1) In addition to any contractually
29 agreed method for selecting arbitrators, the parties may mutually
30 request the commission to, and the commission shall, appoint a
31 qualified person who may be an employee of the commission to act as
32 an arbitrator to assist in the resolution of a labor dispute between
33 an employer and an exclusive bargaining representative arising from
34 the application of the matters contained in a collective bargaining
35 agreement. The arbitrator shall conduct such arbitration of such
36 dispute in a manner as provided for in the collective bargaining
37 agreement.

1 (2) The commission may not collect any fees or charges from such
2 employer or such exclusive bargaining representative for services
3 performed by the commission under the provisions of this chapter.

4 (3) The provisions of chapter 49.08 RCW do not apply to this
5 chapter.

6 NEW SECTION. **Sec. 17.** Nothing in this chapter, except as
7 specifically provided for herein, interferes with, impedes, or
8 diminishes in any way the right to strike. However, a labor
9 organization, before engaging in any strike or other concerted
10 refusal to work at any health care institution shall, not less than
11 10 days prior to such action, notify the institution in writing and
12 the commission of that intention. The notice must state the date and
13 time that such action will commence.

14 NEW SECTION. **Sec. 18.** An employer engaged primarily in the
15 building and construction industry may make an agreement covering
16 employees engaged, or who upon their employment will be engaged in
17 the building and construction industry, with a labor organization of
18 which building and construction employees are members,
19 notwithstanding that:

20 (1) The majority status of such labor organization has not been
21 established under the provisions of this chapter prior to the making
22 of such agreement;

23 (2) The agreement requires the employer to notify the labor
24 organization of opportunities for employment with such employer, or
25 gives the labor organization an opportunity to refer qualified
26 applicants for such employment; or

27 (3) The agreement specifies minimum training or experience
28 qualifications for employment or provides for priority in
29 opportunities for employment based upon length of services with such
30 employer, in the industry or in the particular geographical area.

31 NEW SECTION. **Sec. 19.** The commission shall promulgate, revise,
32 or rescind such rules and regulations as it deems necessary or
33 appropriate to administer the provisions of this chapter in
34 conformity with the intent and purpose of this chapter and consistent
35 with the best standards of labor-management relations.

1 NEW SECTION. **Sec. 20.** Actions taken by or on behalf of the
2 commission must be pursuant to chapter 34.05 RCW, or rules adopted in
3 accordance with chapter 34.05 RCW, and the right of judicial review
4 provided by chapter 34.05 RCW is applicable to all such actions and
5 rules. However, if a conflict exists between this chapter and 34.05
6 RCW, this chapter governs.

7 **Sec. 21.** RCW 49.32.020 and 2010 c 8 s 12028 are each amended to
8 read as follows:

9 (1) In the interpretation of this chapter and in determining the
10 jurisdiction and authority of the courts of the state of Washington,
11 as such jurisdiction and authority are herein defined and limited,
12 the public policy of the state of Washington is hereby declared as
13 follows:

14 WHEREAS, Under prevailing economic conditions, developed with the
15 aid of governmental authority for owners of property to organize in
16 the corporate and other forms of ownership association, the
17 individual unorganized worker is commonly helpless to exercise actual
18 liberty of contract and to protect his or her freedom of labor, and
19 thereby to obtain acceptable terms and conditions of employment,
20 wherefore, though he or she should be free to decline to associate
21 with his or her fellows, it is necessary that he or she have full
22 freedom of association, self-organization, and designation of
23 representatives of his or her own choosing, to negotiate the terms
24 and conditions of his or her employment, and that he or she shall be
25 free from interference, restraint, or coercion of employers of labor,
26 or their agents, in the designation of such representatives or in
27 self-organization or in other concerted activities for the purpose of
28 collective bargaining or other mutual aid or protections; therefore,
29 the following definitions of, and limitations upon, the jurisdiction
30 and authority of the courts of the state of Washington are hereby
31 enacted.

32 (2) The public employment relations commission has concurrent
33 jurisdiction to prevent and to remedy any violation of the rights set
34 forth in subsection (1) of this section.

35 **Sec. 22.** RCW 5.60.060 and 2025 c 346 s 3 are each amended to
36 read as follows:

37 (1) A spouse or domestic partner shall not be examined for or
38 against his or her spouse or domestic partner, without the consent of

1 the spouse or domestic partner; nor can either during marriage or
2 during the domestic partnership or afterward, be without the consent
3 of the other, examined as to any communication made by one to the
4 other during the marriage or the domestic partnership. But this
5 exception shall not apply to a civil action or proceeding by one
6 against the other, nor to a criminal action or proceeding for a crime
7 committed by one against the other, nor to a criminal action or
8 proceeding against a spouse or domestic partner if the marriage or
9 the domestic partnership occurred subsequent to the filing of formal
10 charges against the defendant, nor to a criminal action or proceeding
11 for a crime committed by said spouse or domestic partner against any
12 child of whom said spouse or domestic partner is the parent or
13 guardian, nor to a proceeding under chapter 71.05 or 71.09 RCW:
14 PROVIDED, That the spouse or the domestic partner of a person sought
15 to be detained under chapter 71.05 or 71.09 RCW may not be compelled
16 to testify and shall be so informed by the court prior to being
17 called as a witness.

18 (2) (a) An attorney or counselor shall not, without the consent of
19 his or her client, be examined as to any communication made by the
20 client to him or her, or his or her advice given thereon in the
21 course of professional employment.

22 (b) A parent or guardian of a minor child arrested on a criminal
23 charge may not be examined as to a communication between the child
24 and his or her attorney if the communication was made in the presence
25 of the parent or guardian. This privilege does not extend to
26 communications made prior to the arrest.

27 (3) A member of the clergy, a Christian Science practitioner
28 listed in the Christian Science Journal, or a priest shall not,
29 without the consent of a person making the confession or sacred
30 confidence, be examined as to any confession or sacred confidence
31 made to him or her in his or her professional character, in the
32 course of discipline enjoined by the church to which he or she
33 belongs.

34 (4) Subject to the limitations under RCW 71.05.217 (6) and (7), a
35 physician or surgeon or osteopathic physician or surgeon or podiatric
36 physician or surgeon shall not, without the consent of his or her
37 patient, be examined in a civil action as to any information acquired
38 in attending such patient, which was necessary to enable him or her
39 to prescribe or act for the patient, except as follows:

1 (a) In any judicial proceedings regarding a child's injury,
2 neglect, or sexual abuse or the cause thereof; and

3 (b) Ninety days after filing an action for personal injuries or
4 wrongful death, the claimant shall be deemed to waive the physician-
5 patient privilege. Waiver of the physician-patient privilege for any
6 one physician or condition constitutes a waiver of the privilege as
7 to all physicians or conditions, subject to such limitations as a
8 court may impose pursuant to court rules.

9 (5) A public officer shall not be examined as a witness as to
10 communications made to him or her in official confidence, when the
11 public interest would suffer by the disclosure.

12 (6)(a) A peer supporter shall not, without consent of the peer
13 support services recipient making the communication, be compelled to
14 testify about any communication made to the peer supporter by the
15 peer support services recipient while receiving individual or group
16 services. The peer supporter must be designated as such by their
17 employing agency prior to providing peer support services. The
18 privilege only applies when the communication was made to the peer
19 supporter while acting in his or her capacity as a peer supporter.
20 The privilege applies regardless of whether the peer support services
21 recipient is an employee of the same agency as the peer supporter.
22 Peer support services may be coordinated or designated among first
23 responder agencies pursuant to chapter 10.93 RCW, interlocal
24 agreement, or other similar provision, provided however that a
25 written agreement is not required for the privilege to apply. The
26 privilege does not apply if the peer supporter was an initial
27 responding first responder, department of corrections staff person,
28 or jail staff person; a witness; or a party to the incident which
29 prompted the delivery of peer support services to the peer support
30 services recipient.

31 (b) For purposes of this section:

32 (i) "First responder" means:

33 (A) A law enforcement officer;

34 (B) A limited authority law enforcement officer;

35 (C) A firefighter;

36 (D) An emergency services dispatcher or recordkeeper;

37 (E) Emergency medical personnel, as licensed or certified by this
38 state;

1 (F) A member or former member of the Washington national guard
2 acting in an emergency response capacity pursuant to chapter 38.52
3 RCW;

4 (G) A coroner or medical examiner, or a coroner's or medical
5 examiner's agent or employee; or

6 (H) An individual engaged in co-response services, as defined in
7 RCW 71.24.025.

8 (ii) "Law enforcement officer" means a general authority
9 Washington peace officer as defined in RCW 10.93.020.

10 (iii) "Limited authority law enforcement officer" means a limited
11 authority Washington peace officer as defined in RCW 10.93.020 who is
12 employed by the department of corrections, state parks and recreation
13 commission, department of natural resources, liquor and cannabis
14 board, or Washington state gambling commission.

15 (iv) "Peer support services recipient" means:

16 (A) A first responder;

17 (B) A department of corrections staff person; or

18 (C) A jail staff person.

19 (v) "Peer supporter" means:

20 (A) A first responder, retired first responder, department of
21 corrections staff person, or jail staff person or a civilian employee
22 of a first responder entity or agency, local jail, or state agency
23 who has received training to provide emotional and moral support and
24 services to a peer support services recipient who needs those
25 services as a result of an incident or incidents in which the peer
26 support services recipient was involved while acting in his or her
27 official capacity or to deal with other stress that is impacting the
28 peer support services recipient's performance of official duties; or

29 (B) A nonemployee who has been designated by the first responder
30 entity or agency, local jail, statewide organization focused on co-
31 response outreach, or state agency to provide emotional and moral
32 support and counseling to a peer support services recipient who needs
33 those services as a result of an incident or incidents in which the
34 peer support services recipient was involved while acting in his or
35 her official capacity.

36 (7) A sexual assault advocate may not, without the consent of the
37 victim, be examined as to any communication made between the victim
38 and the sexual assault advocate.

39 (a) For purposes of this section, "sexual assault advocate" means
40 the employee or volunteer from a community sexual assault program or

1 underserved populations provider, victim assistance unit, program, or
2 association, that provides information, medical or legal advocacy,
3 counseling, or support to victims of sexual assault, who is
4 designated by the victim to accompany the victim to the hospital or
5 other health care facility and to proceedings concerning the alleged
6 assault, including police and prosecution interviews and court
7 proceedings.

8 (b) A sexual assault advocate may disclose a confidential
9 communication without the consent of the victim if failure to
10 disclose is likely to result in a clear, imminent risk of serious
11 physical injury or death of the victim or another person. Any sexual
12 assault advocate participating in good faith in the disclosing of
13 records and communications under this section shall have immunity
14 from any liability, civil, criminal, or otherwise, that might result
15 from the action. In any proceeding, civil or criminal, arising out of
16 a disclosure under this section, the good faith of the sexual assault
17 advocate who disclosed the confidential communication shall be
18 presumed.

19 (8) A domestic violence advocate may not, without the consent of
20 the victim, be examined as to any communication between the victim
21 and the domestic violence advocate.

22 (a) For purposes of this section, "domestic violence advocate"
23 means an employee or supervised volunteer from a community-based
24 domestic violence program or human services program that provides
25 information, advocacy, counseling, crisis intervention, emergency
26 shelter, or support to victims of domestic violence and who is not
27 employed by, or under the direct supervision of, a law enforcement
28 agency, a prosecutor's office, or the child protective services
29 section of the department of children, youth, and families as defined
30 in RCW 26.44.020.

31 (b) A domestic violence advocate may disclose a confidential
32 communication without the consent of the victim if failure to
33 disclose is likely to result in a clear, imminent risk of serious
34 physical injury or death of the victim or another person. This
35 section does not relieve a domestic violence advocate from the
36 requirement to report or cause to be reported an incident under RCW
37 26.44.030(1) or to disclose relevant records relating to a child as
38 required by RCW 26.44.030(15). Any domestic violence advocate
39 participating in good faith in the disclosing of communications under
40 this subsection is immune from liability, civil, criminal, or

1 otherwise, that might result from the action. In any proceeding,
2 civil or criminal, arising out of a disclosure under this subsection,
3 the good faith of the domestic violence advocate who disclosed the
4 confidential communication shall be presumed.

5 (9) A mental health counselor, independent clinical social
6 worker, or marriage and family therapist licensed under chapter
7 18.225 RCW may not disclose, or be compelled to testify about, any
8 information acquired from persons consulting the individual in a
9 professional capacity when the information was necessary to enable
10 the individual to render professional services to those persons
11 except:

12 (a) With the written authorization of that person or, in the case
13 of death or disability, the person's personal representative;

14 (b) If the person waives the privilege by bringing charges
15 against the mental health counselor licensed under chapter 18.225
16 RCW;

17 (c) In response to a subpoena from the secretary of health. The
18 secretary may subpoena only records related to a complaint or report
19 under RCW 18.130.050;

20 (d) As required under chapter 26.44 or 74.34 RCW or RCW 71.05.217
21 (6) or (7); or

22 (e) To any individual if the mental health counselor, independent
23 clinical social worker, or marriage and family therapist licensed
24 under chapter 18.225 RCW reasonably believes that disclosure will
25 avoid or minimize an imminent danger to the health or safety of the
26 individual or any other individual; however, there is no obligation
27 on the part of the provider to so disclose.

28 (10) An individual who acts as a sponsor providing guidance,
29 emotional support, and counseling in an individualized manner to a
30 person participating in an alcohol or drug addiction recovery
31 fellowship may not testify in any civil action or proceeding about
32 any communication made by the person participating in the addiction
33 recovery fellowship to the individual who acts as a sponsor except
34 with the written authorization of that person or, in the case of
35 death or disability, the person's personal representative.

36 (11)(a) Neither a union representative nor an employee the union
37 represents or has represented shall be examined as to, or be required
38 to disclose, any communication between an employee and union
39 representative or between union representatives made in the course of
40 union representation except:

1 (i) To the extent such examination or disclosure appears
2 necessary to prevent the commission of a crime that is likely to
3 result in a clear, imminent risk of serious physical injury or death
4 of a person;

5 (ii) In actions, civil or criminal, in which the represented
6 employee is accused of a crime or assault or battery;

7 (iii) In actions, civil or criminal, where a union member is a
8 party to the action, the union member may obtain a copy of any
9 statement previously given by that union member concerning the
10 subject matter of the action and may elicit testimony concerning such
11 statements. The right of the union member to obtain such statements,
12 or the union member's possession of such statements, does not render
13 them discoverable over the objection of the union member;

14 (iv) In actions, regulatory, civil, or criminal, against the
15 union or its affiliated, subordinate, or parent bodies or their
16 agents; or

17 (v) When an admission of, or intent to engage in, criminal
18 conduct is revealed by the represented union member to the union
19 representative.

20 (b) The privilege created in this subsection (11) does not apply
21 to any record of communications that would otherwise be subject to
22 disclosure under chapter 42.56 RCW.

23 (c) The privilege created in this subsection (11) may not
24 interfere with an employee's or union representative's applicable
25 statutory mandatory reporting requirements, including but not limited
26 to duties to report in chapters 26.44, 43.101, and 74.34 RCW.

27 (d) For purposes of this subsection:

28 (i) "Employee" means a person represented by a certified or
29 recognized union regardless of whether the employee is a member of
30 the union.

31 (ii) "Union" means any lawful organization that has as one of its
32 primary purposes the representation of employees in their employment
33 relations with employers, including without limitation labor
34 organizations defined by 29 U.S.C. Sec. 152(5) and 5 U.S.C. Sec.
35 7103(a)(4), representatives defined by 45 U.S.C. Sec. 151, and
36 bargaining representatives defined in RCW 41.56.030, and employee
37 organizations as defined in RCW 28B.52.020, 41.59.020, 41.80.005,
38 41.76.005, 47.64.011, and 53.18.010, and bargaining representatives
39 as defined in section 3 of this act.

1 (iii) "Union representation" means action by a union on behalf of
2 one or more employees it represents in regard to their employment
3 relations with employers, including personnel matters, grievances,
4 labor disputes, wages, rates of pay, hours of employment, conditions
5 of work, or collective bargaining.

6 (iv) "Union representative" means a person authorized by a union
7 to act for the union in regard to union representation.

8 (v) "Communication" includes any oral, written, or electronic
9 communication or document containing such communication.

10 NEW SECTION. **Sec. 23.** Sections 1 through 20 of this act
11 constitute a new chapter in Title 49 RCW.

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