

SENATE BILL REPORT

SB 5725

As Reported By Senate Committee On:
Law & Justice, February 20, 1995

Title: An act relating to privileged communications.

Brief Description: Protecting privileged communications.

Sponsors: Senators Smith, Roach and Schow.

Brief History:

Committee Activity: Law & Justice: 2/13/95, 2/20/95 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5725 be substituted therefor, and the substitute bill do pass.

Signed by Senators Smith, Chair; C. Anderson, Vice Chair; Hargrove, Haugen, Johnson, Long, McCaslin, Roach, Rinehart and Schow.

Staff: Susan Carlson (786-7418)

Background: Courts have the authority to compel witnesses to appear and testify about facts within their knowledge. Exceptions to this rule consist of privileges that have been established by statute. These privileges prevent courts from requiring testimony about private communications between certain parties, such as between husband and wife, or between an attorney and client.

Some law enforcement agencies have "peer support group" counselors who counsel officers who have been involved in a traumatic incident while on duty, such as a shooting. Law enforcement has concerns that the lack of a privilege protecting communications between peer support group counselors and law enforcement officers may discourage officers from full participation in these programs.

Summary of Substitute Bill: A peer support counselor may not be compelled to testify about any communication made to the counselor by an officer while receiving counseling. Peer support group counselor includes a law enforcement officer, civilian employee of a law enforcement agency, or a nonemployee counselor who has been designated as such by the sheriff, police chief or chief of the Washington State Patrol prior to the incident that results in counseling. The role of the counselor is to provide support and counseling to an officer who needs such services as a result of an incident in which the officer was involved while acting in his or her official capacity.

The privilege only applies when the communication was made to the counselor while acting in his or her capacity as a peer support group counselor. The privilege does not apply if the

counselor was an initial responding officer, a witness, or a party to the incident which prompted the counseling.

Substitute Bill Compared to Original Bill: The original bill did not specify who had authority to designate a counselor and did not allow for counselors who were not employees of the law enforcement agency.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The lack of a privilege protecting communications made during counseling may inhibit officers from seeking counseling.

Testimony Against: None.

Testified: PRO: Mike Patrick, Council of Police Officers; Rick Jensen, WSP Troopers Assn.; Tom McBride, WAPA.