

2 **HB 2465 - H AMD 836 ADOPTED 2-11-98**

3 By Representative

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5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 5.60.060 and 1997 c 338 s 1 are each amended to read
8 as follows:

9 (1) A husband shall not be examined for or against his wife,
10 without the consent of the wife, nor a wife for or against her husband
11 without the consent of the husband; nor can either during marriage or
12 afterward, be without the consent of the other, examined as to any
13 communication made by one to the other during marriage. But this
14 exception shall not apply to a civil action or proceeding by one
15 against the other, nor to a criminal action or proceeding for a crime
16 committed by one against the other, nor to a criminal action or
17 proceeding against a spouse if the marriage occurred subsequent to the
18 filing of formal charges against the defendant, nor to a criminal
19 action or proceeding for a crime committed by said husband or wife
20 against any child of whom said husband or wife is the parent or
21 guardian, nor to a proceeding under chapter 70.96A or 71.05 RCW:
22 PROVIDED, That the spouse of a person sought to be detained under
23 chapter 70.96A or 71.05 RCW may not be compelled to testify and shall
24 be so informed by the court prior to being called as a witness.

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

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

34 (3) A member of the clergy or a priest shall not, without the
35 consent of a person making the confession, be examined as to any
36 confession made to him or her in his or her professional character, in

1 the course of discipline enjoined by the church to which he or she
2 belongs.

3 (4) Subject to the limitations under RCW 70.96A.140 or 71.05.250,
4 a physician or surgeon or osteopathic physician or surgeon or podiatric
5 physician or surgeon shall not, without the consent of his or her
6 patient, be examined in a civil action as to any information acquired
7 in attending such patient, which was necessary to enable him or her to
8 prescribe or act for the patient, except as follows:

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

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

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

20 (6)(a) A peer support group counselor shall not, without consent of
21 the law enforcement officer making the communication, be compelled to
22 testify about any communication made to the counselor by the officer
23 while receiving counseling. The counselor must be designated as such
24 by the sheriff, police chief, or chief of the Washington state patrol,
25 prior to the incident that results in counseling. The privilege only
26 applies when the communication was made to the counselor while acting
27 in his or her capacity as a peer support group counselor. The
28 privilege does not apply if the counselor was an initial responding
29 officer, a witness, or a party to the incident which prompted the
30 delivery of peer support group counseling services to the law
31 enforcement officer.

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

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

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

6 (7) A sexual assault advocate may not, without the consent of the
7 victim, be examined as to any communication made by the victim to the
8 sexual assault advocate.

9 (a) For purposes of this section, "sexual assault advocate" means
10 the employee or volunteer from a rape crisis center, victim assistance
11 unit, program, or association, that provides information, medical or
12 legal advocacy, counseling, or support to victims of sexual assault,
13 who is designated by the victim to accompany the victim to the hospital
14 or other health care facility and to proceedings concerning the alleged
15 assault, including police and prosecution interviews and court
16 proceedings.

17 (b) A sexual assault advocate may disclose a confidential
18 communication without the consent of the victim if failure to disclose
19 is likely to result in a clear, imminent risk of serious physical
20 injury or death of the victim or another person. Any sexual assault
21 advocate participating in good faith in the disclosing of records and
22 communications under this section shall have immunity from any
23 liability, civil, criminal, or otherwise, that might result from the
24 action. In any proceeding, civil or criminal, arising out of a
25 disclosure under this section, the good faith of the sexual assault
26 advocate who disclosed the confidential communication shall be
27 presumed."

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