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**SUBSTITUTE HOUSE BILL 2483**

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**State of Washington**

**56th Legislature**

**2000 Regular Session**

**By** House Committee on Judiciary (originally sponsored by Representative Carrell)

Read first time 02/03/2000. Referred to Committee on .

1 AN ACT Relating to communications between emergency service  
2 providers and trained peer supporters; amending RCW 5.60.060; and  
3 adding a new section to chapter 38.52 RCW.

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

5 **Sec. 1.** RCW 5.60.060 and 1998 c 72 s 1 are each amended to read as  
6 follows:

7 (1) A husband shall not be examined for or against his wife,  
8 without the consent of the wife, nor a wife for or against her husband  
9 without the consent of the husband; nor can either during marriage or  
10 afterward, be without the consent of the other, examined as to any  
11 communication made by one to the other during marriage. But this  
12 exception shall not apply to a civil action or proceeding by one  
13 against the other, nor to a criminal action or proceeding for a crime  
14 committed by one against the other, nor to a criminal action or  
15 proceeding against a spouse if the marriage occurred subsequent to the  
16 filing of formal charges against the defendant, nor to a criminal  
17 action or proceeding for a crime committed by said husband or wife  
18 against any child of whom said husband or wife is the parent or  
19 guardian, nor to a proceeding under chapter 70.96A or 71.05 RCW:

1 PROVIDED, That the spouse of a person sought to be detained under  
2 chapter 70.96A or 71.05 RCW may not be compelled to testify and shall  
3 be so informed by the court prior to being called 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 71.05.250,  
19 a physician or surgeon or osteopathic physician or surgeon or podiatric  
20 physician or surgeon shall not, without the consent of his or her  
21 patient, be examined in a civil action as to any information acquired  
22 in attending such patient, which was necessary to enable him or her to  
23 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 trained peer (~~((support group counselor))~~) supporter shall  
36 not, without consent of the law enforcement officer making the  
37 communication, be compelled to testify about any communication made to  
38 the (~~((counselor))~~) trained peer supporter by the officer while receiving  
39 (~~((counseling))~~) peer support services. The (~~((counselor))~~) trained peer

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

11 (b) For purposes of this section, "trained peer ~~((support group~~  
12 ~~counselor))~~ supporter" means a:

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

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

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

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

35 (b) A sexual assault advocate may disclose a confidential  
36 communication without the consent of the victim if failure to disclose  
37 is likely to result in a clear, imminent risk of serious physical  
38 injury or death of the victim or another person. Any sexual assault  
39 advocate participating in good faith in the disclosing of records and

1 communications under this section shall have immunity from any  
2 liability, civil, criminal, or otherwise, that might result from the  
3 action. In any proceeding, civil or criminal, arising out of a  
4 disclosure under this section, the good faith of the sexual assault  
5 advocate who disclosed the confidential communication shall be  
6 presumed.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 38.52 RCW  
8 to read as follows:

9 (1) Pursuant to the provisions of this section, any communication  
10 made by an emergency service provider participating in a peer support  
11 session conducted by a trained peer supporter is confidential and shall  
12 not be disclosed by the trained peer supporter or an emergency service  
13 provider participating in the session. A peer support session may  
14 consist of a trained peer supporter and one or more emergency service  
15 providers.

16 (2) The confidentiality provisions in this section apply when:

17 (a) The trained peer supporter was designated as such by the  
18 emergency service provider agency or entity prior to the incident that  
19 prompted the delivery of peer support services;

20 (b) The emergency service provider participating in the peer  
21 support session was part of the emergency service provider personnel  
22 involved in responding to, or rendering assistance during, the incident  
23 which prompted the delivery of peer support services; and

24 (c) The communication was made to the trained peer supporter while  
25 acting in his or her capacity as a trained peer supporter or to another  
26 emergency service provider during the peer support session.

27 (3) A trained peer supporter or emergency service provider  
28 participating in a peer support session shall not disclose any  
29 communication made to the trained peer supporter or participant by the  
30 emergency service provider during the peer support session, unless:

31 (a) The disclosure is necessary to provide assistance pursuant to  
32 the peer support session;

33 (b) The emergency service provider making the communication  
34 consents to the disclosure; or

35 (c)(i) The person seeking disclosure of the communication makes a  
36 written motion to the court requesting disclosure of the communication,  
37 and states in an affidavit the reasons why the person is seeking  
38 disclosure; and (ii) the court finds, after an in-camera review of the

1 communication, that the communication is material and relevant and the  
2 probative value of the communication outweighs the emergency service  
3 provider's privacy interest in the communication, and the court orders  
4 disclosure.

5 (4) Any communication made during a peer support session is not  
6 subject to the confidentiality provisions in this section merely  
7 because it is made during the session if the communication is otherwise  
8 not confidential.

9 (5) For purposes of this section, "trained peer supporter" means:

10 (a) An emergency service provider, or a civilian employee of an  
11 emergency service provider agency or entity, who has received training  
12 to provide emotional and moral support to an emergency service provider  
13 who needs those services as a result of an incident in which the  
14 emergency service provider was involved while acting in his or her  
15 official capacity; or

16 (b) A nonemployee counselor or mental health service provider who  
17 has been designated by the emergency service provider agency or entity  
18 to provide emotional and moral support and counseling to an emergency  
19 service provider who needs those services as a result of an incident in  
20 which the emergency service provider was involved while acting in his  
21 or her official capacity.

22 (6) For purposes of this section, "emergency service provider"  
23 means a law enforcement officer, fire fighter, emergency medical  
24 technician as defined in RCW 18.73.030, emergency worker as defined in  
25 RCW 38.52.010, or ambulance or aid vehicle services personnel. The  
26 provisions in this section are intended to supplement the provisions  
27 granted to law enforcement officers under RCW 5.60.060, and if a  
28 conflict exists, the statute granting the greater protection against  
29 disclosure shall apply. However, any communication made in a peer  
30 support session consisting of a trained peer supporter and more than  
31 one law enforcement officer is governed under this section.

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