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HOUSE BILL 1783

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Carrell, Lantz, Hurst, Lovick, Marine and Woods

Read first time 02/05/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to privileged communications by fire fighters and  
2 law enforcement officers; and amending RCW 5.60.060.

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

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

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

1 chapter 70.96A or 71.05 RCW may not be compelled to testify and shall  
2 be so informed by the court prior to being called as a witness.

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

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

12 (3) A member of the clergy or a priest shall not, without the  
13 consent of a person making the confession, be examined as to any  
14 confession made to him or her in his or her professional character, in  
15 the course of discipline enjoined by the church to which he or she  
16 belongs.

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

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

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

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

34 (6)(a) A trained peer (~~((support group counselor))~~) supporter shall  
35 not, without consent of the law enforcement officer or fire fighter  
36 making the communication, be compelled to testify about any  
37 communication made to the (~~((counselor))~~) trained peer supporter by the  
38 officer or fire fighter while receiving (~~((counseling))~~) peer support  
39 services. The (~~((counselor))~~) trained peer supporter must be designated

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

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

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

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

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

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

37 (b) A sexual assault advocate may disclose a confidential  
38 communication without the consent of the victim if failure to disclose  
39 is likely to result in a clear, imminent risk of serious physical

1 injury or death of the victim or another person. Any sexual assault  
2 advocate participating in good faith in the disclosing of records and  
3 communications under this section shall have immunity from any  
4 liability, civil, criminal, or otherwise, that might result from the  
5 action. In any proceeding, civil or criminal, arising out of a  
6 disclosure under this section, the good faith of the sexual assault  
7 advocate who disclosed the confidential communication shall be  
8 presumed.

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