

---

HOUSE BILL 2366

---

State of Washington                      59th Legislature                      2006 Regular Session

By Representatives B. Sullivan, Appleton, Moeller, Buck, Haler, Fromhold, Ericks, Strow, Simpson, Campbell and Ormsby

Prefiled 12/22/2005.      Read first time 01/09/2006.      Referred to Committee on Judiciary.

1            AN ACT Relating to privileged communications by fire fighters; and  
2 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 2005 c 504 s 705 are each amended to read  
5 as 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, 70.96B, 71.05, or  
19 71.09 RCW: PROVIDED, That the spouse of a person sought to be detained

1 under chapter 70.96A, 70.96B, 71.05, or 71.09 RCW may not be compelled  
2 to testify and shall be so informed by the court prior to being called  
3 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 71.05.360  
19 (8) and (9), a physician or surgeon or osteopathic physician or surgeon  
20 or podiatric physician or surgeon shall not, without the consent of his  
21 or her patient, be examined in a civil action as to any information  
22 acquired in attending such patient, which was necessary to enable him  
23 or her to 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 peer support group counselor shall not, without consent of  
36 the law enforcement officer or fire fighter making the communication,  
37 be compelled to testify about any communication made to the counselor  
38 by the officer or fire fighter while receiving counseling. The

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

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

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

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

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

--- END ---