

HOUSE BILL REPORT

HB 1356

As Reported by House Committee On:
Civil Rights & Judiciary

Title: An act relating to privileged communication with peer support group counselors.

Brief Description: Concerning privileged communication with peer support group counselors.

Sponsors: Representatives Lovick, Maycumber, Tarleton, Pettigrew, Doglio, Stonier, Morgan, Orwall, Gregerson, Kilduff, Mead, Kloba, Valdez, Ortiz-Self, Thai, Lekanoff, Cody, Stanford, Chapman, Walen, Sells, Kirby, Appleton, Blake, Ryu, Reeves, Bergquist, Jinkins, Goodman, Pollet, Leavitt and Ormsby.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 2/1/19, 2/20/19 [DPS].

Brief Summary of Substitute Bill

- Extends the testimonial privilege for certain communications made to a peer support counselor to corrections staff in local jails, emergency services dispatchers and record keepers, emergency services personnel, and members and former members of the Washington National Guard who are acting in a first responder capacity.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Jinkins, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Goodman, Graham, Hansen, Kilduff, Kirby, Klippert, Orwall, Shea, Valdez, Walen and Ybarra.

Staff: Ingrid Lewis (786-7289).

Background:

Testimonial Privileges.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The judiciary has inherent power to compel witnesses to appear and testify in judicial proceedings so that the court will receive all relevant evidence. The common law and statutory law recognize exceptions to certain communications when certain classes of relationships or communications within those relationships are deemed of such importance that they should be protected. Washington statutory law establishes a number of these testimonial privileges, including communications between the following persons: (1) husband and wife; (2) attorney and client; (3) clergy and confessor; (4) physician and patient; (5) psychologist and client; (6) optometrist and client; (7) sexual assault advocate and victim; and (8) peer support group counselor and law enforcement officer, limited authority law enforcement officer, or firefighter.

Peer Support Group Counselor.

A peer support group counselor is a person who has received training to provide emotional and moral support and counseling to an officer or firefighter who needs these services as a result of an incident in which the officer or firefighter was involved while acting in his or her official capacity. The counselor must be designated as such by the agency employing the officer or firefighter prior to the incident that results in counseling.

The peer support group counselor privilege protects communications made by a law enforcement officer, limited law enforcement officer, or firefighter to a designated peer support group counselor while receiving counseling for an incident in which the officer or firefighter was involved while acting in the officer's official capacity. The peer support group counselor may not be compelled to testify in a judicial proceeding about the communication unless the officer or firefighter consents to disclosure. This privilege applies only to communications made to a counselor 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 or firefighter, a witness, or a party to the incident that prompted the counseling services.

Emergency Medical Services.

The Department of Health regulates the practice of emergency medical responders, emergency medical technicians, advanced emergency medical technicians, and paramedics to provide a range of emergency medical services which are defined as medical treatment and care which may be rendered at the scene of any medical emergency or while transporting any patient in an ambulance to an appropriate medical facility, including ambulance transportation between medical facilities.

Summary of Substitute Bill:

A testimonial privilege is established for communications made by a first responder or local jail staff person to a designated peer support group counselor while receiving counseling as the result of an incident in which the first responder or jail staff was involved while acting in the first responder or jail staff's official capacity. The privilege applies under the same standards and conditions that apply to the privilege for communications by a law enforcement officer or firefighter to a peer support group counselor.

First responder is defined as a law enforcement officer; a limited authority law enforcement officer; a firefighter; an emergency services dispatcher or record keeper; a licensed or certified emergency medical personnel; or a member or former member of the Washington National Guard acting in an emergency response capacity under the emergency management statutes.

Substitute Bill Compared to Original Bill:

The substitute bill adds members and former members of the Washington National Guard acting in an emergency response capacity to the definition of "first responder," and extends peer support group counselor testimonial privilege to members and former members of the Washington National Guard acting in an emergency response capacity.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Providing staff the ability to speak with a peer on a confidential basis is an incredible benefit. Noncommissioned support staff in the criminal justice community are not afforded the same opportunity to seek confidential peer support counseling as commissioned staff. Support staff are subjected to the same explicitly graphic material, but are not able to discuss what they experience without fearing for their jobs. The job of a 911 telecommunicator can have a profound impact on that person's mental health because of the responsibilities and expectations of the position. Many telecommunicators go through training and continuing education to learn how to remain calm in a crisis. Telecommunicators cannot have a natural emotional reaction to calls. The calls received are constant. A telecommunicator's span of control is limited to information they are able to receive and the information that they can give. Telecommunicators play a pivotal role in the health and safety of the public and responders. Telecommunicators can be held responsible for calls that go wrong. There is legal and emotional liability. Unions and attorneys tell staff not to speak to others about what happens at work because of potential litigation. Peer support is an avenue for staff to speak and receive support.

(Opposed) None.

Persons Testifying: Representative Lovick, prime sponsor; Kate Dotson, Snohomish County 911; David Sorenson and Chris Leyda, Snohomish County Sheriffs Office; and Chuck Wright.

Persons Signed In To Testify But Not Testifying: None.