

# SENATE BILL REPORT

## SHB 1356

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As Passed Senate, April 11, 2019

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

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

**Sponsors:** House Committee on Civil Rights & Judiciary (originally sponsored by 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:** Passed House: 3/01/19, 94-0.

**Committee Activity:** Law & Justice: 3/19/19, 3/21/19 [DP].

**Floor Activity:**

Passed Senate: 4/11/19, 47-0.

### Brief Summary of Bill

- Expands the category of persons entitled to claim testimonial privilege to any first responder or jail staff person for communications made to a designated peer support group counselor.

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## SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Kuderer and Salomon.

**Staff:** Shani Bauer (786-7468)

**Background:** Testimonial Privileges. The judiciary has inherent power to compel witnesses to appear and testify in judicial proceedings so the court will receive all relevant evidence. The common law and statutory law recognize exceptions to compelled testimony in some circumstances, including testimonial privileges. Privileges are recognized when certain classes of relationships or communications within those relationships are deemed of such importance that they should be protected.

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*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.*

Washington statutory law establishes a number of 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 or firefighter.

Peer Support Group Counselor Privilege. The peer support group counselor privilege protects communications made by a law enforcement officer, limited authority 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 law enforcement officer or firefighter consents to disclosure. This privilege applies only to communications made to a counselor acting in their 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.

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 their 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.

**Summary of Bill:** The category of persons entitled to claim testimonial privilege is expanded to include communications made by a first responder or 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 person was involved while acting in their official capacity.

First responder means a law enforcement officer, a limited authority law enforcement officer, a firefighter, an emergency services dispatcher or recordkeeper, emergency medical personnel, or a member of the Washington National Guard acting in an emergency response capacity.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Peer support counselors are integral to allowing a first responder to continue to be successful in position. Responders may be the first on the scene when a person has taken his or her life. In 2017, two corrections officers were attacked. One is still not back to work and both are still recovering from the effects of

the incident. Responders, records clerks, and 911 dispatchers all deal with facts that are very difficult for people to get past and have an impact on a person's mental health.

A 911 dispatcher never knows what the next call might bring. They are talking to people on the worst day of their life. The dispatcher must act quickly and calmly and suppress the person's natural reaction. These situations are jarring and disturbing even without being physically present. Dispatchers need a place where they can be open and raw and trust that communications are confidential. This bill will give them the space they need in order to seek help.

**Persons Testifying:** PRO: Representative John Lovick, Prime Sponsor; Dave Sorenson, Sergeant, Snohomish County Sheriff's Office; Chuck Wright, MHP; Kate Dotson, Supervisor, Snohomish County 911.

**Persons Signed In To Testify But Not Testifying:** No one.