
Civil Rights & Judiciary Committee

HB 1187

Brief Description: Concerning privileged communication between employees and the unions that represent them.

Sponsors: Representatives Hackney, Berry, Bateman, Ramel, Doglio, Simmons, Lekanoff, Bronoske, Wylie, Stonier, Pollet and Ormsby.

Brief Summary of Bill

- Creates an exception from examination and disclosure for a union representative and a union employee concerning any communication between the union representative or union employee made during union representation.
- Applies the exception from examination and disclosure to employees of, and the organizations that represent: employees of college districts, public employees, faculty at public four-year institutions of higher education, civil service employees, ferry employees, port employees, and labor unions.

Hearing Date: 1/18/23

Staff: Matt Sterling (786-7289).

Background:

Testimonial Privileges.

The judiciary has the 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 from

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being compelled to testify in judicial proceedings. Washington statutory law establishes a number of these testimonial privileges, including communications between the following persons:

- husband and wife;
- attorney and client;
- clergy and confessor;
- physician and patient;
- psychologist and client;
- optometrist and client;
- peer support group counselor and law enforcement officer, limited authority law enforcement officer, or firefighter;
- sexual assault advocate and victim;
- mental health counselor and client; and
- alcohol or drug addiction sponsor and addiction recovery fellowship participant.

Summary of Bill:

A testimonial privilege is established for a union representative and an employee the union represents or has represented from being examined or required to disclose any communication between an employee and union representative or between union representatives that is made in the course of union representation. Exceptions to this privilege are established that permit examination and disclosure of such communications under the following circumstances:

- when such examination or disclosure appears necessary to prevent the commission of a crime that is likely to result in a clear, imminent risk of serious physical injury or death of a person;
- in civil or criminal actions against the union or its affiliates or agents; or
- the union has expressly waived the privilege.

An employee includes a person represented by a certified or recognized union regardless of whether the employee is a member of the union. Union includes any lawful organization that has as one of its primary purposes the representation of employees in their employment relations with employers. Union representation includes any action by a union on behalf of one or more employees it represents in regard to their employment relations with employers, including personnel matters, grievances, labor disputes, wages, rates of pay, hours of employment, conditions of work, or collective bargaining. Union representative includes a person authorized by a union to act for the union in regard to union representation.

The testimonial privilege from being examined or required to disclose certain communications is established for employees and representatives of any organization that represents the following employees in negotiations with employers:

- any teacher, counselor, librarian, or department head, who is employed by any college district;
- public employees;
- any employees that participate in collective bargaining with employers;

- faculty at a public four-year institution of higher education;
- civil service employees;
- ferry employees who are members of a collective bargaining unit represented by a ferry employee organization;
- labor unions; and
- port employees in a labor organization.

Appropriation: None.

Fiscal Note: Not requested.

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