

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1356**

Chapter 98, Laws of 2019

66th Legislature  
2019 Regular Session

PEER SUPPORT GROUP COUNSELORS--TESTIMONIAL PRIVILEGE

EFFECTIVE DATE: July 28, 2019

Passed by the House March 1, 2019  
Yeas 94 Nays 0

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate April 11, 2019  
Yeas 47 Nays 0

KAREN KEISER

**President of the Senate**

Approved April 23, 2019 3:46 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1356** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

April 24, 2019

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 1356**

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Passed Legislature - 2019 Regular Session

**State of Washington                      66th Legislature                      2019 Regular Session**

**By** House 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)

READ FIRST TIME 02/22/19.

1            AN ACT Relating to privileged communication with peer support  
2 group counselors; 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 2018 c 165 s 1 are each amended to read  
5 as follows:

6            (1) A spouse or domestic partner shall not be examined for or  
7 against his or her spouse or domestic partner, without the consent of  
8 the spouse or domestic partner; nor can either during marriage or  
9 during the domestic partnership or afterward, be without the consent  
10 of the other, examined as to any communication made by one to the  
11 other during the marriage or the domestic partnership. But this  
12 exception shall not apply to a civil action or proceeding by one  
13 against the other, nor to a criminal action or proceeding for a crime  
14 committed by one against the other, nor to a criminal action or  
15 proceeding against a spouse or domestic partner if the marriage or  
16 the domestic partnership occurred subsequent to the filing of formal  
17 charges against the defendant, nor to a criminal action or proceeding  
18 for a crime committed by said spouse or domestic partner against any  
19 child of whom said spouse or domestic partner is the parent or  
20 guardian, nor to a proceeding under chapter 71.05 or 71.09 RCW:  
21 PROVIDED, That the spouse or the domestic partner of a person sought

1 to be detained under chapter 71.05 or 71.09 RCW may not be compelled  
2 to testify and shall be so informed by the court prior to being  
3 called 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  
7 course 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  
10 and his or her attorney if the communication was made in the presence  
11 of the parent or guardian. This privilege does not extend to  
12 communications made prior to the arrest.

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

20 (4) Subject to the limitations under RCW 71.05.360 (8) and (9), a  
21 physician or surgeon or osteopathic physician or surgeon or podiatric  
22 physician or surgeon shall not, without the consent of his or her  
23 patient, be examined in a civil action as to any information acquired  
24 in attending such patient, which was necessary to enable him or her  
25 to prescribe or act for the patient, except as follows:

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

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

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

37 (6) (a) A peer support group counselor shall not, without consent  
38 of the (~~law enforcement officer, limited authority law enforcement~~  
39 ~~officer, or firefighter~~) first responder or jail staff person making  
40 the communication, be compelled to testify about any communication

1 made to the counselor by the (~~officer or firefighter~~) first  
2 responder or jail staff person while receiving counseling. The  
3 counselor must be designated as such by the agency employing the  
4 (~~officer or firefighter~~) first responder or jail staff person prior  
5 to the incident that results in counseling. The privilege only  
6 applies when the communication was made to the counselor while acting  
7 in his or her capacity as a peer support group counselor. The  
8 privilege does not apply if the counselor was an initial responding  
9 (~~officer or firefighter~~) first responder or jail staff person, a  
10 witness, or a party to the incident which prompted the delivery of  
11 peer support group counseling services to the (~~law enforcement~~  
12 ~~officer, limited authority law enforcement officer, or firefighter~~)  
13 first responder or jail staff person.

14 (b) For purposes of this section:

15 (i) "First responder" means:

16 (A) A law enforcement officer;

17 (B) A limited authority law enforcement officer;

18 (C) A firefighter;

19 (D) An emergency services dispatcher or recordkeeper;

20 (E) Emergency medical personnel, as licensed or certified by this  
21 state; or

22 (F) A member or former member of the Washington national guard  
23 acting in an emergency response capacity pursuant to chapter 38.52  
24 RCW.

25 (ii) "Law enforcement officer" means a general authority  
26 Washington peace officer as defined in RCW 10.93.020;

27 (~~(iii)~~) (iii) "Limited authority law enforcement officer" means  
28 a limited authority Washington peace officer as defined in RCW  
29 10.93.020 who is employed by the department of corrections, state  
30 parks and recreation commission, department of natural resources,  
31 liquor and cannabis board, or Washington state gambling commission;  
32 and

33 (~~(iii)~~) (iv) "Peer support group counselor" means ((a)):

34 (A) (~~Law enforcement officer, limited authority law enforcement~~  
35 ~~officer, firefighter,~~) A first responder or jail staff person or a  
36 civilian employee of ((a law enforcement agency, fire department,)) a  
37 first responder entity or agency, local jail, or state agency who has  
38 received training to provide emotional and moral support and  
39 counseling to ((an officer or firefighter)) a first responder or jail  
40 staff person who needs those services as a result of an incident in

1 which the (~~officer or firefighter~~) first responder or jail staff  
2 person was involved while acting in his or her official capacity; or

3 (B) A nonemployee counselor who has been designated by the (~~law~~)  
4 ~~enforcement agency, fire department~~) first responder entity or  
5 agency, local jail, or state agency to provide emotional and moral  
6 support and counseling to (~~an officer or firefighter~~) a first  
7 responder or jail staff person who needs those services as a result  
8 of an incident in which the (~~officer or firefighter~~) first  
9 responder or jail staff person was involved while acting in his or  
10 her official capacity.

11 (7) A sexual assault advocate may not, without the consent of the  
12 victim, be examined as to any communication made between the victim  
13 and the sexual assault advocate.

14 (a) For purposes of this section, "sexual assault advocate" means  
15 the employee or volunteer from a community sexual assault program or  
16 underserved populations provider, victim assistance unit, program, or  
17 association, that provides information, medical or legal advocacy,  
18 counseling, or support to victims of sexual assault, who is  
19 designated by the victim to accompany the victim to the hospital or  
20 other health care facility and to proceedings concerning the alleged  
21 assault, including police and prosecution interviews and court  
22 proceedings.

23 (b) A sexual assault advocate may disclose a confidential  
24 communication without the consent of the victim if failure to  
25 disclose is likely to result in a clear, imminent risk of serious  
26 physical injury or death of the victim or another person. Any sexual  
27 assault advocate participating in good faith in the disclosing of  
28 records and communications under this section shall have immunity  
29 from any liability, civil, criminal, or otherwise, that might result  
30 from the action. In any proceeding, civil or criminal, arising out of  
31 a disclosure under this section, the good faith of the sexual assault  
32 advocate who disclosed the confidential communication shall be  
33 presumed.

34 (8) A domestic violence advocate may not, without the consent of  
35 the victim, be examined as to any communication between the victim  
36 and the domestic violence advocate.

37 (a) For purposes of this section, "domestic violence advocate"  
38 means an employee or supervised volunteer from a community-based  
39 domestic violence program or human services program that provides  
40 information, advocacy, counseling, crisis intervention, emergency

1 shelter, or support to victims of domestic violence and who is not  
2 employed by, or under the direct supervision of, a law enforcement  
3 agency, a prosecutor's office, or the child protective services  
4 section of the department of social and health services as defined in  
5 RCW 26.44.020.

6 (b) A domestic violence advocate may disclose a confidential  
7 communication without the consent of the victim if failure to  
8 disclose is likely to result in a clear, imminent risk of serious  
9 physical injury or death of the victim or another person. This  
10 section does not relieve a domestic violence advocate from the  
11 requirement to report or cause to be reported an incident under RCW  
12 26.44.030(1) or to disclose relevant records relating to a child as  
13 required by RCW 26.44.030(14). Any domestic violence advocate  
14 participating in good faith in the disclosing of communications under  
15 this subsection is immune from liability, civil, criminal, or  
16 otherwise, that might result from the action. In any proceeding,  
17 civil or criminal, arising out of a disclosure under this subsection,  
18 the good faith of the domestic violence advocate who disclosed the  
19 confidential communication shall be presumed.

20 (9) A mental health counselor, independent clinical social  
21 worker, or marriage and family therapist licensed under chapter  
22 18.225 RCW may not disclose, or be compelled to testify about, any  
23 information acquired from persons consulting the individual in a  
24 professional capacity when the information was necessary to enable  
25 the individual to render professional services to those persons  
26 except:

27 (a) With the written authorization of that person or, in the case  
28 of death or disability, the person's personal representative;

29 (b) If the person waives the privilege by bringing charges  
30 against the mental health counselor licensed under chapter 18.225  
31 RCW;

32 (c) In response to a subpoena from the secretary of health. The  
33 secretary may subpoena only records related to a complaint or report  
34 under RCW 18.130.050;

35 (d) As required under chapter 26.44 or 74.34 RCW or RCW 71.05.360  
36 (8) and (9); or

37 (e) To any individual if the mental health counselor, independent  
38 clinical social worker, or marriage and family therapist licensed  
39 under chapter 18.225 RCW reasonably believes that disclosure will  
40 avoid or minimize an imminent danger to the health or safety of the

1 individual or any other individual; however, there is no obligation  
2 on the part of the provider to so disclose.

3 (10) An individual who acts as a sponsor providing guidance,  
4 emotional support, and counseling in an individualized manner to a  
5 person participating in an alcohol or drug addiction recovery  
6 fellowship may not testify in any civil action or proceeding about  
7 any communication made by the person participating in the addiction  
8 recovery fellowship to the individual who acts as a sponsor except  
9 with the written authorization of that person or, in the case of  
10 death or disability, the person's personal representative.

Passed by the House March 1, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

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