
SENATE BILL 6045

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By Senators Saldaña, Alvarado, Trudeau, Valdez, Wellman, Conway, Stanford, Slatter, Frame, Hasegawa, Lovelett, Nobles, Orwall, and C. Wilson

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1 AN ACT Relating to placing agricultural employees under the
2 jurisdiction of the public employment relations commission for the
3 purpose of collective bargaining; amending RCW 49.32.020 and
4 5.60.060; and adding a new chapter to Title 49 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** Access to the collective and individual
7 protections afforded by established federal and state labor laws, as
8 well as ensuring stable, effective, and efficient labor-management
9 relations, is a vital state interest that has critical benefit to the
10 state's economic and social development. It is declared to be the
11 policy of the state to guarantee agricultural employees the full
12 freedom of association, self-organization, and designation of
13 representatives of their own choosing, to negotiate the terms and
14 conditions of their employment, and that they shall be free from
15 interference, restraint, or coercion of agricultural employers of
16 labor, or their agents, in the designation of such representatives or
17 in self-organization or in other concerted activities for the purpose
18 of collective bargaining or other mutual aid or protections.
19 Therefore, this act extends collective bargaining rights to
20 agricultural employees.

1 The agricultural context often poses significant barriers for
2 employees attempting to undertake concerted activity, such as
3 seasonal and short-term employment and high numbers of employees who
4 are limited English proficient and have had limited opportunity for
5 educational attainment. It is the policy of the state to administer
6 agricultural collective bargaining rights in a manner that takes
7 these barriers into account, including by having procedures that are
8 expeditious and linguistically and culturally appropriate.

9 NEW SECTION. **Sec. 2.** This chapter applies to agricultural
10 employees and agricultural employers.

11 NEW SECTION. **Sec. 3.** The definitions in this section apply
12 throughout this chapter.

13 (1)(a) "Agricultural employee" means any person engaged in
14 agriculture, any individual engaged or permitted by an agricultural
15 employer to work on a farm, and also means a person engaged in the
16 canning, processing, preserving, freezing, drying, marketing,
17 storing, packing for shipment, or distributing of:

- 18 (i) Agricultural produce;
- 19 (ii) Meat and fish products; or
- 20 (iii) Perishable foods.

21 (b) "Agricultural employee" includes any person whose work has
22 ceased because of, or in connection with, any prohibited practice.

23 (c) "Agricultural employee" does not include:

24 (i) Supervisors, managers, or those employees whose duties
25 necessarily imply a confidential relationship to the agricultural
26 employer;

27 (ii) Those defined as employees under the federal national labor
28 relations act, as amended, 29 U.S.C. Sec. 152(3);

29 (iii) Employees as defined in RCW 49.37.010; or

30 (iv) Members of an agricultural employer's family who are related
31 to the third degree of consanguinity.

32 (2) "Agricultural employer" means any person who employs
33 agricultural employees and includes any person acting directly or
34 indirectly as an agent of an agricultural employer, but does not
35 include an employer as defined in RCW 49.37.010.

36 (3) "Agriculture" includes farming in all its branches and, among
37 other things, includes the cultivation and tillage of the soil,
38 dairying, the production, cultivation, growing, and harvesting of any

1 agricultural or horticultural commodities, including agricultural
2 commodities as defined in 12 U.S.C. Sec. 1141j(f), the raising of
3 livestock, bees, fur-bearing animals, or poultry, and any practices,
4 including any forestry or lumbering operations, performed by a farmer
5 or on a farm as an incident to or in conjunction with such farming
6 operations, including preparation for market, delivery to storage or
7 to market, or to carriers for transportation to market.

8 (4) "Bargaining representative" means any lawful farmworker labor
9 organization that represents agricultural employees in their
10 employment relations with the agricultural employers.

11 (5) "Collective bargaining" means the performance of the mutual
12 obligations of the agricultural employer and the exclusive bargaining
13 representative to meet at reasonable times, to confer and negotiate
14 in good faith, and to execute a written agreement with respect to
15 grievance procedures and collective negotiations on personnel
16 matters, including wages, hours, and working conditions, which may be
17 peculiar to an appropriate bargaining unit of such agricultural
18 employer, except that by such obligation neither party may be
19 compelled to agree to a proposal or be required to make a concession
20 unless otherwise provided in this chapter.

21 (6) "Collective bargaining agreement" means any written contract
22 or agreement that is currently in effect, or that will hereafter be
23 executed, between a bargaining representative and an employer, as
24 defined by this chapter.

25 (7) "Commission" means the public employment relations
26 commission.

27 (8) "Company union" means any committee, agricultural employee
28 representation plan, or association of agricultural employees that
29 exists for the purpose, in whole or in part, of dealing with
30 agricultural employers concerning grievances or terms and conditions
31 of employment, which the agricultural employer has initiated or
32 created or whose initiation or creation the agricultural employer has
33 suggested, participated in, or in the formulation of whose governing
34 rules or policies or the conducting of whose management, operations,
35 or elections the agricultural employer participates in or supervises
36 or that the agricultural employer maintains, finances, controls,
37 dominates, or assists in maintaining or financing, whether by
38 compensating anyone for services performed in its behalf or by
39 donating free services, equipment, materials, office or meeting space
40 or anything else of value, or by any other means.

1 (9) "Farmworker labor organization" means an organization of any
2 kind that is not a company union, including agricultural employee
3 committee or individuals acting in the interest of other agricultural
4 employees, in which agricultural employees participate and exists for
5 the primary purpose of dealing with agricultural employers concerning
6 grievances, labor disputes, wages, rates of pay, hours of employment,
7 or conditions of employment for agricultural employees.

8 (10) "Labor dispute" means any controversy concerning terms,
9 tenure, or conditions of employment, or concerning the association of
10 representation of persons in negotiating, fixing, maintaining,
11 changing, or seeking to arrange terms or conditions of employment,
12 regardless of whether the disputants stand in the proximate relation
13 of agricultural employer and agricultural employee.

14 (11) "Person" includes one or more individuals, labor
15 organizations, partnerships, associations, corporations, legal
16 representatives, trustees in bankruptcy, or receivers.

17 NEW SECTION. **Sec. 4.** (1) The commission shares concurrent
18 jurisdiction with superior courts to prevent and to remedy any
19 violation of RCW 49.32.020.

20 (2) The commission must apply the Washington courts'
21 jurisprudence in adjudicating alleged violations of RCW 49.32.020.

22 (3) If the commission determines that any person has engaged in
23 or is engaging in any violation of RCW 49.32.020, the commission
24 shall issue and cause to be served upon the person an order requiring
25 the person to cease and desist from such violation, and to take such
26 affirmative action as will effectuate the purposes and policy of this
27 chapter, such as the payment of damages and the reinstatement of
28 agricultural employees, and reasonable attorneys' fees in cases where
29 wages are recovered.

30 (4) The commission or the affected agricultural employees may
31 petition the superior court for the county in which the main office
32 of the employer is located or in which the person who has engaged or
33 is engaging in such violation resides or transacts business, for the
34 enforcement of the commission's order and for appropriate temporary
35 relief.

36 NEW SECTION. **Sec. 5.** The commission shall provide, at the
37 mutual request of an agricultural employer and an exclusive

1 bargaining representative, mediation of any labor dispute between
2 them.

3 NEW SECTION. **Sec. 6.** (1) In the event that an agricultural
4 employer and agricultural employees are in disagreement as to the
5 selection of a bargaining representative, a farmworker labor
6 organization shall invite the commission to intervene.

7 (2) In the event that an agricultural employer and a bargaining
8 representative are in disagreement as to the merger of two or more
9 bargaining units in the agricultural employer's workforce that are
10 represented by the same bargaining representative, the commission
11 shall be invited to intervene.

12 NEW SECTION. **Sec. 7.** The commission, after hearing upon
13 reasonable notice, shall decide in each application for certification
14 as an exclusive bargaining representative or unit clarification, the
15 unit appropriate for the purpose of collective bargaining. In
16 determining, modifying, or combining the bargaining unit, the
17 commission shall consider: The duties, skills, and working conditions
18 of the agricultural employees; the history of collective bargaining
19 by the agricultural employees and their bargaining representatives;
20 the extent of organization among the agricultural employees; and the
21 desire of the agricultural employees, and the avoidance of excessive
22 fragmentation.

23 NEW SECTION. **Sec. 8.** The commission must determine the
24 bargaining representative by:

25 (1) Conducting a cross-check pursuant to section 9 of this act;
26 or

27 (2) Conducting an election pursuant to section 10 of this act.

28 NEW SECTION. **Sec. 9.** (1) If a farmworker labor organization
29 seeking to represent agricultural employees has filed LM forms for
30 the preceding two years with the federal department of labor and is
31 the only farmworker labor organization seeking certification as
32 exclusive bargaining representative of a bargaining unit for which
33 there is no incumbent exclusive bargaining representative, the
34 commission may determine the question concerning representation by
35 conducting a cross-check comparing the bargaining authorization cards
36 against the employment records of the agricultural employer. A

1 determination through a cross-check process may be made upon a
2 showing of interest submitted in support of the exclusive bargaining
3 representative by more than 50 percent of the agricultural employees.

4 (2) The farmworker labor organization that has been determined
5 through cross-check to represent a majority of the agricultural
6 employees in the bargaining unit shall be certified by the commission
7 as the exclusive bargaining representative of, and shall be required
8 to represent, all the agricultural employees within the unit without
9 regard to membership in said bargaining representative.

10 NEW SECTION. **Sec. 10.** (1) If a farmworker labor organization
11 seeking to represent agricultural employees has not filed LM forms
12 with the federal department of labor for the preceding two years, or
13 is not the only farmworker labor organization seeking certification
14 as the exclusive bargaining representative, the commission shall
15 conduct an election to ascertain the exclusive bargaining
16 representative and upon the request of a farmworker labor
17 organization showing written proof of at least 30 percent
18 representation of the agricultural employees within the unit. The
19 commission shall, within 10 calendar days from the showing, hold an
20 election by secret ballot to determine the issue. The ballot shall
21 contain the name of such farmworker labor organization and of any
22 other farmworker labor organization showing written proof of at least
23 10 percent representation of the agricultural employees within the
24 unit, together with a choice for any agricultural employee to
25 designate that they do not desire to be represented by any bargaining
26 representative.

27 (2) Where more than one organization is on the ballot and neither
28 of the three or more choices receives a majority vote of the
29 agricultural employees within the bargaining unit, a runoff election
30 shall be held. The runoff ballot shall contain the two choices which
31 received the largest and second-largest number of votes.

32 (3) The farmworker labor organization that has been determined
33 through election to represent a majority of the voting agricultural
34 employees shall be certified by the commission as the exclusive
35 bargaining representative of, and shall be required to represent, all
36 the agricultural employees within the unit without regard to
37 membership in said bargaining representative.

1 NEW SECTION. **Sec. 11.** No question concerning representation may
2 be raised within one year of a certification or attempted
3 certification. Where there is a valid collective bargaining agreement
4 in effect, no question of representation may be raised except during
5 the period not more than 90 nor less than 60 days prior to the
6 expiration date of the agreement. Any agreement which contains a
7 provision for automatic renewal or extension of the agreement is not
8 effective as a bar to a question of representation if it extends that
9 total term of the agreement's existence for more than three years.

10 NEW SECTION. **Sec. 12.** The commission shall provide, at the
11 mutual request of an agricultural employer and an exclusive
12 bargaining representative, mediation of any labor dispute between
13 them. Any party to mediation may request and shall receive fact-
14 finding by the mediator at the conclusion of a failed mediation.

15 NEW SECTION. **Sec. 13.** (1) Upon the certification of an
16 exclusive bargaining representative for the agricultural employer's
17 employees, the agricultural employer has the duty to engage in
18 collective bargaining with the exclusive bargaining representative
19 before changing any wages, hours, or working conditions of the
20 represented agricultural employees. Any allegation by the exclusive
21 bargaining representative that the agricultural employer has made a
22 unilateral change in wages, hours, and working conditions may be
23 presented for resolution to an arbitrator selected mutually or by
24 application of the exclusive bargaining representative to the
25 commission for provision of the arbitrator.

26 (2) Should a collective bargaining agreement between the
27 exclusive bargaining representative and the agricultural employer
28 expire, its provisions, except any prohibition on strikes or
29 lockouts, continue in force until renegotiated. During the
30 agreement's hiatus, any allegation by the exclusive bargaining
31 representative that the agricultural employer has made a unilateral
32 change in wages or economic benefits may be presented for resolution
33 to an arbitrator selected mutually or by application of the exclusive
34 bargaining representative to the commission for provision of the
35 arbitrator.

36 (3) Upon the failure of the agricultural employer and the
37 exclusive bargaining representative to conclude a collective
38 bargaining agreement within three months of certification of the

1 exclusive bargaining representative or within three months of the
2 expiration of the last collective bargaining agreement, all matters
3 remaining in dispute shall be submitted by the parties to the
4 commission for resolution through interest arbitration.

5 NEW SECTION. **Sec. 14.** (1) If an agreement through bargaining
6 has not been reached within three months of certification, or within
7 three months of the expiration of the last collective bargaining
8 agreement, the parties may agree in writing to continue to bargain
9 for an additional month. Thereafter they may agree in writing to
10 continue bargaining on a month-to-month basis. If the parties have
11 not entered into a written agreement to extend bargaining, or the
12 final agreement to extend bargaining has expired, the parties must
13 submit their dispute to interest arbitration. Each party shall submit
14 that party's last and final proposals upon which there exists an
15 impasse. All impasse items shall be submitted to arbitration under
16 this section. The arbitrator or arbitration panel is empowered to
17 review the parties' final proposals and to consider mediator
18 findings, if any, and to issue a decision on the submitted items
19 along with the previously agreed items, such that a complete
20 agreement is imposed through the arbitration. The arbitrator or
21 arbitration panel is also empowered to consider evidence submitted by
22 the parties concerning factors such as the employer's ability to meet
23 the costs of a contract, employee compensation at comparable
24 employers, and cost of living in the relevant geographic area in
25 their decision-making process.

26 (2) If the parties cannot agree on the arbitrator or arbitration
27 panel within five days of the expiration of the three-month period
28 following certification or expiration of the previous agreement, the
29 parties shall apply to the commission or, if both parties agree, the
30 American arbitration association to provide a list of five qualified
31 arbitrators from which the arbitrator or arbitration panel shall be
32 chosen. Each party shall pay one-half of the fees and expenses of the
33 arbitration and of the recording of the proceedings.

34 (3) In consultation with the parties, the arbitrator or
35 arbitration panel shall promptly establish a date, time, and place
36 for a hearing which shall be no later than two months following the
37 appointment of the arbitrator or arbitration panel. The arbitrator or
38 arbitration panel shall provide reasonable notice thereof to the
39 parties to the dispute. The parties shall exchange final positions in

1 writing, with copies to the arbitrator or arbitration panel, with
2 respect to every issue to be arbitrated, on a date mutually agreed
3 upon, but in no event later than 10 working days before the date set
4 for the hearing. A hearing shall be held, and each party shall have
5 the opportunity to present evidence and make arguments. The rules of
6 evidence prevailing in judicial proceedings may be considered, but
7 are not binding, and any oral testimony or documentary evidence or
8 other data deemed relevant by the arbitrator or chair of the
9 arbitration panel may be received in evidence. A recording of the
10 proceedings shall be taken. The arbitrator or arbitration panel shall
11 have the power to administer oaths, require the attendance of
12 witnesses, and require the production of such books, papers,
13 contracts, agreements, and documents as may be deemed by the
14 arbitrator or chair of the arbitration panel to be material to a just
15 determination of the issues in dispute. If any person refuses to obey
16 a subpoena issued by the arbitrator or arbitration panel, or refuses
17 to be sworn or to make an affirmation to testify, or any witness,
18 party, or attorney for a party is guilty of any contempt while in
19 attendance at any hearing held hereunder, the arbitrator may invoke
20 the jurisdiction of the superior court in the county where the labor
21 dispute exists, and the court has jurisdiction to issue an
22 appropriate order. Any failure to obey the order may be punished by
23 the court as a contempt thereof.

24 (4) Within 30 days following the conclusion of the hearing, the
25 arbitrator or arbitration panel shall make written findings of fact
26 and a written determination of the issues in dispute, based on the
27 evidence presented. A copy thereof shall be served on each of the
28 parties to the dispute. That determination is final and binding upon
29 both parties, subject to review by the superior court upon the
30 application of either party.

31 (5) The superior court's scope of review is limited to whether:

32 (a) The arbitrator or arbitration panel acted without, or in
33 excess of, their powers;

34 (b) The arbitration has proceeded in the manner required by law;

35 (c) The order or decision of the arbitrator or arbitration panel
36 was procured by fraud or was an abuse of discretion;

37 (d) The decision of the arbitrator or arbitration panel was
38 arbitrary or capricious; and

39 (e) The arbitrator's or arbitration panel's decision violated
40 either of the parties' constitutional or statutory rights.

1 NEW SECTION. **Sec. 15.** (1) In addition to any contractually
2 agreed method for selecting arbitrators, the parties may mutually
3 request the commission to, and the commission shall, appoint a
4 qualified person who may be an employee of the commission to act as
5 an arbitrator to assist in the resolution of a labor dispute between
6 an agricultural employer and an exclusive bargaining representative
7 arising from the application of the matters contained in a collective
8 bargaining agreement. The arbitrator shall conduct such arbitration
9 of such dispute in a manner as provided for in the collective
10 bargaining agreement. The commission may not collect any fees or
11 charges from such agricultural employer or such exclusive bargaining
12 representative for services performed by the commission under the
13 provisions of this chapter.

14 (2) The provisions of chapter 49.08 RCW do not apply to this
15 chapter.

16 NEW SECTION. **Sec. 16.** Nothing in this chapter, except as
17 specifically provided for herein, interferes with, impedes, or
18 diminishes in any way the right to strike.

19 NEW SECTION. **Sec. 17.** Actions taken by or on behalf of the
20 commission shall be pursuant to chapter 34.05 RCW, or rules adopted
21 in accordance with chapter 34.05 RCW, and the right of judicial
22 review provided by chapter 34.05 RCW is applicable to all such
23 actions and rules.

24 NEW SECTION. **Sec. 18.** The commission shall promulgate, revise,
25 or rescind such rules and regulations as it may deem necessary or
26 appropriate to administer the provisions of this chapter in
27 conformity with the intent and purpose of this chapter and consistent
28 with the best standards of labor-management relations and the
29 conditions of the agricultural industry.

30 NEW SECTION. **Sec. 19.** Sections 1 through 18 of this act
31 constitute a new chapter in Title 49 RCW.

32 **Sec. 20.** RCW 49.32.020 and 2010 c 8 s 12028 are each amended to
33 read as follows:

34 (1) In the interpretation of this chapter and in determining the
35 jurisdiction and authority of the courts of the state of Washington,

1 as such jurisdiction and authority are herein defined and limited,
2 the public policy of the state of Washington is hereby declared as
3 follows:

4 WHEREAS, Under prevailing economic conditions, developed with the
5 aid of governmental authority for owners of property to organize in
6 the corporate and other forms of ownership association, the
7 individual unorganized worker is commonly helpless to exercise actual
8 liberty of contract and to protect his or her freedom of labor, and
9 thereby to obtain acceptable terms and conditions of employment,
10 wherefore, though he or she should be free to decline to associate
11 with his or her fellows, it is necessary that he or she have full
12 freedom of association, self-organization, and designation of
13 representatives of his or her own choosing, to negotiate the terms
14 and conditions of his or her employment, and that he or she shall be
15 free from interference, restraint, or coercion of employers of labor,
16 or their agents, in the designation of such representatives or in
17 self-organization or in other concerted activities for the purpose of
18 collective bargaining or other mutual aid or protections; therefore,
19 the following definitions of, and limitations upon, the jurisdiction
20 and authority of the courts of the state of Washington are hereby
21 enacted.

22 (2) The public employment relations commission has concurrent
23 jurisdiction to prevent and to remedy any violation of the rights set
24 forth in subsection (1) of this section.

25 **Sec. 21.** RCW 5.60.060 and 2025 c 346 s 3 are each amended to
26 read as follows:

27 (1) A spouse or domestic partner shall not be examined for or
28 against his or her spouse or domestic partner, without the consent of
29 the spouse or domestic partner; nor can either during marriage or
30 during the domestic partnership or afterward, be without the consent
31 of the other, examined as to any communication made by one to the
32 other during the marriage or the domestic partnership. But this
33 exception shall not apply to a civil action or proceeding by one
34 against the other, nor to a criminal action or proceeding for a crime
35 committed by one against the other, nor to a criminal action or
36 proceeding against a spouse or domestic partner if the marriage or
37 the domestic partnership occurred subsequent to the filing of formal
38 charges against the defendant, nor to a criminal action or proceeding
39 for a crime committed by said spouse or domestic partner against any

1 child of whom said spouse or domestic partner is the parent or
2 guardian, nor to a proceeding under chapter 71.05 or 71.09 RCW:
3 PROVIDED, That the spouse or the domestic partner of a person sought
4 to be detained under chapter 71.05 or 71.09 RCW may not be compelled
5 to testify and shall be so informed by the court prior to being
6 called as a witness.

7 (2) (a) An attorney or counselor shall not, without the consent of
8 his or her client, be examined as to any communication made by the
9 client to him or her, or his or her advice given thereon in the
10 course of professional employment.

11 (b) A parent or guardian of a minor child arrested on a criminal
12 charge may not be examined as to a communication between the child
13 and his or her attorney if the communication was made in the presence
14 of the parent or guardian. This privilege does not extend to
15 communications made prior to the arrest.

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

23 (4) Subject to the limitations under RCW 71.05.217 (6) and (7), a
24 physician or surgeon or osteopathic physician or surgeon or podiatric
25 physician or surgeon shall not, without the consent of his or her
26 patient, be examined in a civil action as to any information acquired
27 in attending such patient, which was necessary to enable him or her
28 to prescribe or act for the patient, except as follows:

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

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

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

1 (6) (a) A peer supporter shall not, without consent of the peer
2 support services recipient making the communication, be compelled to
3 testify about any communication made to the peer supporter by the
4 peer support services recipient while receiving individual or group
5 services. The peer supporter must be designated as such by their
6 employing agency prior to providing peer support services. The
7 privilege only applies when the communication was made to the peer
8 supporter while acting in his or her capacity as a peer supporter.
9 The privilege applies regardless of whether the peer support services
10 recipient is an employee of the same agency as the peer supporter.
11 Peer support services may be coordinated or designated among first
12 responder agencies pursuant to chapter 10.93 RCW, interlocal
13 agreement, or other similar provision, provided however that a
14 written agreement is not required for the privilege to apply. The
15 privilege does not apply if the peer supporter was an initial
16 responding first responder, department of corrections staff person,
17 or jail staff person; a witness; or a party to the incident which
18 prompted the delivery of peer support services to the peer support
19 services recipient.

20 (b) For purposes of this section:

21 (i) "First responder" means:

22 (A) A law enforcement officer;

23 (B) A limited authority law enforcement officer;

24 (C) A firefighter;

25 (D) An emergency services dispatcher or recordkeeper;

26 (E) Emergency medical personnel, as licensed or certified by this
27 state;

28 (F) A member or former member of the Washington national guard
29 acting in an emergency response capacity pursuant to chapter 38.52
30 RCW;

31 (G) A coroner or medical examiner, or a coroner's or medical
32 examiner's agent or employee; or

33 (H) An individual engaged in co-response services, as defined in
34 RCW 71.24.025.

35 (ii) "Law enforcement officer" means a general authority
36 Washington peace officer as defined in RCW 10.93.020.

37 (iii) "Limited authority law enforcement officer" means a limited
38 authority Washington peace officer as defined in RCW 10.93.020 who is
39 employed by the department of corrections, state parks and recreation

1 commission, department of natural resources, liquor and cannabis
2 board, or Washington state gambling commission.

3 (iv) "Peer support services recipient" means:

4 (A) A first responder;

5 (B) A department of corrections staff person; or

6 (C) A jail staff person.

7 (v) "Peer supporter" means:

8 (A) A first responder, retired first responder, department of
9 corrections staff person, or jail staff person or a civilian employee
10 of a first responder entity or agency, local jail, or state agency
11 who has received training to provide emotional and moral support and
12 services to a peer support services recipient who needs those
13 services as a result of an incident or incidents in which the peer
14 support services recipient was involved while acting in his or her
15 official capacity or to deal with other stress that is impacting the
16 peer support services recipient's performance of official duties; or

17 (B) A nonemployee who has been designated by the first responder
18 entity or agency, local jail, statewide organization focused on co-
19 response outreach, or state agency to provide emotional and moral
20 support and counseling to a peer support services recipient who needs
21 those services as a result of an incident or incidents in which the
22 peer support services recipient 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 between the victim
26 and the sexual assault advocate.

27 (a) For purposes of this section, "sexual assault advocate" means
28 the employee or volunteer from a community sexual assault program or
29 underserved populations provider, victim assistance unit, program, or
30 association, that provides information, medical or legal advocacy,
31 counseling, or support to victims of sexual assault, who is
32 designated by the victim to accompany the victim to the hospital or
33 other health care facility and to proceedings concerning the alleged
34 assault, including police and prosecution interviews and court
35 proceedings.

36 (b) A sexual assault advocate may disclose a confidential
37 communication without the consent of the victim if failure to
38 disclose is likely to result in a clear, imminent risk of serious
39 physical injury or death of the victim or another person. Any sexual
40 assault advocate participating in good faith in the disclosing of

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

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

10 (a) For purposes of this section, "domestic violence advocate"
11 means an employee or supervised volunteer from a community-based
12 domestic violence program or human services program that provides
13 information, advocacy, counseling, crisis intervention, emergency
14 shelter, or support to victims of domestic violence and who is not
15 employed by, or under the direct supervision of, a law enforcement
16 agency, a prosecutor's office, or the child protective services
17 section of the department of children, youth, and families as defined
18 in RCW 26.44.020.

19 (b) A domestic violence advocate may disclose a confidential
20 communication without the consent of the victim if failure to
21 disclose is likely to result in a clear, imminent risk of serious
22 physical injury or death of the victim or another person. This
23 section does not relieve a domestic violence advocate from the
24 requirement to report or cause to be reported an incident under RCW
25 26.44.030(1) or to disclose relevant records relating to a child as
26 required by RCW 26.44.030(15). Any domestic violence advocate
27 participating in good faith in the disclosing of communications under
28 this subsection is immune from liability, civil, criminal, or
29 otherwise, that might result from the action. In any proceeding,
30 civil or criminal, arising out of a disclosure under this subsection,
31 the good faith of the domestic violence advocate who disclosed the
32 confidential communication shall be presumed.

33 (9) A mental health counselor, independent clinical social
34 worker, or marriage and family therapist licensed under chapter
35 18.225 RCW may not disclose, or be compelled to testify about, any
36 information acquired from persons consulting the individual in a
37 professional capacity when the information was necessary to enable
38 the individual to render professional services to those persons
39 except:

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

3 (b) If the person waives the privilege by bringing charges
4 against the mental health counselor licensed under chapter 18.225
5 RCW;

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

9 (d) As required under chapter 26.44 or 74.34 RCW or RCW 71.05.217
10 (6) or (7); or

11 (e) To any individual if the mental health counselor, independent
12 clinical social worker, or marriage and family therapist licensed
13 under chapter 18.225 RCW reasonably believes that disclosure will
14 avoid or minimize an imminent danger to the health or safety of the
15 individual or any other individual; however, there is no obligation
16 on the part of the provider to so disclose.

17 (10) An individual who acts as a sponsor providing guidance,
18 emotional support, and counseling in an individualized manner to a
19 person participating in an alcohol or drug addiction recovery
20 fellowship may not testify in any civil action or proceeding about
21 any communication made by the person participating in the addiction
22 recovery fellowship to the individual who acts as a sponsor except
23 with the written authorization of that person or, in the case of
24 death or disability, the person's personal representative.

25 (11)(a) Neither a union representative nor an employee the union
26 represents or has represented shall be examined as to, or be required
27 to disclose, any communication between an employee and union
28 representative or between union representatives made in the course of
29 union representation except:

30 (i) To the extent such examination or disclosure appears
31 necessary to prevent the commission of a crime that is likely to
32 result in a clear, imminent risk of serious physical injury or death
33 of a person;

34 (ii) In actions, civil or criminal, in which the represented
35 employee is accused of a crime or assault or battery;

36 (iii) In actions, civil or criminal, where a union member is a
37 party to the action, the union member may obtain a copy of any
38 statement previously given by that union member concerning the
39 subject matter of the action and may elicit testimony concerning such
40 statements. The right of the union member to obtain such statements,

1 or the union member's possession of such statements, does not render
2 them discoverable over the objection of the union member;

3 (iv) In actions, regulatory, civil, or criminal, against the
4 union or its affiliated, subordinate, or parent bodies or their
5 agents; or

6 (v) When an admission of, or intent to engage in, criminal
7 conduct is revealed by the represented union member to the union
8 representative.

9 (b) The privilege created in this subsection (11) does not apply
10 to any record of communications that would otherwise be subject to
11 disclosure under chapter 42.56 RCW.

12 (c) The privilege created in this subsection (11) may not
13 interfere with an employee's or union representative's applicable
14 statutory mandatory reporting requirements, including but not limited
15 to duties to report in chapters 26.44, 43.101, and 74.34 RCW.

16 (d) For purposes of this subsection:

17 (i) "Employee" means a person represented by a certified or
18 recognized union regardless of whether the employee is a member of
19 the union.

20 (ii) "Union" means any lawful organization that has as one of its
21 primary purposes the representation of employees in their employment
22 relations with employers, including without limitation labor
23 organizations defined by 29 U.S.C. Sec. 152(5) and 5 U.S.C. Sec.
24 7103(a)(4), representatives defined by 45 U.S.C. Sec. 151, and
25 bargaining representatives defined in RCW 41.56.030, and employee
26 organizations as defined in RCW 28B.52.020, 41.59.020, 41.80.005,
27 41.76.005, 47.64.011, and 53.18.010, and farmworker labor
28 organizations as defined in section 3 of this act.

29 (iii) "Union representation" means action by a union on behalf of
30 one or more employees it represents in regard to their employment
31 relations with employers, including personnel matters, grievances,
32 labor disputes, wages, rates of pay, hours of employment, conditions
33 of work, or collective bargaining.

34 (iv) "Union representative" means a person authorized by a union
35 to act for the union in regard to union representation.

36 (v) "Communication" includes any oral, written, or electronic
37 communication or document containing such communication.

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