

## 2009 DRAFTING REQUEST

### Bill

Received: **01/07/2010**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Jennifer Shilling (608) 266-5780**

By/Representing: **Tony**

This file may be shown to any legislator: **NO**

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - evidence  
Veterans - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Shilling@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Veteran court mentoring program in LaCrosse

---

### Instructions:

See attached

---

### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	rnelson2 01/15/2010	bkraft 01/25/2010	rschluet 01/25/2010	_____	mbarman 01/25/2010		
/1	rnelson2 02/12/2010	bkraft 02/15/2010	phenry 02/16/2010	_____	cduerst 02/16/2010		
/2	rnelson2 02/19/2010	bkraft 02/19/2010	rschluet 02/23/2010	_____	cduerst 02/23/2010	mbarman 03/03/2010	

FE Sent For: *NONE*

<END>

## 2009 DRAFTING REQUEST

### Bill

Received: **01/07/2010**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Jennifer Shilling (608) 266-5780**

By/Representing: **Tony**

This file may be shown to any legislator: **NO**

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - evidence  
Veterans - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Shilling@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

#### Pre Topic:

No specific pre topic given

---

#### Topic:

Veteran court mentoring program in LaCrosse

---

#### Instructions:

See attached

---

#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	rnelson2 01/15/2010	bkraft 01/25/2010	rschluet 01/25/2010	_____	mbarman 01/25/2010		
/1	rnelson2 02/12/2010	bkraft 02/15/2010	phenry 02/16/2010	_____	cduerst 02/16/2010		
/2	rnelson2 02/19/2010	bkraft 02/19/2010	rschluet 02/23/2010	_____	cduerst 02/23/2010		

FE Sent For:

**<END>**

**2009 DRAFTING REQUEST**

**Bill**

Received: **01/07/2010**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Jennifer Shilling (608) 266-5780**

By/Representing: **Tony**

This file may be shown to any legislator: **NO**

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - evidence  
Veterans - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Shilling@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Veteran court mentoring program in LaCrosse

---

**Instructions:**

See attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	rnelson2 01/15/2010	bkraft 01/25/2010	rschluet 01/25/2010	_____	mbarman 01/25/2010		
/1	rnelson2 02/12/2010	bkraft 02/15/2010	phenry 02/16/2010	_____	cduerst 02/16/2010		

FE Sent For:

12 bjk 2/19

<END>  
2/23

**2009 DRAFTING REQUEST**

**Bill**

Received: **01/07/2010**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Jennifer Shilling (608) 266-5780**

By/Representing: **Tony**

This file may be shown to any legislator: **NO**

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - evidence  
Veterans - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Shilling@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Veteran court mentoring program in LaCrosse

---

**Instructions:**

See attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	rnelson2 01/15/2010	bkraft 01/25/2010	rschluet 01/25/2010	<i>rn 2</i> <i>JA 16</i>	mbarman 01/25/2010		

*1 bjk 2/15*  
*PK*  
*2*  
*16*

FE Sent For:

<END>

**2009 DRAFTING REQUEST**

**Bill**

Received: 01/07/2010

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Jennifer Shilling (608) 266-5780**

By/Representing: **Tony**

This file may be shown to any legislator: **NO**

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - evidence  
Veterans - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Shilling@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Veteran court mentoring program in LaCrosse

---

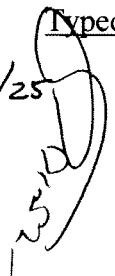
**Instructions:**

See attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

/?	rnelson2	/PI bjk 1/25		_____			
----	----------	--------------	---	-------	--	--	--

FE Sent For:

<END>

1/6 Tony - Rep. Schilling

La Crosse - Veteran mentoring  
thru the court system  
in La Crosse County. Q of  
conversation w/ vet would  
be privileged if helping  
vets deal with court  
matters. Wants to create  
a privilege for v vet/mentor  
conversations. Will send  
info by email



**Nelson, Robert P.**

---

**From:** Palese, Anthony  
**Sent:** Wednesday, January 06, 2010 3:51 PM  
**To:** Nelson, Robert P.  
**Subject:** Veteran Mentor Bill Draft

**Attachments:** Veteran Court Synopsis - Brief.doc; Synopsis of the La Crosse County Veterans Court.pdf

Hello Bob,

I have attached some background that we received on the La Crosse Veteran mentoring Program for your information. It looks like this program is modeled after a similar program in Buffalo, NY.

While I will have to check with the La Crosse program to see if these criteria are applicable, I was thinking that criteria to qualify for a veteran mentor might include that a person:

- 1.) must be a current or former member of the armed forces
- 2.) must undergo no less than 4(???) hours of training through a county court veteran mentoring program that includes an interview and background check
- 3.) must be tasked with assisting current or former members of the military in court proceedings and veteran services
- 4.) may not offer legal advice unless the mentor holds a license to practice law

I'm not sure if we would have to define what constitutes a "County Court Veteran Mentoring Program" as well. I will try to get more information from the county and can let you know what their thoughts on these criteria are.

Thanks,

**Tony Palese**  
Legislative Aide  
Office of Rep. Jennifer Shilling

State Capitol, Room 320 East  
PO Box 8953, Madison, WI 53708  
(608) 266-5780 voice  
(888) 534-0095 toll free  
(608) 282-3695 fax



Veteran Court  
Synopsis - Brief...



Synopsis of the La  
Crosse Coun...

## LA CROSSE COUNTY VETERAN'S COURT INITIATIVE

### MENTOR PROGRAM BRIEF SYNOPSIS

The La Crosse County Veterans Court Initiative consists of a diverse group of professionals and non-professionals, most of whom are veterans. This group developed strategies to meet the unique needs of veterans who have, for various reasons, found themselves in the legal system. The group is aware of the fact that a large number of veterans are either suffering from or likely suffering from various mental health problems associated with their military service. These mental health issues include Post Traumatic Stress Disorder, Traumatic Brain or Blast Injury, Suicidal Ideation, and Substance Abuse. Veterans suffering from mental health issues often suppress their problems to avoid the perception that they are somehow weak or unfit. Furthermore, they often mask their mental health symptoms by abusing alcohol and/or drugs and controlled substances. Veterans perceive that a great stigma would accompany any admission that they need help, and they therefore go to great lengths to avoid any perception that they are in need of help.

The La Crosse County Veterans Court Initiative studied other Veterans Courts and devised a concept that relied heavily on trained mentors. The mentors, who themselves are veterans, will be assigned to veterans who the police have identified through police contact. The mentor will make contact with the veteran, discuss the veteran's options regarding applying for and seeking veteran benefits, and then prompt the veteran to meet with the County Veteran Service Officer and follow-up with screenings to identify any potential mental health issues. Once diagnosed with a mental health issue, the veteran would most likely qualify for veteran benefits through the VA, and a treatment protocol can be developed to address their problems. The mentor will be an asset to these veterans to get to this point, and to explain how the court process works, so that the veteran can seek to reduce the risk of future harm to themselves or others. The courts would view the diagnosis and treatment for the veteran as a significant factor when resolving cases.

The La Crosse County Veterans Court Initiative conducted its first Mentor Program Training session on December 7 and 8, 2009 at the North Side La Crosse Community Police Center. With the assistance of the Veterans Administration in Tomah, the core group of Mentor Coordinators were trained. Now they can recruit and train new Mentors as they come into this program.

Attached are the training agenda and an article prepared by Judge Todd Bjerke, chair of the La Crosse County Veterans Court Initiative that further explains the program.

will also make sure the veteran's daily needs, such as transportation, housing, subsistence, and non-VA appointments are being addressed appropriately. The mentor is not to interact with the veteran outside the courthouse. Judge Russell has a significant number of veterans in the area who have legal difficulties and have found their way to his Veterans Court. The court handles veterans throughout the Buffalo VA region, which includes Erie County, New York.

The VA is committed to supporting Veterans Courts throughout the nation. However, the VA can support only one Veterans Court in any VA region. This has been problematic for the Buffalo area. Other judicial districts in that VA region have wanted to begin veterans courts modeled after Judge Russell's court. Judges in other jurisdictions have, by agreement, assigned cases involving veterans to Judge Russell so he can work with the troubled veteran pursuant to the VA policy. This results, however, in the veteran sometimes having to travel great distances to participate in the Veterans Court. There is a CVSOS in each county throughout the nation, and the VA generally has local clinics, called Community Based Outreach Clinics, that the veteran can utilize, but travel remains an issue. Mentors try to assist the veterans in obtaining transportation so they can attend Veterans Court and get to other required destinations.

#### **6. The La Crosse, Wisconsin Model of the Veterans Court**

In La Crosse County, Wisconsin, a team of approximately 20 professionals, who are involved with either the judicial system or the VA, have looked at Judge Russell's Veterans Court.<sup>5</sup> Early on, it was decided that a formal veterans court would likely be unnecessary, despite the fact that La Crosse County has over 10,000 veterans. The frequency of veterans interacting with the criminal justice system is unknown. A rudimentary survey of the La Crosse County criminal intake court was conducted. Over a series of weeks, each person appearing on the criminal intake calendar was asked if they had any current or prior military service. Those who responded that they had prior military service were further examined by the La Crosse

County CVSO for VA benefit eligibility. It was determined that only approximately seven percent of the population surveyed had prior military service. This number was deemed too small to warrant a formal Veterans Court for La Crosse County.

The members of the La Crosse County Veterans Court Initiative are developing a two-tiered system to address the needs of veterans. The first and most important tier is the Veterans Network. The second tier concerns consistent court interaction with the veteran who has been identified with service connected emotional or mental health issues.

The Veterans Network was created to operate independently from the judicial system, and it is based upon early identification of veterans who may be prone to have service connected emotional or mental health issues that result in police contact. The Mentor Group is a subcomponent of the Veterans Network, but it will operate as an independent entity. The role of the Veterans Network is to educate the community, law enforcement, prosecutors, defense attorneys and the courts about the unique issues facing veterans, and to oversee the Mentor Group. The role of the mentor is to encourage the veteran to address any potential emotional and mental health issues.

The La Crosse model is based upon identification of a veteran prone to committing criminal acts at the earliest possible moment, referring the veteran to the county CVSO and assigning a mentor to the veteran. The City of La Crosse Police Department has developed a pilot program in August 2009 to document military service for each person that the police contact. This information will appear in the incident report generated from the contact, which is then inputted into a searchable data base. The military service data is compiled weekly into a list containing the name of the veteran, the veteran's status as a potential defendant, victim or witness, and the veteran's address and telephone number. This list is forwarded to the La Crosse County CVSO. The CVSO sends the identified veteran a letter suggesting that the veteran see

him to determine eligibility for VA benefits and, if eligible, to assist the veteran in applying for available benefits.<sup>9</sup> The CVSO will send the name of the veteran, and brief service history, if available, to the Mentor Group where a mentor coordinator will assign a mentor to the veteran. The mentor will be similar in age, gender, period of service, and branch of service to that of the veteran whenever possible. The assigned mentor will contact the veteran a few days after the veteran should have received the letter from the CVSO. The mentor is trained to strongly encourage the veteran to meet with the CVSO and is also required to assist the veteran in getting screened for potential effects of TBI, PTSD, suicidal ideation, substance abuse or other emotional or mental health issues that may be connected to his or her military service. The mentor will help the veteran overcome obstacles preventing contact with the CVSO or VA services, including the stigma associated with seeking help.

When the veteran accepts VA services, he or she will be screened for service connected emotional or mental health disorders, and if any such exist, will be referred for treatment. The intent of the Veterans Network is to facilitate the veteran's identification of any service connected disorder and to assure that it is treated so that the risk of future criminal conduct or potential criminal conduct is reduced. Since all veterans are exposed to the effects of indoctrination into the military and/or the effects of warfare, to some varying degree, all veterans entering the criminal justice system should be subjected to this process. The diagnosis and recommended treatment for those suffering from a service connected emotional or mental health issue will be relevant to a prosecutor seeking to appropriately resolve a criminal case, as well as to the court imposing a sentence. It is envisioned that the mentor will continue to be available to the veteran until resolution of any criminal case.

The mentor will be selected by a group of mentor coordinators through an application process that includes an interview and a background check. Mentors will be trained on the arts

of persuasion, compassion, and empathy to properly motivate the veteran to seek assistance for any potential service connected emotional or mental health issues. If the veteran is unable to secure VA benefits, the mentor will assist the veteran in seeking alternative community based benefits that are identified through the Veterans Network. The mentor will explain the judicial process to the veteran and assure that the veteran's needs are presented to the defense attorney, the prosecutor, or the judge, as necessary.

The La Crosse Veterans Network intends to ensure that the veteran is properly held accountable. The risk for recidivism is reduced by properly diagnosing and treating any service connected emotional or mental health issue that afflicts the veteran and underlies his or her atypical behavior. The results of the work of the Veterans Network with any particular veteran would be available to a sentencing judge so that risk reduction can be assured by any sentence imposed. The goal of the Veterans Network is not to have veterans avoid liability for their negative behaviors, but rather to make sure that this is the last time they display such behaviors. The way in which mentors are utilized in the La Crosse model is the main difference from the Buffalo model.

The second tier being developed by the Veterans Court Initiative members concerns the interaction between the courts and the veterans. The judiciary, the prosecutors and the defense bar will be educated on the goals of the Veterans Network. It is anticipated that the prosecutor will be aware of the unique needs of the veteran when charging decisions are made or a charged offense is resolved. Furthermore, a defense attorney will be able to advocate that the needs of his or her client are being met through treatment and thereby risk has been correspondingly reduced. A judge should be aware of the veteran's needs and risks when determining bond or imposing a sentence. A judge may, in a particular case, bring the sentenced veteran back before the judge on a regular basis with other veterans for court reviews of ongoing treatment progress.

which would be more consistent with the Buffalo model. But, the court, cognizant of the veteran's status, could also accomplish any necessary judicial reviews by assigning the veteran, as appropriate, to the Domestic Violence Review Court, the Drug Treatment Court, the OWI Court, or a series of individual appearances before the judge. With identification of the underlying problem, the results of the diagnosis, and a treatment plan in place, courts can use evidence-based practices to impose an appropriate sentence that balances the needs of the veteran with the risks the veteran might pose to the community. Hopefully, this process will result in better understanding of the veteran, greater safety for the community, successful treatment for the veteran, and that the extra effort will also honor the service the veteran gave to this country.

The La Crosse model will be implemented on January 1, 2010. Once underway, it will hopefully be expanded into the other counties of the Tomah VA Catchment Region, which includes Adams, Clark, Crawford, Jackson, Juneau, La Crosse, Marathon, Monroe, Portage, Price, Taylor, Trempealeau, Vernon and Wood Counties in Wisconsin, and Houston County, Minnesota. The La Crosse Model would create consistency for the Tomah VA Catchment Region, and it would not burden veterans by requiring them to attend Veterans Court in one county. The VA will be better able to serve veterans pending criminal actions in each veteran's home county. The La Crosse model should be successful, but only if the troubled veteran can be identified at the earliest possible moment. It is hoped that all law enforcement jurisdictions in the Tomah VA Catchment Region will be able to document veterans during each police contact. It is also envisioned that the Veterans Network will assist in educating the public, especially the families of veterans, on the emotional and mental health issues veterans suffer from, so that even earlier intervention may be accomplished. The mentors will be available to assist troubled veterans whether they are referred to the CVSO through police contact or through non-law

enforcement channels.

Millions of men and women have honorably served this nation in the military. Many have borne physical and emotional or mental health scars for years following their service. In the past, veterans suffering these problems have been overlooked or even ignored and often ridiculed. The veteran must be helped to overcome service connected emotional or mental health issues that affect the quality of his or her life. The time has come to correct this tragic omission and to ensure that the value the veteran provided to his or her country is appreciated.





Lbjk

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

SA  
x-ref

1 AN ACT <sup>gen.</sup> ...; relating to: creating a privilege for veteran mentors.

---

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

2 SECTION 1. 905.16 of the statutes is created to read:

3 **905.16 Communications to veteran mentors.** (1) DEFINITIONS. As used in  
4 this section:

5 (a) A communication is "confidential" if made privately and not intended for  
6 further disclosure except to other persons present in furtherance of the purpose of  
7 the communication.

8 (b) A "veteran mentor" is an individual who meets all of the following criteria:

9 1. Served on active duty in the U.S. armed forces or in forces incorporated in  
10 the U.S. armed forces, served in a reserve unit of the U.S. armed forces, or served in  
11 the national guard.



**Nelson, Robert P.**

---

**To:** Palese, Anthony  
**Subject:** RE: Veteran Court Mentoring Program LRB 4089/P1

Anthony,

That language "made privately" was taken from the privilege statute relating to communications made to a member of the clergy. See s. 905.06 (1) (b). There are other definitions of "confidential" in that chapter, for example see s. 905.045 (1) (c), 905.04 (1) (b), and 905.03 (1) (d). However, there are also cases where all communication between certain persons are privileged, without requiring confidentiality, for example see s. 905.05 and s. 905.065.

So, I will draft the language either way, but I am concerned about having all communication between the mentor and veteran be privileged. That seems to broad.

I will wait for your response to this email before changing the hourly training requirement to what you requested.

Bob N

---

**From:** Palese, Anthony  
**Sent:** Thursday, February 11, 2010 1:14 PM  
**To:** Nelson, Robert P.  
**Subject:** Veteran Court Mentoring Program LRB 4089/P1

*2/12 take out "made privately" and make like other privileges*

Hello Bob,

We received some feedback regarding our veteran mentoring bill, LRB 4089, that I wanted to share with you. First, one court official wrote:

**I see a potential issue with the definition of "confidential communications". As now defined in the proposed Act, a communication is "confidential" IF MADE PRIVATELY AND NOT INTENDED FOR FURTHER DISCLOSURE except to other persons present.**

**The problem I see now in the definition is what is considered "made privately".**

**I think that the definition of "confidential communications" should include or simply state that "all communications made to a Veteran mentor including electronic, verbal or written, by a veteran in furtherance of the Veteran Mentoring Program, are confidential."**

I'm not sure what your thoughts on this are. I don't know if there is really much of a difference between what they recommended and what we had in the draft. I'm assuming that what you included in the draft is consistent with other confidentiality provisions.

Also, on page 2 lines 6-8 we lay out a requirement for a certain number of training hours that a person needs to complete. Instead of putting a specific time requirement in the bill, the county recommended that we change this section to state that the person must **"prove successful completion of a judicially approved mentor training program."**

We'd like to include at least the 2<sup>nd</sup> recommendation in a new bill draft and perhaps the first based on your thoughts. If you have any questions, please let me know. I also think that we'd like to do a real draft and not a P draft for these changes so that we could introduce it if needed.

Thanks,

**Tony Palese**  
Legislative Aide  
Office of Rep. Jennifer Shilling

State Capitol, Room 320 East  
PO Box 8953, Madison, WI 53708  
(608) 266-5780 voice  
(888) 534-0095 toll free  
(608) 282-3695 fax



stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2009 Bill

SA

Inserts

regen.

1 AN ACT to create 905.16 of the statutes; relating to: creating a privilege for  
2 veteran mentors. Communications to

Please fix component b

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

Ins. anl

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 905.16 of the statutes is created to read:

4 905.16 Communications to veteran mentors. (1) DEFINITIONS. As used in  
5 this section:

6 (a) A communication is "confidential" if made privately and not intended for  
7 further disclosure except to other persons present in furtherance of the purpose of  
8 the communication to further the interests of the veteran  
or member of the armed forces or national guard

9 (b) A "veteran mentor" is an individual who meets all of the following criteria:

INS 1-8



2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-4089/lins  
RPN:bjk:rs

*regarding court-related matters*

1 ins. anl:

Under current law, <sup>(a)</sup> ~~the~~ communication between certain persons, such as <sup>(is)</sup> between spouses, between a lawyer and client, and between a patient and a physician, ~~are~~ considered privileged and may not be disclosed without permission of the person who made the communication. The spouse, client, or patient may prevent the disclosure of the privileged communication, with certain exceptions.

This bill creates a privilege against disclosure of a communication made between a veteran or a member of the armed forces or national guard and a veteran mentor. A veteran mentor is a veteran who is authorized by a circuit court judge to provide assistance and advice to a veteran or a member of the armed forces or national guard. <sup>(a)</sup> To be a veteran mentor, the person must have completed a judicially approved veteran mentor training program and completed a background information form approved by a circuit court.

2

3 ins. 1-8:

<sup>(a)</sup> A communication is "confidential" if not intended to be disclosed to 3rd parties other than to those persons present to further the interests of the veteran or the member of the armed forces or national guard or to persons reasonably necessary for the transmission of the communication.

7

**Nelson, Robert P.**

---

**From:** Palese, Anthony  
**Sent:** Thursday, February 18, 2010 2:14 PM  
**To:** Nelson, Robert P.  
**Subject:** FW: Waiver Document for Mentor Privilege  
**Attachments:** Attachment III - AUTHORIZATION FOR RELEASE OF CONFIDENTIAL INF.pdf; Attachment II - MENTOR AND MENTEE-VETERAN AGREEMENT - 01-20-20.pdf

Hello Bob,

I spoke to our Judge regarding the issue of confidentiality privileges when a potential crime or criminal threat is discussed. He said that their program will require the veterans who opt to participate in this program to sign several waivers. In these waivers it says that if they tell their mentor that they will harm themselves or others that the mentor may disclose that information.

Would it be possible in our bill draft (LRB 4089) to make an exemption to the confidentiality privilege that says something along the lines of:

“This confidentiality provision applies except as pursuant to any waiver or contract between the veteran and another party that allows for the disclosure of information.”

Does this work?

**Tony Palese**  
Legislative Aide  
Office of Rep. Jennifer Shilling

State Capitol, Room 320 East  
PO Box 8953, Madison, WI 53708  
(608) 266-5780 voice  
(888) 534-0095 toll free  
(608) 282-3695 fax

---

**From:** Todd Bjerke [mailto:Todd.Bjerke@wicourts.gov]  
**Sent:** Thursday, February 18, 2010 2:05 PM  
**To:** Palese, Anthony  
**Subject:** Waiver Document for Mentor Privilege

Tony,

Attached are the documents the veteran should sign at the outset of the meeting with the mentor. Attachment II reference disclosure of suicide threats or threats to do harm to others. Attachment III is a general release of information and does not reference such.

Call if you have any questions.

Todd

**Todd W. Bjerke**

02/18/2010



**Circuit Court Judge, Branch 3**  
**333 Vine Street, Room 3100**  
**La Crosse, Wisconsin 54601**  
**Office: (608) 785-9773**  
**Fax: (608) 785-5607**

**“No man is above the law and no man is below it; nor do we ask any man's permission when we ask him to obey it.” -- Theodore Roosevelt**



2/19  
State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-4089

RPN:bjk:ph

2  
L stays

5004

2009 BILL

SA

Inserts

-repen.

1 AN ACT to create 905.16 of the statutes; relating to: creating a privilege for  
2 communications to veteran mentors.

**Analysis by the Legislative Reference Bureau**

Under current law, a communication between certain persons, such as between spouses, between a lawyer and client, and between a patient and a physician, is considered privileged and may not be disclosed without permission of the person who made the communication. The spouse, client, or patient may prevent the disclosure of the privileged communication, with certain exceptions.

This bill creates a privilege against disclosure of a communication made between a veteran or a member of the armed forces or national guard and a veteran mentor. A veteran mentor is a veteran who is authorized by a circuit court judge to provide assistance and advice to a veteran or a member of the armed forces or national guard regarding court-related matters. To be a veteran mentor, the person must have completed a judicially approved veteran mentor training program and completed a background information form approved by a circuit court.

>  
>

795 9:1

(S) (ing)

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

3 SECTION 1. 905.16 of the statutes is created to read:  
4 **905.16 Communications to veteran mentors. (1) DEFINITIONS.** As used in  
5 this section:

**BILL**

1 (a) A communication is "confidential" if not intended to be disclosed to 3rd  
2 parties other than to those persons present to further the interests of the veteran or  
3 the member of the armed forces or national guard or to persons reasonably necessary  
4 for the transmission of the communication.

5 (b) A "veteran mentor" is an individual who meets all of the following criteria:

6 1. Served on active duty in the U.S. armed forces or in forces incorporated in  
7 the U.S. armed forces, served in a reserve unit of the U.S. armed forces, or served in  
8 the national guard.

9 2. Is on the list of persons authorized by a circuit court judge to provide  
10 assistance and advice in a veteran's mentoring program.

11 3. Has successfully completed a judicially approved veteran's mentoring  
12 training program.

13 4. Has completed a background information form approved by a circuit court  
14 judge from a county that is participating in a veteran's mentoring program.

15 (c) "Veteran's mentoring program" is program approved by a circuit court judge  
16 to provide assistance and advice to veterans and current members of the U.S. armed  
17 forces, forces incorporated in the U.S. armed forces, a reserve unit of the U.S. armed  
18 forces, or the national guard, in court-related matters.

19 (2) GENERAL RULE OF PRIVILEGE. A person has a privilege to refuse to disclose  
20 and to prevent another from disclosing a confidential communication by the person  
21 to a veteran mentor.

22 (3) WHO MAY CLAIM THE PRIVILEGE. The privilege may be claimed by the person,  
23 by the person's guardian or conservator, or by the person's personal representative  
24 if the person is deceased. The veteran mentor may claim the privilege on behalf of

**BILL**

1 the person. The veteran mentor's authority <sup>to</sup> claim the privilege on behalf of the  
2 person is presumed in the absence of evidence to the contrary.

3

(END)

ias 3-2

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-4089/2ins  
RPN:bjk:ph

1 ins. anl:

2 <sup>No</sup> The privilege does not apply to communications that the veteran has agreed in  
writing to allow to be disclosed as a condition of his or her participation in the  
mentoring program.

3 veterans

4

ins. 3-2:

(5) Exception

5

(4) There is no privilege under this section as to communications that the

6

veteran has agreed in writing to allow to be disclosed as a condition of his or her

7

participation in the veteran's <sup>g</sup>mentor program.

ing

**Barman, Mike**

---

**From:** Palese, Anthony  
**Sent:** Wednesday, March 03, 2010 2:52 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-4089/2 Topic: Veteran court mentoring program in LaCrosse

Please Jacket LRB 09-4089/2 for the ASSEMBLY.