

SENATE BILL REPORT

SHB 1260

As Reported By Senate Committee On:
Human Services & Corrections, February 26, 1998

Title: An act relating to privileged communications between certified counselors and clients.

Brief Description: Providing that communications between certified counselors and their clients are privileged.

Sponsors: House Committee on Law & Justice (originally sponsored by Representatives Skinner, Dyer, Cody, Backlund, Murray, Anderson, O'Brien, Mason and Quall).

Brief History:

Committee Activity: Human Services & Corrections: 3/25/97, 4/3/97 [DPA]; 2/18/98, 2/26/98 [DPA, DNPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Long, Chair; Franklin, Hargrove and Schow.

Minority Report: Do not pass as amended.

Signed by Senator Kohl.

Staff: Joan K. Mell (786-7447)

Background: Certified counselors' communications with a client are not identified by statute as privileged. However, certified counselors' communications are confidential with some exceptions. A psychologist's communications with a client are privileged. When communications are privileged, the person who has the privilege can object to testifying in court on communications that would have arisen as a result of the privileged relationship.

Summary of Amended Bill: Certified counselors are given a statutory privilege for oral and written communications to the same extent and subject to the same exceptions as psychologists. No privilege can be asserted against the parents of a minor child. If the minor is able to consent to treatment without the parent's involvement, the parent can seek a court order to obtain confidential communications with a certified counselor. If the minor who is able to consent to treatment without a parent's involvement is undergoing counseling because of physical or sexual abuse by the parent requesting the disclosure, then the privilege may be asserted against the parent.

The statutory provision on confidential communications is made applicable only to registered counselors. Certified counselors are excluded from the provisions governing confidential communications.

Amended Bill Compared to Substitute Bill: The language is clarified indicating the privilege relates to both oral and written confidential communications and is subject to the same exceptions as exists for psychologists. The House bill does not have exceptions in cases of minors.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Existence of a privilege encourages open discussion by clients needing and seeking professional counseling. Concern is expressed about the underlying bill's effect on the confidentiality of records. If the privilege is simply a testimonial privilege, then employee assistance programs do not have concerns about the potential disclosure of their records.

Testimony Against: None.

Testified: PRO: Suzanne Kenyon, Mental Health Counsel; Kevin Host, WA State Society for Clinical Social Work; Lonnie Johns-Brown, NASW; Ann Simons, MFTLS.