

HOUSE BILL ANALYSIS

HB 1296

Title: An act relating to domestic violence advocates' communications with victims of domestic violence.

Brief Description: Making victim advocates communications with victims of domestic violence privileged communications.

Sponsors: Representatives O'Brien, Ballasiotes, Kastama, Lovick, Schual-Berke, Mitchell, Carlson, Kenney, Edmonds, Kagi, Constantine, Cody, Rockefeller, Poulsen, McIntire, Lantz, Miloscia, Santos, Ogden, Ruderman and Scott.

Brief Summary of Bill

- Establishes a privilege for communications between a victim advocate and a victim of domestic violence.

HOUSE COMMITTEE ON JUDICIARY

Staff: Jim Morishima (786-7191).

Background:

The judiciary has inherent power to compel witnesses to appear and testify in judicial proceedings so that the court will receive all relevant evidence. However, the common law and statutory law recognize exceptions to compelled testimony in some circumstances, including "testimonial privileges." Privileges are recognized when certain classes of relationships or communications within those relationships are deemed of such importance that they are to be protected.

Under the common law, four criteria must be satisfied to find a privilege: (1) the communication must be made in confidence; (2) the element of confidentiality must be essential to the relationship; (3) the relationship is one that should be fostered; and (4) the injury of disclosing the communication must be greater than the benefit of disclosure.

Washington statutory law establishes a number of privileges, including communications between the following persons: (1) husband and wife; (2) attorney and client; (3) clergy and confessor; (4) physician and patient; (5) psychologist and client; and (6) optometrist and client.

Summary of Bill:

A new privilege is established for communications made to a victim advocate by a victim of domestic violence. In order to be privileged, the communication must be made to the victim advocate in official confidence. The victim may waive the privilege if he or she so chooses. A victim advocate includes any person working or volunteering on behalf of victims or witnesses for a recognized victim advocacy group or a prosecutor-based or law enforcement-based agency.

Fiscal Note: Not requested.

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