

SENATE BILL REPORT

SB 6479

As Passed Senate, February 9, 2006

Title: An act relating to the privilege for sexual assault advocates.

Brief Description: Revising the privilege for sexual assault advocates.

Sponsors: Senators Regala, McAuliffe and Kline.

Brief History:

Committee Activity: Judiciary: 1/17/2006, 1/31/06 [DP]

Passed Senate: 2/9/06, 45-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Carrell, Esser, Hargrove, McCaslin, Rasmussen and Thibaudeau.

Staff: Aldo Melchiori (786-7439)

Background: Washington law protects enumerated communications from disclosure during the course of litigation even though the information might be helpful in determining the truth. The protection is provided to foster free and open communication and relationships between identified parties. Privileges protect communication and conversations and are distinct from confidentiality rules which are typically used to protect information.

Privileges are strictly construed. Currently, a sexual assault advocate may not be examined as to any communication made by the victim to the advocate, unless the victim consents. The statute is silent in regard to communication made by the sexual assault advocate. The advocate may disclose these privileged communications, without the victim's consent, if failure to disclose would likely result in a clear, imminent risk of serious injury or death of the victim or another person.

Summary of Bill: A sexual assault advocate may not be examined as to any communication made between the victim and the advocate, unless the victim consents. This change eliminates the ambiguity about whether the communications of the sexual assault advocate as privileged.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: The bill is meant to clarify that conversations with sexual assault advocates are privileged, not just the statements of the victim. The power to waive the privilege remains

with the victim. Clients are less likely to take advantage of advocate services if they cannot be guaranteed confidentiality.

Testimony Against: The bill makes advocates immune from inquiry over whether advocates are practicing law. It will hamstring the truth-seeking function of the courts when a victim's recall of events varies because no one will know if the advocate caused the change.

Who Testified: PRO: Senator Regala, prime sponsor; Suzanne Brown-McBride, Washington Coalition of Sexual Assault Programs; Melanie Peterson, Sexual Assault Center of Pierce County.

CON: Kimberly Gordon, WACDL.