

# FINAL BILL REPORT

## SSB 5931

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Synopsis as Enacted

**Brief Description:** Regarding licensed mental health practitioner privilege.

**Sponsors:** Senate Committee on Judiciary (originally sponsored by Senators Murray, Delvin and Kline).

**Senate Committee on Judiciary**  
**House Committee on Judiciary**

**Background:** The judiciary has the power to compel witnesses to appear before the court and testify in judicial proceedings. 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 societal importance that they should be protected.

The Washington Legislature has established a number of testimonial privileges in statute, including communications between the following persons: (1) spouses or domestic partners; (2) attorney and client; (3) clergy and penitent; (4) physician and patient; (5) psychologist and client; (6) optometrist and client; (7) law enforcement peer support counselor and a law enforcement officer; and (8) sexual assault advocate and victim.

Licensed mental health counselors, marriage and family therapists and social workers currently are required to hold information received in the rendering of professional services as confidential, with some specified exceptions. However, mental health counselors', marriage and family therapists' and social workers' communications with their clients are not currently afforded testimonial privilege.

**Summary:** Mental health counselors, independent clinical social workers, and marriage and family therapists licensed under chapter 18.225 RCW may not disclose, or be compelled to testify about, any information acquired from persons consulting the counselor in a professional capacity when the information was necessary to enable the counselor to render professional services to those persons.

Exceptions to the testimonial privilege include (1) the client provides written authorization to disclose the information or to testify; (2) the client brings charges against the mental health practitioner; (3) the Secretary of Health subpoenas information pursuant to a complaint or

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report under the Uniform Disciplinary Act; (4) the information is required to be disclosed under statutory mandatory reporting provisions; and (5) the practitioner reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of an individual, however there is no obligation to disclose in this situation.

**Votes on Final Passage:**

Senate	49	0	
House	97	0	(House amended)
Senate	44	1	(Senate concurred)

**Effective:** July 26, 2009