

# SENATE BILL REPORT

## HB 1724

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As of February 26, 2014

**Title:** An act relating to statements made by juveniles during assessments or screenings for mental health or chemical dependency treatment.

**Brief Description:** Concerning statements made by juveniles during assessments or screenings for mental health or chemical dependency treatment.

**Sponsors:** Representatives Roberts, Kagi, Pettigrew, Goodman, Green, Reykdal, Cody, Jinkins, Appleton, Freeman, Moeller, Ryu, Pollet, Moscoso and Bergquist.

**Brief History:** Passed House: 3/06/13, 81-17; 2/03/14, 72-23.

**Committee Activity:** Human Services & Corrections: 3/19/13, 2/25/14.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Kevin Black (786-7747)

**Background:** Juveniles have the same privilege against self-incrimination in adjudicatory proceedings as adults have in criminal court. Some juveniles have invoked this privilege to avoid answering questions posed during mental health or chemical dependency screenings or assessments which are conducted for the benefit of the juvenile, based on the concern that statements made during the screening or assessment will be used to convict the juvenile.

**Summary of Bill:** Statements, admissions, or confessions made by a juvenile in the course of a mental health or chemical dependency screening or assessment may not be admissible into evidence against the juvenile on the issue of guilt, unless the juvenile places their mental health at issue. Such a statement is admissible for any other purpose allowed by law.

This prohibition does not apply to statements made to law enforcement, and may not be used to argue for derivative suppression of other evidence lawfully obtained as a result of the statement.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

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

**Staff Summary of Public Testimony:**

Testimony From 2013 Regular Session.

PRO: This bill supports getting juveniles the services that they need. It makes it safe for juveniles to tell the truth, and therefore take advantage of assessments and services. Information will still be admissible if it does not relate to the issue of guilt. A large majority of youth in the juvenile justice system have substance abuse or mental health issues. Effective treatment depends upon a screening or assessment which depends on information from the juvenile. Without protection from disclosure, many defense attorneys advise youth not to participate in the screening. There is no downside, but great potential for positive impact. Without this protection, the statements during the screening assessment are unlikely to be made at all, so there is no loss in the ability to prove cases.

Testimony From 2014 Regular Session.

PRO: The purpose of this bill is to make sure that juveniles are comfortable opening up about their treatment needs. More than two-thirds of all children who come into the juvenile justice system have a diagnosable mental health disorder. Early identification of mental health and substance abuse needs is critical to connect kids with effective treatment, which in turn reduces recidivism. There is currently no court rule, case law, or statutory law that provides concrete protection for statements made by youth during assessments. Consequently, defense counsel may advise youth not to participate in screenings, youth may decline to disclose pertinent information during a screening, or youth may decline to participate altogether. This bill does not affect mandatory reporting, apply to statements made to law enforcement, provide immunity for crimes committed, or prevent judges from using information that is disclosed during sentencing or disposition. This bill is broadly supported.

**Persons Testifying:**

Persons Testifying From 2013 Regular Session.

PRO: Representative Roberts, prime sponsor; Laura Inveen, Superior Court Judge Assn.; Tom McBride, WA Assn. of Prosecuting Attorneys.

Persons Testifying From 2014 Regular Session.

PRO: Representative Roberts, prime sponsor; Hathaway Buden, Center for Children and Youth Justice.