

HOUSE BILL REPORT

SSB 6498

As Passed House:
March 2, 2016

Title: An act relating to testimonial privileges for alcohol and drug addiction recovery sponsors.

Brief Description: Concerning testimonial privileges for alcohol and drug addiction recovery sponsors.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Fain, Frockt, Pedersen, Angel and Rolfes).

Brief History:

Committee Activity:

Judiciary: 2/24/16, 2/26/16 [DP].

Floor Activity:

Passed House: 3/2/16, 94-3.

Brief Summary of Substitute Bill

- Creates a testimonial privilege applicable in civil proceedings that prevents a person who acts as a sponsor in an alcohol or drug addiction recovery fellowship from testifying about communications made to him or her by a person he or she is sponsoring.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 12 members: Representatives Jenkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Kuderer, Muri, Orwall and Stokesbary.

Minority Report: Do not pass. Signed by 1 member: Representative Shea, Assistant Ranking Minority Member.

Staff: Omeara Harrington (786-7136).

Background:

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.

The judiciary has inherent power to compel witnesses to appear and testify about relevant facts that are within the witness's knowledge. However, narrow exceptions to this rule have been developed through the common law and adopted in statute. These exceptions are "testimonial privileges," which prohibit disclosure of confidential communications made between persons occupying certain types of relationships.

Several categories of privilege have been recognized. Examples of privileged communications include communications between:

- attorneys and their clients;
- spouses;
- physicians, psychologists, or optometrists and their patients;
- clergy and persons making a confession or sacred confidence;
- counselors and their clients; and
- sexual assault or domestic violence advocates and victims they are assisting.

Testimonial privileges vary in terms of the types of proceedings to which the privilege applies and as to who may assert and waive the privilege. As a general rule, privilege may only be claimed with respect to communications made on a confidential basis. Privileges are strictly construed, and in close cases courts tend to require disclosure.

Summary of Bill:

A testimonial privilege applicable to drug and alcohol program sponsors is created. A person who acts as a sponsor providing guidance, emotional support, and counseling in an individualized manner to another person who is participating in an alcohol or drug addiction recovery fellowship may not testify in a civil action or proceeding about any communication made by the person to the sponsor. The privilege may be waived upon written authorization by the person receiving the sponsorship, or, in the case of death or disability, the person's personal representative.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Often people have to disclose personal wrongs in the course of the recovery process. If disclosure is to a priest or a doctor, it is protected, but sponsors can still be deposed. This gives sponsors the same protection as other treatment providers. The privilege only applies in civil proceedings.

The bill protects the privacy of people in recovery and encourages people to access treatment. One in 10 people accesses substance abuse treatment, and removing barriers to accessing treatment is important. Sponsors are people in recovery fellowships, like Alcoholics Anonymous, who commit to people who are achieving recovery. Sponsors may

provide as much highly sensitive support as doctors and therapists. This bill aligns with the federal law requirements around confidentiality of information related to a person's substance abuse.

People in these programs are being mentored on the promise of confidentiality. If at any time a mentee thinks a mentor could testify against him or her, that impedes the relationship between the mentor and mentee. Many veterans who have been through very difficult incidents need someone to confide in without any parameters.

(Opposed) None.

Persons Testifying: Mac Nicholson, King County; Jim Vollendroff, King County Behavioral Health and Recovery Division; and Tom Davis, Mason County Veteran Mentoring.

Persons Signed In To Testify But Not Testifying: None.