

# FINAL BILL REPORT

## SB 6027

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C 70 L 18  
Synopsis as Enacted

**Brief Description:** Concerning the discovery of privileged health care information and communications in claims for noneconomic damages under certain civil rights laws.

**Sponsors:** Senators Kuderer and Palumbo.

**Senate Committee on Law & Justice**  
**House Committee on Judiciary**

**Background:** The Washington Law Against Discrimination (WLAD), first adopted in 1949, establishes that it is a civil right to be free from discrimination based on race; creed; color; national origin; families with children; sex; marital status; age; the presence of any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a disabled person. This right applies to employment; places of public resort, accommodation, assemblage, or amusement; commerce; and real estate, credit, and insurance transactions.

In a civil lawsuit under WLAD, a plaintiff may allege discrimination and also claim that the discriminatory action caused non-economic damages. Non-economic damages are defined in a different state law and mean subjective, non-monetary losses including but not limited to pain, suffering, inconvenience, mental anguish, disability or disfigurement incurred by the injured party, emotional distress, loss of society and companionship, loss of consortium, injury to reputation and humiliation, and destruction of the parent-child relationship.

**Summary:** By requesting non-economic damages under WLAD, a claimant does not place their health at issue or waive any health care privilege except for the following circumstances:

- the claimant alleges a specific and diagnosable physical or psychiatric injury as a proximate cause of the respondents' conduct;
- the claimant relies on the records or testimony of a health care provider or expert witness to seek general damages; or
- the claimant alleges failure to accommodate a disability or alleges discrimination on the basis of a disability.

Any waiver under those three circumstances is limited to health care records and communications between the claimant and provider:

- created or occurring in a period beginning two years prior to the first alleged unlawful act and ending at the last date for which the claimant seeks damages; and

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- relating specifically to the diagnosable injury, to the health care provider on which the claimant relies, or the disability specifically at issue in the allegation.

**Votes on Final Passage:**

Senate	42	5
House	97	1

**Effective:** June 7, 2018