

2 **SHB 1260** - S COMM AMD

3 By Committee on Human Services & Corrections

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 18.19 RCW  
8 to read as follows:

9 Confidential communications between a client and an individual  
10 certified under this chapter, acquired while counseling the client in  
11 a professional capacity, are privileged against compulsory disclosure  
12 to the same extent and subject to the same conditions as confidential  
13 communications between a psychologist and client. This privilege is  
14 subject to the limitations in RCW 70.96A.140 and 71.05.250 and does not  
15 constitute an exemption from the mandatory reporting requirements under  
16 chapter 26.44 RCW.

17 When the client is a minor, the presence of the minor's parent or  
18 guardian during any confidential communication does not constitute a  
19 waiver of the client's privilege provided under this section.

20 **Sec. 2.** RCW 18.19.180 and 1991 c 3 s 33 are each amended to read  
21 as follows:

22 An individual registered or certified under this chapter shall not  
23 disclose the written acknowledgment of the disclosure statement  
24 pursuant to RCW 18.19.060 nor any information acquired from persons  
25 consulting the individual in a professional capacity when that  
26 information was necessary to enable the individual to render  
27 professional services to those persons except:

28 (1) With the written consent of that person or, in the case of  
29 death or disability, the person's personal representative, other person  
30 authorized to sue, or the beneficiary of an insurance policy on the  
31 person's life, health, or physical condition;

32 (2) That ((a person)) an individual registered or certified under  
33 this chapter is not required to treat as confidential a communication  
34 that reveals the contemplation or commission of a crime or harmful act;

1 (3) If the person is a minor, and the information acquired by the  
2 ((person)) individual registered or certified under this chapter  
3 indicates that the minor was the victim or subject of a crime, the  
4 ((person)) individual registered or certified may testify fully upon  
5 any examination, trial, or other proceeding in which the commission of  
6 the crime is the subject of the inquiry;

7 (4) If the person waives confidentiality or the privilege by  
8 bringing charges against the ((person)) individual registered or  
9 certified under this chapter;

10 (5)(a) For individuals registered under this chapter, in response  
11 to a subpoena from a court of law or the secretary. The secretary may  
12 subpoena only records related to a complaint or report under chapter  
13 18.130 RCW; ((or))

14 (b) For individuals certified under this chapter, in response to a  
15 subpoena from the secretary.

16 The secretary may subpoena only records related to a complaint or  
17 report under chapter 18.130 RCW; or

18 (6) As required under chapter 26.44 RCW; or

19 (7) When the client is a minor, in response to a court order  
20 obtained by the minor's parent or guardian. The court shall issue an  
21 order compelling disclosure under this subsection unless the court  
22 finds that the minor is in counseling as a result of alleged physical  
23 or sexual abuse by the parent or guardian requesting the order.

24 **Sec. 3.** RCW 71.05.250 and 1989 c 120 s 7 are each amended to read  
25 as follows:

26 At the probable cause hearing the detained person shall have the  
27 following rights in addition to the rights previously specified:

28 (1) To present evidence on his or her behalf;

29 (2) To cross-examine witnesses who testify against him or her;

30 (3) To be proceeded against by the rules of evidence;

31 (4) To remain silent;

32 (5) To view and copy all petitions and reports in the court file.

33 The physician-patient privilege ((or)), the psychologist-client  
34 privilege, or the counselor-client privilege shall be deemed waived in  
35 proceedings under this chapter relating to the administration or  
36 monitoring of antipsychotic medications. As to other proceedings under  
37 this chapter, the privileges shall be waived when a court of competent

1 jurisdiction in its discretion determines that such waiver is necessary  
2 to protect either the detained person or the public.

3 The waiver of a privilege under this section is limited to records  
4 or testimony relevant to evaluation of the detained person for purposes  
5 of a proceeding under this chapter. Upon motion by the detained person  
6 or on its own motion, the court shall examine a record or testimony  
7 sought by a petitioner to determine whether it is within the scope of  
8 the waiver.

9 The record maker shall not be required to testify in order to  
10 introduce medical or psychological records of the detained person so  
11 long as the requirements of RCW 5.45.020 are met except that portions  
12 of the record which contains opinions as to the detained person's  
13 mental state must be deleted from such records unless the person making  
14 such conclusions is available for cross-examination."

15 **SHB 1260** - S COMM AMD

16 By Committee on Human Services & Corrections

17

18 On page 1, line 2 of the title, after "clients;" strike the  
19 remainder of the title and insert "amending RCW 18.19.180 and  
20 71.05.250; and adding a new section to chapter 18.19 RCW."

--- END ---