

SENATE BILL REPORT

SB 5357

As Reported By Senate Committee On:
Judiciary, February 6, 2007

Title: An act relating to privileged communications.

Brief Description: Modifying privileged communications provisions.

Sponsors: Senators Kline, McCaslin, Kauffman and Fairley.

Brief History:

Committee Activity: Judiciary: 1/24/07, 2/06/07 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5357 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, Murray, Roach and Weinstein.

Staff: Lidia Mori (786-7755)

Background: It has long been recognized that certain relationships and communications should be protected from disclosure regardless of the fact that they otherwise might be admissible in courts of law. The guiding belief is that by protecting this information, these desirable relationships will be encouraged and they are worth protection at the expense of the truth seeking goal of the courts.

All 50 states have some form of recognized statutory privilege for clergy-penitent communications. In addition, in Washington, with certain exceptions, a husband can not be examined for or against a wife, nor a wife for or against her husband, without their respective consent. An attorney or counselor is not to be examined as to any communication made by his or her client, without the consent of the client. This privilege against examination extends to the parent or guardian of a minor child arrested on a criminal charge when the parent or guardian was present during a communication between the child and his or her attorney.

There are 21 states and the District of Columbia that explicitly include a Christian Science practitioner within the definition of clergy and afford them the sacred communication privilege.

Summary of Bill: A Christian Science practitioner may not be examined as to any confession or sacred confidence made to him or her in his or her professional character, in the course of

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discipline enjoined by the church to which the practitioner belongs. This privilege applies unless the person making the confession or sacred confidence consents to the examination of the practitioner.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Judiciary): A Christian Science practitioner listed in The Christian Science Journal may not be examined as to any confession or sacred confidence made to him or her in his or her professional character, in the course of discipline enjoined by the church to which the practitioner belongs. This privilege applies unless the person making the confession or sacred confidence consents to the examination of the practitioner.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: The Christian Science church does not include ordained clergy or priests. But, the church welcomes people to talk about their problems. This bill removes the possibility of a practitioner having to choose between obeying the church manual and the laws of Washington State. The term "confession" is not clearly defined. The term "sacred confidence" comes directly out of the church manual and it is likely similar to a sacred or holy trust. The manual prohibits a practitioner from talking about the confidence. Christian Science practitioners are in full time practice and have studied, they are devoted to healing, and are accredited by the church, as well as listed in the church Journal.

Persons Testifying: PRO: Bill Scott, Christian Science Committee on Publication.