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SENATE BILL 5566

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State of Washington                      65th Legislature                      2017 Regular Session

By Senators Kuderer, Pedersen, Keiser, Hasegawa, Billig, and Chase

Read first time 01/27/17. Referred to Committee on Law & Justice.

1            AN ACT Relating to the admissibility of mental health evidence in  
2 claims for noneconomic damages under certain civil rights laws; and  
3 adding a new section to chapter 49.60 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.**    A new section is added to chapter 49.60  
6 RCW to read as follows:

7            (1) For claims for noneconomic damages under this chapter,  
8 evidence of the claimant's mental health is not admissible if offered  
9 by the respondent, and a claimant does not waive any health care  
10 privilege existing under RCW 5.60.060 or 18.83.110, or any other law,  
11 unless the claimant:

12            (a) Alleges a specific and diagnosable physical or psychiatric  
13 injury as a proximate cause of the respondents' conduct;

14            (b) Relies on the records or testimony of a health care provider  
15 or expert witness to seek general damages; or

16            (c) Alleges failure to accommodate a disability or alleges  
17 discrimination on the basis of a disability.

18            (2) Unless otherwise ordered by the court for good cause, any  
19 evidence admissible or health care privilege waived under subsection  
20 (1)(a) through (c) of this section is limited to health care records  
21 and information:

1 (a) Created in the period beginning two years immediately  
2 preceding the first alleged unlawful act for which the claimant seeks  
3 damages and ending at the last alleged unlawful act for which the  
4 claimant seeks damages; and

5 (b)(i) If admissible or waived under subsection (1)(a) of this  
6 section, relating specifically to the diagnosable injury;

7 (ii) If admissible or waived under subsection (1)(b) of this  
8 section, relating to the health care provider or providers on which  
9 the claimant relies in the action; or

10 (iii) If admissible or waived under subsection (1)(c) of this  
11 section, relating to the disability specifically at issue in the  
12 allegation.

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