

FINAL BILL REPORT

HB 1939

C 472 L 07

Synopsis as Enacted

Brief Description: Modifying privileged communications provisions.

Sponsors: By Representatives Goodman, Warnick, Rodne, Williams, Priest, Moeller, B. Sullivan, Cody, Chase, Pedersen, Lantz and Hinkle.

House Committee on Judiciary
Senate Committee on Judiciary

Background:

The judiciary has the power to compel witnesses to appear before the court and testify in judicial proceedings so that the court may hear and consider all relevant evidence before making a determination. However, the common law and statutory law recognize exceptions to compelled testimony in some circumstances, including testimonial privileges. Privileges are recognized when certain classes of relationships or communications within those relationships are deemed of such societal importance that they should be protected, even at the expense of the truth-seeking goal of the courts.

Washington statutory law establishes a number of privileges, including communications between the following persons: (1) clergy and penitent; (2) attorney and client; (3) husband and wife; (4) physician and patient; (5) psychologist and client; (6) optometrist and client; (7) law enforcement peer support counselor and a law enforcement officer; and (8) sexual assault advocate and victim.

All 50 states have some form of recognized privilege for clergy-penitent communications. Twenty-one states and the District of Columbia explicitly include Christian Science practitioners within the statutory definition of clergy and afford them a sacred communication privilege.

The clergy-penitent privilege in Washington applies unless the person making the confession waives the privilege, authorizing the clergy to testify. Washington's statute does not explicitly refer to Christian Science practitioners and does not explicitly extend to sacred confidences, the term used by the Christian Science church for a confidence shared with a Christian Science practitioner, which is similar to a sacred or holy trust or confession.

The Christian Science church does not have ordained clergy but rather practitioners who have been accredited by the church as qualified for the public practice of Christian Science. Only accredited practitioners may be listed and advertised in the Christian Science Journal, a monthly magazine that is the official publication of The First Church of Christ, Scientist.

Summary:

The testimonial privilege for confessions made to clergy is explicitly extended to sacred confidences made to a Christian Science practitioner who is officially listed in the Christian Science Journal, the monthly magazine of the Christian Science church.

Votes on Final Passage:

House 97 0

Senate 47 0

Effective: July 22, 2007