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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

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

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

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

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

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

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

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

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

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

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

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

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

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