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**ENGROSSED SUBSTITUTE HOUSE BILL 1904**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** House Committee on Children & Family Services (originally sponsored by Representatives O'Brien, Boldt, Kagi, Roach and Miloscia)

READ FIRST TIME 03/05/03.

1       AN ACT Relating to the reporting of incidents by mandated  
2 reporters; amending RCW 74.34.020 and 74.34.035; adding a new section  
3 to chapter 74.34 RCW; and declaring an emergency.

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

5       **Sec. 1.** RCW 74.34.020 and 1999 c 176 s 3 are each amended to read  
6 as follows:

7       Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9       (1) "Abandonment" means action or inaction by a person or entity  
10 with a duty of care for a vulnerable adult that leaves the vulnerable  
11 person without the means or ability to obtain necessary food, clothing,  
12 shelter, or health care.

13       (2) "Abuse" means the willful action or inaction that inflicts  
14 injury, unreasonable confinement, intimidation, or punishment on a  
15 vulnerable adult. In instances of abuse of a vulnerable adult who is  
16 unable to express or demonstrate physical harm, pain, or mental  
17 anguish, the abuse is presumed to cause physical harm, pain, or mental  
18 anguish. Abuse includes sexual abuse, mental abuse, physical abuse,

1 and exploitation of a vulnerable adult, which have the following  
2 meanings:

3 (a) "Sexual abuse" means any form of nonconsensual sexual contact,  
4 including but not limited to unwanted or inappropriate touching, rape,  
5 sodomy, sexual coercion, sexually explicit photographing, and sexual  
6 harassment. Sexual abuse includes any sexual contact between a staff  
7 person, who is not also a resident or client, of a facility or a staff  
8 person of a program authorized under chapter 71A.12 RCW, and a  
9 vulnerable adult living in that facility or receiving service from a  
10 program authorized under chapter 71A.12 RCW, whether or not it is  
11 consensual.

12 (b) "Physical abuse" means the willful action of inflicting bodily  
13 injury or physical mistreatment. Physical abuse includes, but is not  
14 limited to, striking with or without an object, slapping, pinching,  
15 choking, kicking, shoving, prodding, or the use of chemical restraints  
16 or physical restraints unless the restraints are consistent with  
17 licensing requirements, and includes restraints that are otherwise  
18 being used inappropriately.

19 (c) "Mental abuse" means any willful action or inaction of mental  
20 or verbal abuse. Mental abuse includes, but is not limited to,  
21 coercion, harassment, inappropriately isolating a vulnerable adult from  
22 family, friends, or regular activity, and verbal assault that includes  
23 ridiculing, intimidating, yelling, or swearing.

24 (d) "Exploitation" means an act of forcing, compelling, or exerting  
25 undue influence over a vulnerable adult causing the vulnerable adult to  
26 act in a way that is inconsistent with relevant past behavior, or  
27 causing the vulnerable adult to perform services for the benefit of  
28 another.

29 (3) "Consent" means express written consent granted after the  
30 vulnerable adult or his or her legal representative has been fully  
31 informed of the nature of the services to be offered and that the  
32 receipt of services is voluntary.

33 (4) "Department" means the department of social and health  
34 services.

35 (5) "Facility" means a residence licensed or required to be  
36 licensed under chapter 18.20 RCW, boarding homes; chapter 18.51 RCW,  
37 nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36

1 RCW, soldiers' homes; or chapter 71A.20 RCW, residential habilitation  
2 centers; or any other facility licensed or regulated by the department.

3 (6) "Financial exploitation" means the illegal or improper use of  
4 the property, income, resources, or trust funds of the vulnerable adult  
5 by any person for any person's profit or advantage.

6 (7) "Individual provider" means a person under contract with the  
7 department to provide services in the home under chapter 74.09 or  
8 74.39A RCW.

9 (8) "Mandated reporter" is an employee of the department; law  
10 enforcement officer; social worker; professional school personnel;  
11 individual provider; an employee of a facility; an operator of a  
12 facility; an employee of a social service, welfare, mental health,  
13 adult day health, adult day care, home health, home care, or hospice  
14 agency; county coroner or medical examiner; Christian Science  
15 practitioner; or health care provider subject to chapter 18.130 RCW.

16 (9) "Neglect" means (a) a pattern of conduct or inaction by a  
17 person or entity with a duty of care to provide the goods and services  
18 that maintain physical or mental health of a vulnerable adult, or that  
19 avoids or prevents physical or mental harm or pain to a vulnerable  
20 adult; or (b) an act or omission that demonstrates a serious disregard  
21 of consequences of such a magnitude as to constitute a clear and  
22 present danger to the vulnerable adult's health, welfare, or safety.

23 (10) "Permissive reporter" means any person, employee of a  
24 financial institution, attorney, or volunteer in a facility or program  
25 providing services for vulnerable adults.

26 (11) "Protective services" means any services provided by the  
27 department to a vulnerable adult with the consent of the vulnerable  
28 adult, or the legal representative of the vulnerable adult, who has  
29 been abandoned, abused, financially exploited, neglected, or in a state  
30 of self-neglect. These services may include, but are not limited to  
31 case management, social casework, home care, placement, arranging for  
32 medical evaluations, psychological evaluations, day care, or referral  
33 for legal assistance.

34 (12) "Self-neglect" means the failure of a vulnerable adult, not  
35 living in a facility, to provide for himself or herself the goods and  
36 services necessary for the vulnerable adult's physical or mental  
37 health, and the absence of which impairs or threatens the vulnerable  
38 adult's well-being. This definition may include a vulnerable adult who

1 is receiving services through home health, hospice, or a home care  
2 agency, or an individual provider when the neglect is not a result of  
3 inaction by that agency or individual provider.

4 (13) "Vulnerable adult" includes a person:

5 (a) Sixty years of age or older who has the functional, mental, or  
6 physical inability to care for himself or herself; or

7 (b) Found incapacitated under chapter 11.88 RCW; or

8 (c) Who has a developmental disability as defined under RCW  
9 71A.10.020; or

10 (d) Admitted to any facility; or

11 (e) Receiving services from home health, hospice, or home care  
12 agencies licensed or required to be licensed under chapter 70.127 RCW;  
13 or

14 (f) Receiving services from an individual provider.

15 (14) "Harm" means contact between two or more vulnerable adults  
16 that results in any of the following:

17 (a) An injury that is more than superficial and requires frequent  
18 assessment or monitoring by a licensed health care professional; or

19 (b) A fracture, burn, deep bruise, or laceration requiring sutures.

20 Harm includes the following: Sexual assault or suspected sexual  
21 assault; a pattern of or repeated assault either between the same  
22 vulnerable adults or involving the same vulnerable adult; and an  
23 attempt to choke another person.

24 **Sec. 2.** RCW 74.34.035 and 1999 c 176 s 5 are each amended to read  
25 as follows:

26 (1) Except as provided in section 3 of this act:

27 (a) When there is reasonable cause to believe that abandonment,  
28 abuse, financial exploitation, or neglect of a vulnerable adult has  
29 occurred, mandated reporters shall immediately report to the  
30 department.

31 ~~((If))~~ (b) When there is reason to suspect that sexual or physical  
32 assault has occurred, mandated reporters shall immediately report to  
33 the appropriate law enforcement agency and to the department.

34 (2) Permissive reporters may report to the department or a law  
35 enforcement agency when there is reasonable cause to believe that a  
36 vulnerable adult is being or has been abandoned, abused, financially  
37 exploited, or neglected.

1 (3) No facility, as defined by this chapter, agency licensed or  
2 required to be licensed under chapter 70.127 RCW, or facility or agency  
3 under contract with the department to provide care for vulnerable  
4 adults may develop policies or procedures that interfere with the  
5 reporting requirements of this chapter.

6 (4) Each report, oral or written, must contain as much as possible  
7 of the following information:

8 (a) The name and address of the person making the report;

9 (b) The name and address of the vulnerable adult and the name of  
10 the facility or agency providing care for the vulnerable adult;

11 (c) The name and address of the legal guardian or alternate  
12 decision maker;

13 (d) The nature and extent of the abandonment, abuse, financial  
14 exploitation, neglect, or self-neglect;

15 (e) Any history of previous abandonment, abuse, financial  
16 exploitation, neglect, or self-neglect;

17 (f) The identity of the alleged perpetrator, if known; and

18 (g) Other information that may be helpful in establishing the  
19 extent of abandonment, abuse, financial exploitation, neglect, or the  
20 cause of death of the deceased vulnerable adult.

21 (5) Unless there is a judicial proceeding or the person consents,  
22 the identity of the person making the report under this section is  
23 confidential.

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.34 RCW  
25 to read as follows:

26 A mandated reporter is not required to report to a law enforcement  
27 agency an incident that occurs between vulnerable adults, unless the  
28 incident results in harm as defined in RCW 74.34.020(14) or the injured  
29 vulnerable adult or his or her legal representative or interested  
30 family member requests that the mandated reporter report the incident.  
31 If a report is requested, the mandated reporter shall report the  
32 incident in accordance with the reporting requirements provided in RCW  
33 74.34.035, and all other provisions of this chapter shall apply.

34 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
35 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect  
2 immediately.

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