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5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.42 RCW  
8 to read as follows:

9 The legislature finds that there is a significant need to protect  
10 children and dependent persons, including frail elder and vulnerable  
11 adults, from abuse and neglect by their parents, by persons entrusted  
12 with their physical custody, or by persons employed to provide them  
13 with the basic necessities of life. The legislature further finds that  
14 such abuse and neglect often takes the forms of either withholding from  
15 them the basic necessities of life, including food, water, shelter,  
16 clothing, and health care, or abandoning them, or both. Therefore, it  
17 is the intent of the legislature that criminal penalties be imposed on  
18 those guilty of such abuse or neglect. It is the intent of the  
19 legislature that a person who, in good faith, is furnished Christian  
20 Science treatment by a duly accredited Christian Science practitioner  
21 in lieu of medical care is not considered deprived of medically  
22 necessary health care or abandoned. Prosecutions under this chapter  
23 shall be consistent with the rules of evidence, including hearsay,  
24 under law.

25 **Sec. 2.** RCW 9A.42.010 and 1996 c 302 s 1 are each amended to read  
26 as follows:

27 As used in this chapter:

28 (1) "Basic necessities of life" means food, water, shelter,  
29 clothing, and medically necessary health care, including but not  
30 limited to health-related treatment or activities, hygiene, oxygen, and  
31 medication.

32 (2)(a) "Bodily injury" means physical pain or injury, illness, or  
33 an impairment of physical condition;

34 (b) "Substantial bodily harm" means bodily injury which involves a  
35 temporary but substantial disfigurement, or which causes a temporary

1 but substantial loss or impairment of the function of any bodily part  
2 or organ, or which causes a fracture of any bodily part;

3 (c) "Great bodily harm" means bodily injury which creates a high  
4 probability of death, or which causes serious permanent disfigurement,  
5 or which causes a permanent or protracted loss or impairment of the  
6 function of any bodily part or organ.

7 (3) "Child" means a person under eighteen years of age.

8 (4) "Dependent person" means a person who, because of physical or  
9 mental disability, or because of extreme advanced age, is dependent  
10 upon another person to provide the basic necessities of life. A  
11 resident of a nursing home, as defined in RCW 18.51.010, a resident of  
12 an adult family home, as defined in RCW 70.128.010, and a frail elder  
13 or vulnerable adult, as defined in RCW 74.34.020(8), is presumed to be  
14 a dependent person for purposes of this chapter.

15 (5) "Employed" means hired by a dependent person, another person  
16 acting on behalf of a dependent person, or by an organization or  
17 governmental entity, to provide to a dependent person any of the basic  
18 necessities of life. A person may be "employed" regardless of whether  
19 the person is paid for the services or, if paid, regardless of who pays  
20 for the person's services.

21 (6) "Parent" has its ordinary meaning and also includes a guardian  
22 and the authorized agent of a parent or guardian.

23 (7) "Abandons" means leaving a child or other dependent person  
24 without the means or ability to obtain one or more of the basic  
25 necessities of life.

26 **Sec. 3.** RCW 9A.42.050 and 1986 c 250 s 5 are each amended to read  
27 as follows:

28 In any prosecution for criminal mistreatment, it shall be a defense  
29 that the withholding of the basic necessities of life is due to  
30 financial inability only if the person charged has made a reasonable  
31 effort to obtain adequate assistance. This defense is available to  
32 persons in the business of providing care only when the agreed-upon  
33 payment for the care has not been received.

34 **Sec. 4.** RCW 9A.42.020 and 1986 c 250 s 2 are each amended to read  
35 as follows:

36 (1) A parent of a child ((~~or~~)), the person entrusted with the  
37 physical custody of a child or dependent person, or a person employed

1 to provide to the child or dependent person the basic necessities of  
2 life is guilty of criminal mistreatment in the first degree if he or  
3 she recklessly, as defined in RCW 9A.08.010, causes great bodily harm  
4 to a child or dependent person by withholding any of the basic  
5 necessities of life.

6 (2) Criminal mistreatment in the first degree is a class B felony.

7 **Sec. 5.** RCW 9A.42.030 and 1986 c 250 s 3 are each amended to read  
8 as follows:

9 (1) A parent of a child ((~~or~~)), the person entrusted with the  
10 physical custody of a child or dependent person, or a person employed  
11 to provide to the child or dependent person the basic necessities of  
12 life is guilty of criminal mistreatment in the second degree if he or  
13 she recklessly, as defined in RCW 9A.08.010, either (a) creates an  
14 imminent and substantial risk of death or great bodily harm, or (b)  
15 causes substantial bodily harm by withholding any of the basic  
16 necessities of life.

17 (2) Criminal mistreatment in the second degree is a class C felony.

18 NEW SECTION. **Sec. 6.** A new section is added to chapter 9A.42 RCW  
19 to read as follows:

20 RCW 9A.42.020 and 9A.42.030 do not apply when a terminally ill  
21 person is receiving palliative care by a licensed home health agency,  
22 hospice agency, nursing home, or hospital providing hospice care under  
23 the medical direction of a physician.

24 **Sec. 7.** RCW 9A.44.010 and 1994 c 271 s 302 are each amended to  
25 read as follows:

26 As used in this chapter:

27 (1) "Sexual intercourse" (a) has its ordinary meaning and occurs  
28 upon any penetration, however slight, and

29 (b) Also means any penetration of the vagina or anus however  
30 slight, by an object, when committed on one person by another, whether  
31 such persons are of the same or opposite sex, except when such  
32 penetration is accomplished for medically recognized treatment or  
33 diagnostic purposes, and

34 (c) Also means any act of sexual contact between persons involving  
35 the sex organs of one person and the mouth or anus of another whether  
36 such persons are of the same or opposite sex.

1 (2) "Sexual contact" means any touching of the sexual or other  
2 intimate parts of a person done for the purpose of gratifying sexual  
3 desire of either party or a third party.

4 (3) "Married" means one who is legally married to another, but does  
5 not include a person who is living separate and apart from his or her  
6 spouse and who has filed in an appropriate court for legal separation  
7 or for dissolution of his or her marriage.

8 (4) "Mental incapacity" is that condition existing at the time of  
9 the offense which prevents a person from understanding the nature or  
10 consequences of the act of sexual intercourse whether that condition is  
11 produced by illness, defect, the influence of a substance or from some  
12 other cause.

13 (5) "Physically helpless" means a person who is unconscious or for  
14 any other reason is physically unable to communicate unwillingness to  
15 an act.

16 (6) "Forcible compulsion" means physical force which overcomes  
17 resistance, or a threat, express or implied, that places a person in  
18 fear of death or physical injury to herself or himself or another  
19 person, or in fear that she or he or another person will be kidnapped.

20 (7) "Consent" means that at the time of the act of sexual  
21 intercourse or sexual contact there are actual words or conduct  
22 indicating freely given agreement to have sexual intercourse or sexual  
23 contact.

24 (8) "Significant relationship" means a situation in which the  
25 perpetrator is:

26 (a) A person who undertakes the responsibility, professionally or  
27 voluntarily, to provide education, health, welfare, or organized  
28 recreational activities principally for minors; ~~((or))~~

29 (b) A person who in the course of his or her employment supervises  
30 minors; or

31 (c) A person who provides welfare, health or residential  
32 assistance, personal care, or organized recreational activities to  
33 frail elders or vulnerable adults, including a provider, employee,  
34 temporary employee, volunteer, or independent contractor who supplies  
35 services to long-term care facilities licensed or required to be  
36 licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and home  
37 health, hospice, or home care agencies licensed or required to be  
38 licensed under chapter 70.127 RCW.

1 (9) "Abuse of a supervisory position" means a direct or indirect  
2 threat or promise to use authority to the detriment or benefit of a  
3 minor.

4 (10) "Developmentally disabled," for purposes of RCW  
5 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a  
6 developmental disability as defined in RCW 71A.10.020.

7 (11) "Person with supervisory authority," for purposes of RCW  
8 9A.44.050(1) (c) or (e) and 9A.44.100(1) (c) or (e), means any  
9 proprietor or employee of any public or private care or treatment  
10 facility who directly supervises developmentally disabled, mentally  
11 disordered, or chemically dependent persons at the facility.

12 (12) "Mentally disordered person" for the purposes of RCW  
13 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental  
14 disorder" as defined in RCW 71.05.020(2).

15 (13) "Chemically dependent person" for purposes of RCW  
16 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically  
17 dependent" as defined in RCW 70.96A.020(4).

18 (14) "Health care provider" for purposes of RCW 9A.44.050 and  
19 9A.44.100 means a person who is, holds himself or herself out to be, or  
20 provides services as if he or she were: (a) A member of a health care  
21 profession under chapter 18.130 RCW; or (b) registered or certified  
22 under chapter 18.19 RCW, regardless of whether the health care provider  
23 is licensed, certified, or registered by the state.

24 (15) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100 means  
25 the active delivery of professional services by a health care provider  
26 which the health care provider holds himself or herself out to be  
27 qualified to provide.

28 (16) "Frail elder or vulnerable adult" means a person sixty years  
29 of age or older who has the functional, mental, or physical inability  
30 to care for himself or herself. "Frail elder or vulnerable adult" also  
31 includes a person found incapacitated under chapter 11.88 RCW, a person  
32 over eighteen years of age who has a developmental disability under  
33 chapter 71A.10 RCW, a person admitted to a long-term care facility that  
34 is licensed or required to be licensed under chapter 18.20, 18.51,  
35 72.36, or 70.128 RCW, and a person receiving services from a home  
36 health, hospice, or home care agency licensed or required to be  
37 licensed under chapter 70.127 RCW.

1           **Sec. 8.** RCW 9A.44.050 and 1993 c 477 s 2 are each amended to read  
2 as follows:

3           (1) A person is guilty of rape in the second degree when, under  
4 circumstances not constituting rape in the first degree, the person  
5 engages in sexual intercourse with another person:

6           (a) By forcible compulsion;

7           (b) When the victim is incapable of consent by reason of being  
8 physically helpless or mentally incapacitated;

9           (c) When the victim is developmentally disabled and the perpetrator  
10 is a person who is not married to the victim and who has supervisory  
11 authority over the victim;

12           (d) When the perpetrator is a health care provider, the victim is  
13 a client or patient, and the sexual intercourse occurs during a  
14 treatment session, consultation, interview, or examination. It is an  
15 affirmative defense that the defendant must prove by a preponderance of  
16 the evidence that the client or patient consented to the sexual  
17 intercourse with the knowledge that the sexual intercourse was not for  
18 the purpose of treatment; ~~((or))~~

19           (e) When the victim is a resident of a facility for mentally  
20 disordered or chemically dependent persons and the perpetrator is a  
21 person who is not married to the victim and has supervisory authority  
22 over the victim; or

23           (f) When the victim is a frail elder or vulnerable adult and the  
24 perpetrator is a person who is not married to the victim and who has a  
25 significant relationship with the victim.

26           (2) Rape in the second degree is a class A felony.

27           **Sec. 9.** RCW 9A.44.100 and 1993 c 477 s 3 are each amended to read  
28 as follows:

29           (1) A person is guilty of indecent liberties when he knowingly  
30 causes another person who is not his spouse to have sexual contact with  
31 him or another:

32           (a) By forcible compulsion; ~~((or))~~

33           (b) When the other person is incapable of consent by reason of  
34 being mentally defective, mentally incapacitated, or physically  
35 helpless;

36           (c) When the victim is developmentally disabled and the perpetrator  
37 is a person who is not married to the victim and who has supervisory  
38 authority over the victim;

1 (d) When the perpetrator is a health care provider, the victim is  
2 a client or patient, and the sexual contact occurs during a treatment  
3 session, consultation, interview, or examination. It is an affirmative  
4 defense that the defendant must prove by a preponderance of the  
5 evidence that the client or patient consented to the sexual contact  
6 with the knowledge that the sexual contact was not for the purpose of  
7 treatment; ((or))

8 (e) When the victim is a resident of a facility for mentally  
9 disordered or chemically dependent persons and the perpetrator is a  
10 person who is not married to the victim and has supervisory authority  
11 over the victim; or

12 (f) When the victim is a frail elder or vulnerable adult and the  
13 perpetrator is a person who is not married to the victim and who has a  
14 significant relationship with the victim.

15 (2) Indecent liberties is a class B felony.

16 **Sec. 10.** RCW 18.130.040 and 1996 c 200 s 32 and 1996 c 81 s 5 are  
17 each reenacted and amended to read as follows:

18 (1) This chapter applies only to the secretary and the boards and  
19 commissions having jurisdiction in relation to the professions licensed  
20 under the chapters specified in this section. This chapter does not  
21 apply to any business or profession not licensed under the chapters  
22 specified in this section.

23 (2)(a) The secretary has authority under this chapter in relation  
24 to the following professions:

- 25 (i) Dispensing opticians licensed under chapter 18.34 RCW;
- 26 (ii) Naturopaths licensed under chapter 18.36A RCW;
- 27 (iii) Midwives licensed under chapter 18.50 RCW;
- 28 (iv) Ocularists licensed under chapter 18.55 RCW;
- 29 (v) Massage operators and businesses licensed under chapter 18.108  
30 RCW;
- 31 (vi) Dental hygienists licensed under chapter 18.29 RCW;
- 32 (vii) Acupuncturists licensed under chapter 18.06 RCW;
- 33 (viii) Radiologic technologists certified and X-ray technicians  
34 registered under chapter 18.84 RCW;
- 35 (ix) Respiratory care practitioners certified under chapter 18.89  
36 RCW;
- 37 (x) Persons registered or certified under chapter 18.19 RCW;

1 (xi) Persons registered as nursing pool operators under chapter  
2 18.52C RCW;

3 (xii) Nursing assistants registered or certified under chapter  
4 ((~~18.79~~)) 18.88A RCW;

5 (xiii) Health care assistants certified under chapter 18.135 RCW;

6 (xiv) Dietitians and nutritionists certified under chapter 18.138  
7 RCW;

8 (xv) Sex offender treatment providers certified under chapter  
9 18.155 RCW;

10 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW  
11 18.71.205;

12 (xvii) Persons registered as adult family home providers and  
13 resident managers under RCW 18.48.020; and

14 (xviii) Denturists licensed under chapter 18.30 RCW.

15 (b) The boards and commissions having authority under this chapter  
16 are as follows:

17 (i) The podiatric medical board as established in chapter 18.22  
18 RCW;

19 (ii) The chiropractic quality assurance commission as established  
20 in chapter 18.25 RCW;

21 (iii) The dental quality assurance commission as established in  
22 chapter 18.32 RCW;

23 (iv) The board of hearing and speech as established in chapter  
24 18.35 RCW;

25 (v) The board of examiners for nursing home administrators as  
26 established in chapter 18.52 RCW;

27 (vi) The optometry board as established in chapter 18.54 RCW  
28 governing licenses issued under chapter 18.53 RCW;

29 (vii) The board of osteopathic medicine and surgery as established  
30 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and  
31 18.57A RCW;

32 (viii) The board of pharmacy as established in chapter 18.64 RCW  
33 governing licenses issued under chapters 18.64 and 18.64A RCW;

34 (ix) The medical quality assurance commission as established in  
35 chapter 18.71 RCW governing licenses and registrations issued under  
36 chapters 18.71 and 18.71A RCW;

37 (x) The board of physical therapy as established in chapter 18.74  
38 RCW;



1 (xi) The board of occupational therapy practice as established in  
2 chapter 18.59 RCW;

3 (xii) The nursing care quality assurance commission as established  
4 in chapter 18.79 RCW governing licenses issued under that chapter;

5 (xiii) The examining board of psychology and its disciplinary  
6 committee as established in chapter 18.83 RCW; and

7 (xiv) The veterinary board of governors as established in chapter  
8 18.92 RCW.

9 (3) In addition to the authority to discipline license holders, the  
10 disciplining authority has the authority to grant or deny licenses  
11 based on the conditions and criteria established in this chapter and  
12 the chapters specified in subsection (2) of this section. This chapter  
13 also governs any investigation, hearing, or proceeding relating to  
14 denial of licensure or issuance of a license conditioned on the  
15 applicant's compliance with an order entered pursuant to RCW 18.130.160  
16 by the disciplining authority.

17 (4) All disciplining authorities shall adopt procedures to ensure  
18 substantially consistent application of this chapter, the Uniform  
19 Disciplinary Act, among the disciplining authorities listed in  
20 subsection (2) of this section.

21 **Sec. 11.** RCW 18.130.200 and 1986 c 259 s 12 are each amended to  
22 read as follows:

23 A person who attempts to obtain ~~((or))~~, obtains, or attempts to  
24 maintain a license by willful misrepresentation or fraudulent  
25 representation is guilty of a gross misdemeanor.

26 **Sec. 12.** RCW 43.43.842 and 1992 c 104 s 1 are each amended to read  
27 as follows:

28 (1)(a) The secretary of social and health services and the  
29 secretary of health shall adopt additional requirements for the  
30 licensure or relicensure of agencies ~~((or))~~, facilities ~~((which))~~, and  
31 licensed individuals who provide care and treatment to vulnerable  
32 adults. These additional requirements shall ensure that any person  
33 associated with a licensed agency or facility having direct contact  
34 with a vulnerable adult shall not have been: ~~((+a))~~ (i) Convicted of  
35 a crime against persons as defined in RCW 43.43.830, except as provided  
36 in this section; ~~((+b))~~ (ii) convicted of crimes relating to financial  
37 exploitation as defined in RCW 43.43.830, except as provided in this

1 section; ~~((e))~~ (iii) found in any disciplinary board final decision  
2 to have abused a vulnerable adult under RCW 43.43.830; or ~~((d))~~ (iv)  
3 the subject in a protective proceeding under chapter 74.34 RCW.

4 (b) A person associated with a licensed agency or facility who has  
5 direct contact with a vulnerable adult shall make the disclosures  
6 specified in RCW 43.43.834(2). The person shall make the disclosures  
7 in writing, sign, and swear to the contents under penalty of perjury.  
8 The person shall, in the disclosures, specify all crimes against  
9 children or other persons, and all crimes relating to financial  
10 exploitation as defined in RCW 43.43.830, committed by the person.

11 (2) The rules adopted under this section shall permit the licensee  
12 to consider the criminal history of an applicant for employment in a  
13 licensed facility when the applicant has one or more convictions for a  
14 past offense and:

15 (a) The offense was simple assault, assault in the fourth degree,  
16 or the same offense as it may be renamed, and three or more years have  
17 passed between the most recent conviction and the date of application  
18 for employment;

19 (b) The offense was prostitution, or the same offense as it may be  
20 renamed, and three or more years have passed between the most recent  
21 conviction and the date of application for employment;

22 (c) The offense was theft in the third degree, or the same offense  
23 as it may be renamed, and three or more years have passed between the  
24 most recent conviction and the date of application for employment;

25 (d) The offense was theft in the second degree, or the same offense  
26 as it may be renamed, and five or more years have passed between the  
27 most recent conviction and the date of application for employment;

28 (e) The offense was forgery, or the same offense as it may be  
29 renamed, and five or more years have passed between the most recent  
30 conviction and the date of application for employment.

31 The offenses set forth in (a) through (e) of this subsection do not  
32 automatically disqualify an applicant from employment by a licensee.  
33 Nothing in this section may be construed to require the employment of  
34 any person against a licensee's judgment.

35 In consultation with law enforcement personnel, the secretary of  
36 social and health services and the secretary of health shall  
37 investigate the conviction record and the protection proceeding record  
38 information under this chapter ~~((43.43-RCW))~~ of each agency or facility  
39 and its staff under their respective jurisdictions seeking licensure or

1 relicensure. The individual responding to criminal background inquiry  
2 requests by the individual's employer or potential employer shall  
3 disclose the information about the individual's criminal history under  
4 penalty of perjury. The secretaries shall use the information solely  
5 for the purpose of determining eligibility for licensure or  
6 relicensure. Criminal justice agencies shall provide the secretaries  
7 such information as they may have and that the secretaries may require  
8 for such purpose.

9 **Sec. 13.** RCW 70.124.020 and 1996 c 178 s 24 are each amended to  
10 read as follows:

11 Unless the context requires otherwise, the definitions in this  
12 section apply throughout this chapter.

13 (1) "Court" means the superior court of the state of Washington.

14 (2) "Law enforcement agency" means the police department, the  
15 director of public safety, or the office of the sheriff.

16 (3) "Practitioner of the healing arts" or "practitioner" means a  
17 person licensed by this state to practice podiatric medicine and  
18 surgery, optometry, pharmacy, physical therapy, chiropractic, nursing,  
19 dentistry, osteopathic medicine and surgery, or medicine and surgery.  
20 The term "practitioner" shall include a nurses aide, a nursing home  
21 administrator licensed under chapter 18.52 RCW, and a duly accredited  
22 Christian Science practitioner: PROVIDED, HOWEVER, That a nursing home  
23 patient who is being furnished Christian Science treatment by a duly  
24 accredited Christian Science practitioner shall not be considered, for  
25 that reason alone, a neglected patient for the purposes of this  
26 chapter.

27 (4) "Department" means the state department of social and health  
28 services.

29 (5) "Nursing home" has the meaning prescribed by RCW 18.51.010.

30 (6) "Social worker" means anyone engaged in a professional capacity  
31 during the regular course of employment in encouraging or promoting the  
32 health, welfare, support, or education of nursing home patients, or  
33 providing social services to nursing home patients, whether in an  
34 individual capacity or as an employee or agent of any public or private  
35 organization or institution.

36 (7) "Psychologist" means any person licensed to practice psychology  
37 under chapter 18.83 RCW, whether acting in an individual capacity or as

1 an employee or agent of any public or private organization or  
2 institution.

3 (8) "Pharmacist" means any registered pharmacist under chapter  
4 18.64 RCW, whether acting in an individual capacity or as an employee  
5 or agent of any public or private organization or institution.

6 (9) "Abuse or neglect" or "patient abuse or neglect" means the  
7 nonaccidental physical injury or condition, sexual abuse, or negligent  
8 treatment of a nursing home, adult family home, or state hospital  
9 patient under circumstances which indicate that the patient's health,  
10 welfare, (~~and~~) or safety is harmed thereby.

11 (10) "Negligent treatment" means an act or omission which evinces  
12 a serious disregard of consequences of such magnitude as to constitute  
13 a clear and present danger to the patient's health, welfare, (~~and~~) or  
14 safety.

15 (11) "State hospital" means any hospital operated and maintained by  
16 the state for the care of the mentally ill under chapter 72.23 RCW.

17 (12) "Adult family home" has the meaning set forth in RCW  
18 70.128.010.

19 **Sec. 14.** RCW 70.124.030 and 1981 c 174 s 3 are each amended to  
20 read as follows:

21 (1) When any practitioner, social worker, psychologist, pharmacist,  
22 employee of a nursing home, employee of an adult family home, employee  
23 of a state hospital, or employee of the department has reasonable cause  
24 to believe that a nursing home, adult family home, or state hospital  
25 patient has suffered abuse or neglect, the person shall report such  
26 incident, or cause a report to be made, to either a law enforcement  
27 agency or to the department as provided in RCW 70.124.040.

28 (2) Any other person who has reasonable cause to believe that a  
29 nursing home, adult family home, or state hospital patient has suffered  
30 abuse or neglect may report such incident to either a law enforcement  
31 agency or to the department as provided in RCW 70.124.040.

32 (3) The department or any law enforcement agency receiving a report  
33 of an incident of abuse or neglect involving a nursing home, adult  
34 family home, or state hospital patient who has died or has had physical  
35 injury or injuries inflicted other than by accidental means or who has  
36 been subjected to sexual abuse shall report the incident to the proper  
37 county prosecutor for appropriate action.

1           **Sec. 15.** RCW 70.124.040 and 1981 c 174 s 4 are each amended to  
2 read as follows:

3           (1) Where a report is (~~deemed warranted~~) required under RCW  
4 70.124.030, an immediate oral report shall be made by telephone or  
5 otherwise to either a law enforcement agency or to the department and,  
6 upon request, shall be followed by a report in writing. The reports  
7 shall contain the following information, if known:

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

9           (b) The name and address of the nursing home, adult family home, or  
10 state hospital patient;

11           (c) The name and address of the patient's relatives having  
12 responsibility for the patient;

13           (d) The nature and extent of the injury or injuries;

14           (e) The nature and extent of the neglect;

15           (f) The nature and extent of the sexual abuse;

16           (g) Any evidence of previous injuries, including their nature and  
17 extent; and

18           (h) Any other information which may be helpful in establishing the  
19 cause of the patient's death, injury, or injuries, and the identity of  
20 the perpetrator or perpetrators.

21           (2) Each law enforcement agency receiving such a report shall, in  
22 addition to taking the action required by RCW 70.124.050, immediately  
23 relay the report to the department, and to other law enforcement  
24 agencies, including the medicaid fraud control unit of the office of  
25 the attorney general, as appropriate. For any report it receives, the  
26 department shall likewise take the required action and in addition  
27 relay the report to the appropriate law enforcement agency or agencies.  
28 The appropriate law enforcement agency or agencies shall receive  
29 immediate notification when the department, upon receipt of such  
30 report, has reasonable cause to believe that a criminal act has been  
31 committed.

32           **Sec. 16.** RCW 70.124.070 and 1979 ex.s. c 228 s 7 are each amended  
33 to read as follows:

34           A person who is required to make or to cause to be made a report  
35 pursuant to RCW 70.124.030 or 70.124.040 and who knowingly fails to  
36 make such report or fails to cause such report to be made is guilty of  
37 a gross misdemeanor.

1           NEW SECTION.   **Sec. 17.**   A new section is added to chapter 70.124  
2 RCW to read as follows:

3           (1) An employee who is a whistleblower and who as a result of being  
4 a whistleblower has been subjected to workplace reprisal or retaliatory  
5 action, has the remedies provided under chapter 49.60 RCW.   RCW  
6 4.24.500 through 4.24.520, providing certain protection to persons who  
7 communicate to government agencies, apply to complaints made under this  
8 section. The identity of a whistleblower who complains, in good faith,  
9 to the department about suspected abuse, negligent treatment, financial  
10 exploitation, or abandonment, as defined in RCW 74.34.020, by any  
11 person in a nursing home, state hospital, or adult family home, may  
12 remain confidential if requested. The identity of the whistleblower  
13 shall subsequently remain confidential unless the department determines  
14 that the complaint was not made in good faith.

15           (2)(a) An attempt to expel a resident from a nursing home, state  
16 hospital, or adult family home, or any type of discriminatory treatment  
17 of a resident by whom, or upon whose behalf, a complaint has been  
18 submitted to the department or any proceeding instituted under or  
19 related to this chapter within one year of the filing of the complaint  
20 or the institution of the action, raises a rebuttable presumption that  
21 the action was in retaliation for the filing of the complaint, if the  
22 department substantiates the complaint.

23           (b) The presumption in (a) of this subsection is rebutted by  
24 credible evidence establishing the alleged retaliatory action was  
25 initiated before the complaint, or by a functional assessment conducted  
26 by the department that shows the resident's physical or mental health  
27 needs cannot be met through reasonable accommodations by the facility.

28           (3) For the purposes of this section:

29           (a) "Whistleblower" means a resident or employee of a nursing home,  
30 state hospital, or adult family home, or any person licensed under  
31 Title 18 RCW, who in good faith reports alleged abuse or neglect to the  
32 department or to a law enforcement agency; and

33           (b) "Workplace reprisal or retaliatory action" means, but is not  
34 limited to, an unwarranted or unsubstantiated: Denial of adequate  
35 staff to perform duties; frequent staff changes; frequent and  
36 undesirable office changes; refusal to assign meaningful work; report  
37 of misconduct under Title 18 RCW; letters of reprimand or  
38 unsatisfactory performance evaluations; demotion; or denial of  
39 employment. It also includes a supervisor or superior encouraging

1 coworkers to behave in a hostile manner toward the whistleblower. The  
2 protections provided to whistleblowers under this chapter shall not  
3 prevent a nursing home, state hospital, or adult family home from: (i)  
4 Terminating, suspending, or disciplining a whistleblower for other  
5 lawful purposes; or (ii) for facilities with fewer than six residents,  
6 reducing the hours of employment or terminating employment as a result  
7 of the demonstrated inability to meet payroll requirements. The  
8 department shall determine if the facility cannot meet payroll in cases  
9 in which a whistleblower has been terminated or had hours of employment  
10 reduced because of the inability of a facility to meet payroll.

11 (4) This section does not prohibit a nursing home, state hospital,  
12 or adult family home from exercising its authority to terminate,  
13 suspend, or discipline an employee who engages in workplace reprisal or  
14 retaliatory action against a whistleblower. The protections provided  
15 to whistleblowers under this chapter shall not prevent a nursing home,  
16 state hospital, or adult family home from terminating, suspending,  
17 reducing the hours of employment, or disciplining a whistleblower for  
18 other lawful purposes.

19 (5) The department shall adopt rules to implement procedures for  
20 filing, investigation, and resolution of whistleblower complaints that  
21 are integrated with complaint procedures under this chapter.

22 (6) The department shall adopt rules designed to discourage  
23 whistleblower complaints made in bad faith or for retaliatory purposes.

24 NEW SECTION. Sec. 18. A new section is added to chapter 74.34 RCW  
25 to read as follows:

26 A person who is required to make or cause to be made a report under  
27 RCW 74.34.030 or 74.34.040 and who knowingly fails to make the report  
28 or fails to cause the report to be made is guilty of a gross  
29 misdemeanor.

30 NEW SECTION. Sec. 19. A new section is added to chapter 74.34 RCW  
31 to read as follows:

32 (1) An employee who is a whistleblower and who as a result of being  
33 a whistleblower has been subjected to workplace reprisal or retaliatory  
34 action, has the remedies provided under chapter 49.60 RCW. RCW  
35 4.24.500 through 4.24.520, providing certain protection to persons who  
36 communicate to government agencies, apply to complaints made under this  
37 section. The identity of a whistleblower who complains, in good faith,

1 to the department about suspected abuse, neglect, exploitation, or  
2 abandonment by any person in a boarding home licensed or required to be  
3 licensed pursuant to chapter 18.20 RCW may remain confidential if  
4 requested. The identity of the whistleblower shall subsequently remain  
5 confidential unless the department determines that the complaint was  
6 not made in good faith.

7 (2)(a) An attempt to expel a resident from a boarding home, or any  
8 type of discriminatory treatment of a resident by whom, or upon whose  
9 behalf, a complaint has been submitted to the department or any  
10 proceeding instituted under or related to this chapter within one year  
11 of the filing of the complaint or the institution of the action, raises  
12 a rebuttable presumption that the action was in retaliation for the  
13 filing of the complaint, if the department substantiates the complaint.

14 (b) The presumption in (a) of this subsection is rebutted by  
15 credible evidence establishing the alleged retaliatory action was  
16 initiated before the complaint, or by a functional assessment conducted  
17 by the department that shows the resident's physical or mental health  
18 needs cannot be met through reasonable accommodations by the facility.

19 (3) For the purposes of this section:

20 (a) "Whistleblower" means a resident or employee of a boarding  
21 home, or any person licensed under Title 18 RCW, who in good faith  
22 reports alleged abuse or neglect to the department or to a law  
23 enforcement agency; and

24 (b) "Workplace reprisal or retaliatory action" means, but is not  
25 limited to, an unwarranted or unsubstantiated: Denial of adequate  
26 staff to perform duties; frequent staff changes; frequent and  
27 undesirable office changes; refusal to assign meaningful work; report  
28 of misconduct under Title 18 RCW; letters of reprimand or  
29 unsatisfactory performance evaluations; demotion; or denial of  
30 employment. It also includes a supervisor or superior encouraging  
31 coworkers to behave in a hostile manner toward the whistleblower. The  
32 protections provided to whistleblowers under this chapter shall not  
33 prevent a boarding home from: (i) Terminating, suspending, reducing  
34 the hours of employment, or disciplining a whistleblower for other  
35 lawful purposes; or (ii) for facilities with fewer than six residents,  
36 reducing the hours of employment or terminating employment as a result  
37 of the demonstrated inability to meet payroll requirements. The  
38 department shall determine if the facility cannot meet payroll in cases



1 in which a whistleblower has been terminated or had hours of employment  
2 reduced because of the inability of a facility to meet payroll.

3 (4) This section does not prohibit a boarding home from exercising  
4 its authority to terminate, suspend, or discipline any employee who  
5 engages in workplace reprisal or retaliatory action against a  
6 whistleblower.

7 (5) The department shall adopt rules to implement procedures for  
8 filing, investigation, and resolution of whistleblower complaints that  
9 are integrated with complaint procedures under this chapter. The  
10 protections provided to whistleblowers under this chapter shall not  
11 prevent a boarding home from terminating, suspending, or disciplining  
12 a whistleblower for other lawful purposes.

13 (6) The department shall adopt rules designed to discourage  
14 whistleblower complaints made in bad faith or for retaliatory purposes.

15 **Sec. 20.** RCW 74.34.020 and 1995 1st sp.s. c 18 s 84 are each  
16 amended to read as follows:

17 Unless the context clearly requires otherwise, the definitions in  
18 this section apply throughout this chapter.

19 (1) "Abandonment" means action or inaction by a person or entity  
20 with a duty of care for a frail elder or a vulnerable adult that leaves  
21 the vulnerable person without the means or ability to obtain necessary  
22 food, clothing, shelter, or health care.

23 (2) "Abuse" means a nonaccidental act of physical or mental  
24 mistreatment or injury, or sexual mistreatment, which harms a person  
25 through action or inaction by another individual.

26 (3) "Consent" means express written consent granted after the  
27 person has been fully informed of the nature of the services to be  
28 offered and that the receipt of services is voluntary.

29 (4) "Department" means the department of social and health  
30 services.

31 (5) "Exploitation" means the illegal or improper use of a frail  
32 elder or vulnerable adult or that person's income or resources,  
33 including trust funds, for another person's profit or advantage.

34 (6) "Neglect" means a pattern of conduct or inaction by a person or  
35 entity with a duty of care for a frail elder or vulnerable adult that  
36 results in the deprivation of care necessary to maintain the vulnerable  
37 person's physical or mental health.

38 (7) "Secretary" means the secretary of social and health services.

1           (8) "Frail elder or vulnerable adult" means a person sixty years of  
2 age or older who has the functional, mental, or physical inability to  
3 care for himself or herself. "Frail elder or vulnerable adult" shall  
4 include persons found incapacitated under chapter 11.88 RCW, or a  
5 person who has a developmental disability under chapter 71A.10 RCW, and  
6 persons admitted to any long-term care facility that is licensed or  
7 required to be licensed under chapter 18.20, 18.51, 72.36, or 70.128  
8 RCW, or persons receiving services from home health, hospice, or home  
9 care agencies licensed or required to be licensed under chapter 70.127  
10 RCW.

11           (9) No frail elder or vulnerable person who relies upon and is  
12 being provided spiritual treatment in lieu of medical treatment in  
13 accordance with the tenets and practices of a well-recognized religious  
14 denomination shall for that reason alone be considered abandoned,  
15 abused, or neglected."

16           Correct the title.

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