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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 (1) A person is guilty of the crime of criminal mistreatment in the
21 third degree if the person is the parent of a child, is a person
22 entrusted with the physical custody of a child or other dependent
23 person, or is a person employed to provide to the child or dependent
24 person the basic necessities of life, and either:

25 (a) With criminal negligence, as defined in RCW 9A.08.010, the
26 person creates an imminent and substantial risk of bodily injury to a
27 child or dependent person by withholding any of the basic necessities
28 of life; or

29 (b) With criminal negligence, as defined in RCW 9A.08.010, the
30 person causes bodily injury to a child or dependent person by
31 withholding any of the basic necessities of life.

32 (2) Criminal mistreatment in the third degree is a gross
33 misdemeanor.

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

1 RCW 9A.42.020, 9A.42.030, and section 6 of this act do not apply to
2 withholding food, water, or curative health care treatments from a
3 terminally ill person who is receiving care under the medical direction
4 of a physician from a licensed home health agency, hospice agency, or
5 hospital providing hospice care.

6 **Sec. 8.** RCW 9A.44.010 and 1994 c 271 s 302 are each amended to
7 read as follows:

8 As used in this chapter:

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

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

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

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

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

26 (4) "Mental incapacity" is that condition existing at the time of
27 the offense which prevents a person from understanding the nature or
28 consequences of the act of sexual intercourse whether that condition is
29 produced by illness, defect, the influence of a substance or from some
30 other cause.

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

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

1 (7) "Consent" means that at the time of the act of sexual
2 intercourse or sexual contact there are actual words or conduct
3 indicating freely given agreement to have sexual intercourse or sexual
4 contact.

5 (8) "Significant relationship" means a situation in which the
6 perpetrator is:

7 (a) A person who undertakes the responsibility, professionally or
8 voluntarily, to provide education, health, welfare, or organized
9 recreational activities principally for minors; ((or))

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

12 (c) A person who provides welfare, health or residential
13 assistance, personal care, or organized recreational activities to
14 frail elders or vulnerable adults, including a provider, employee,
15 temporary employee, volunteer, or independent contractor who supplies
16 services to long-term care facilities licensed or required to be
17 licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and home
18 health, hospice, or home care agencies licensed or required to be
19 licensed under chapter 70.127 RCW.

20 (9) "Abuse of a supervisory position" means a direct or indirect
21 threat or promise to use authority to the detriment or benefit of a
22 minor.

23 (10) "Developmentally disabled," for purposes of RCW
24 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a
25 developmental disability as defined in RCW 71A.10.020.

26 (11) "Person with supervisory authority," for purposes of RCW
27 9A.44.050(1) (c) or (e) and 9A.44.100(1) (c) or (e), means any
28 proprietor or employee of any public or private care or treatment
29 facility who directly supervises developmentally disabled, mentally
30 disordered, or chemically dependent persons at the facility.

31 (12) "Mentally disordered person" for the purposes of RCW
32 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental
33 disorder" as defined in RCW 71.05.020(2).

34 (13) "Chemically dependent person" for purposes of RCW
35 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically
36 dependent" as defined in RCW 70.96A.020(4).

37 (14) "Health care provider" for purposes of RCW 9A.44.050 and
38 9A.44.100 means a person who is, holds himself or herself out to be, or
39 provides services as if he or she were: (a) A member of a health care

1 profession under chapter 18.130 RCW; or (b) registered or certified
2 under chapter 18.19 RCW, regardless of whether the health care provider
3 is licensed, certified, or registered by the state.

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

8 (16) "Frail elder or vulnerable adult" means a person sixty years
9 of age or older who has the functional, mental, or physical inability
10 to care for himself or herself. "Frail elder or vulnerable adult" also
11 includes a person found incapacitated under chapter 11.88 RCW, a person
12 over eighteen years of age who has a developmental disability under
13 chapter 71A.10 RCW, a person admitted to a long-term care facility that
14 is licensed or required to be licensed under chapter 18.20, 18.51,
15 72.36, or 70.128 RCW, and a person receiving services from a home
16 health, hospice, or home care agency licensed or required to be
17 licensed under chapter 70.127 RCW.

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

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

23 (a) By forcible compulsion;

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

26 (c) When the victim is developmentally disabled and the perpetrator
27 is a person who is not married to the victim and who has supervisory
28 authority over the victim;

29 (d) When the perpetrator is a health care provider, the victim is
30 a client or patient, and the sexual intercourse occurs during a
31 treatment session, consultation, interview, or examination. It is an
32 affirmative defense that the defendant must prove by a preponderance of
33 the evidence that the client or patient consented to the sexual
34 intercourse with the knowledge that the sexual intercourse was not for
35 the purpose of treatment; ((or))

36 (e) When the victim is a resident of a facility for mentally
37 disordered or chemically dependent persons and the perpetrator is a

1 person who is not married to the victim and has supervisory authority
2 over the victim; or

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

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

7 **Sec. 10.** RCW 9A.44.100 and 1993 c 477 s 3 are each amended to read
8 as follows:

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

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

13 (b) When the other person is incapable of consent by reason of
14 being mentally defective, mentally incapacitated, or physically
15 helpless;

16 (c) When the victim is developmentally disabled and the perpetrator
17 is a person who is not married to the victim and who has supervisory
18 authority over the victim;

19 (d) When the perpetrator is a health care provider, the victim is
20 a client or patient, and the sexual contact occurs during a treatment
21 session, consultation, interview, or examination. It is an affirmative
22 defense that the defendant must prove by a preponderance of the
23 evidence that the client or patient consented to the sexual contact
24 with the knowledge that the sexual contact was not for the purpose of
25 treatment; ~~((or))~~

26 (e) When the victim is a resident of a facility for mentally
27 disordered or chemically dependent persons and the perpetrator is a
28 person who is not married to the victim and has supervisory authority
29 over the victim; or

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

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

34 **Sec. 11.** RCW 18.130.040 and 1996 c 200 s 32 and 1996 c 81 s 5 are
35 each reenacted and amended to read as follows:

36 (1) This chapter applies only to the secretary and the boards and
37 commissions having jurisdiction in relation to the professions licensed

1 under the chapters specified in this section. This chapter does not
2 apply to any business or profession not licensed under the chapters
3 specified in this section.

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

6 (i) Dispensing opticians licensed under chapter 18.34 RCW;
7 (ii) Naturopaths licensed under chapter 18.36A RCW;
8 (iii) Midwives licensed under chapter 18.50 RCW;
9 (iv) Ocularists licensed under chapter 18.55 RCW;
10 (v) Massage operators and businesses licensed under chapter 18.108
11 RCW;

12 (vi) Dental hygienists licensed under chapter 18.29 RCW;
13 (vii) Acupuncturists licensed under chapter 18.06 RCW;
14 (viii) Radiologic technologists certified and X-ray technicians
15 registered under chapter 18.84 RCW;

16 (ix) Respiratory care practitioners certified under chapter 18.89
17 RCW;

18 (x) Persons registered or certified under chapter 18.19 RCW;
19 (xi) Persons registered as nursing pool operators under chapter
20 18.52C RCW;

21 (xii) Nursing assistants registered or certified under chapter
22 ((18.79)) 18.88A RCW;

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

24 (xiv) Dietitians and nutritionists certified under chapter 18.138
25 RCW;

26 (xv) Sex offender treatment providers certified under chapter
27 18.155 RCW;

28 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
29 18.71.205;

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

32 (xviii) Denturists licensed under chapter 18.30 RCW.

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

35 (i) The podiatric medical board as established in chapter 18.22
36 RCW;

37 (ii) The chiropractic quality assurance commission as established
38 in chapter 18.25 RCW;

1 (iii) The dental quality assurance commission as established in
2 chapter 18.32 RCW;

3 (iv) The board of hearing and speech as established in chapter
4 18.35 RCW;

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

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

9 (vii) The board of osteopathic medicine and surgery as established
10 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
11 18.57A RCW;

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

14 (ix) The medical quality assurance commission as established in
15 chapter 18.71 RCW governing licenses and registrations issued under
16 chapters 18.71 and 18.71A RCW;

17 (x) The board of physical therapy as established in chapter 18.74
18 RCW;

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

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

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

25 (xiv) The veterinary board of governors as established in chapter
26 18.92 RCW.

27 (3) In addition to the authority to discipline license holders, the
28 disciplining authority has the authority to grant or deny licenses
29 based on the conditions and criteria established in this chapter and
30 the chapters specified in subsection (2) of this section. This chapter
31 also governs any investigation, hearing, or proceeding relating to
32 denial of licensure or issuance of a license conditioned on the
33 applicant's compliance with an order entered pursuant to RCW 18.130.160
34 by the disciplining authority.

35 (4) All disciplining authorities shall adopt procedures to ensure
36 substantially consistent application of this chapter, the Uniform
37 Disciplinary Act, among the disciplining authorities listed in
38 subsection (2) of this section.

1 **Sec. 12.** RCW 18.130.200 and 1986 c 259 s 12 are each amended to
2 read as follows:

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

6 **Sec. 13.** RCW 43.43.842 and 1992 c 104 s 1 are each amended to read
7 as follows:

8 (1)~~(a)~~ The secretary of social and health services and the
9 secretary of health shall adopt additional requirements for the
10 licensure or relicensure of agencies ~~((or))~~, facilities ~~((which))~~, and
11 licensed individuals who provide care and treatment to vulnerable
12 adults. These additional requirements shall ensure that any person
13 associated with a licensed agency or facility having direct contact
14 with a vulnerable adult shall not have been: ~~((a))~~ (i) Convicted of
15 a crime against persons as defined in RCW 43.43.830, except as provided
16 in this section; ~~((b))~~ (ii) convicted of crimes relating to financial
17 exploitation as defined in RCW 43.43.830, except as provided in this
18 section; ~~((c))~~ (iii) found in any disciplinary board final decision
19 to have abused a vulnerable adult under RCW 43.43.830; or ~~((d))~~ (iv)
20 the subject in a protective proceeding under chapter 74.34 RCW.

21 (b) A person associated with a licensed agency or facility who has
22 direct contact with a vulnerable adult shall make the disclosures
23 specified in RCW 43.43.834(2). The person shall make the disclosures
24 in writing, sign, and swear to the contents under penalty of perjury.
25 The person shall, in the disclosures, specify all crimes against
26 children or other persons, and all crimes relating to financial
27 exploitation as defined in RCW 43.43.830, committed by the person.

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

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

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

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

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

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

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

14 In consultation with law enforcement personnel, the secretary of
15 social and health services and the secretary of health shall
16 investigate the conviction record and the protection proceeding record
17 information under this chapter ((43.43-RCW)) of each agency or facility
18 and its staff under their respective jurisdictions seeking licensure or
19 relicensure. The individual responding to criminal background inquiry
20 requests by the individual's employer or potential employer shall
21 disclose the information about the individual's criminal history under
22 penalty of perjury. The secretaries shall use the information solely
23 for the purpose of determining eligibility for licensure or
24 relicensure. Criminal justice agencies shall provide the secretaries
25 such information as they may have and that the secretaries may require
26 for such purpose.

27 **Sec. 14.** RCW 70.124.020 and 1996 c 178 s 24 are each amended to
28 read as follows:

29 Unless the context requires otherwise, the definitions in this
30 section apply throughout this chapter.

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

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

34 (3) "Practitioner of the healing arts" or "practitioner" means a
35 person licensed by this state to practice podiatric medicine and
36 surgery, optometry, pharmacy, physical therapy, chiropractic, nursing,
37 dentistry, osteopathic medicine and surgery, or medicine and surgery.
38 The term "practitioner" shall include a nurses aide, a nursing home

1 administrator licensed under chapter 18.52 RCW, and a duly accredited
2 Christian Science practitioner: PROVIDED, HOWEVER, That a nursing home
3 patient who is being furnished Christian Science treatment by a duly
4 accredited Christian Science practitioner shall not be considered, for
5 that reason alone, a neglected patient for the purposes of this
6 chapter.

7 (4) "Department" means the state department of social and health
8 services.

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

10 (6) "Social worker" means anyone engaged in a professional capacity
11 during the regular course of employment in encouraging or promoting the
12 health, welfare, support, or education of nursing home patients, or
13 providing social services to nursing home patients, whether in an
14 individual capacity or as an employee or agent of any public or private
15 organization or institution.

16 (7) "Psychologist" means any person licensed to practice psychology
17 under chapter 18.83 RCW, whether acting in an individual capacity or as
18 an employee or agent of any public or private organization or
19 institution.

20 (8) "Pharmacist" means any registered pharmacist under chapter
21 18.64 RCW, whether acting in an individual capacity or as an employee
22 or agent of any public or private organization or institution.

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

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

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

34 (12) "Adult family home" has the meaning set forth in RCW
35 70.128.010.

36 **Sec. 15.** RCW 70.124.030 and 1981 c 174 s 3 are each amended to
37 read as follows:

1 (1) When any practitioner, social worker, psychologist, pharmacist,
2 employee of a nursing home, employee of an adult family home, employee
3 of a state hospital, or employee of the department has reasonable cause
4 to believe that a nursing home, adult family home, or state hospital
5 patient has suffered abuse or neglect, the person shall report such
6 incident, or cause a report to be made, to either a law enforcement
7 agency or to the department as provided in RCW 70.124.040.

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

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

18 **Sec. 16.** RCW 70.124.040 and 1981 c 174 s 4 are each amended to
19 read as follows:

20 (1) Where a report is (~~deemed warranted~~) required under RCW
21 70.124.030, an immediate oral report shall be made by telephone or
22 otherwise to either a law enforcement agency or to the department and,
23 upon request, shall be followed by a report in writing. The reports
24 shall contain the following information, if known:

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

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

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

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

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

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

33 (g) Any evidence of previous injuries, including their nature and
34 extent; and

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

1 (2) Each law enforcement agency receiving such a report shall, in
2 addition to taking the action required by RCW 70.124.050, immediately
3 relay the report to the department, and to other law enforcement
4 agencies, including the medicaid fraud control unit of the office of
5 the attorney general, as appropriate. For any report it receives, the
6 department shall likewise take the required action and in addition
7 relay the report to the appropriate law enforcement agency or agencies.
8 The appropriate law enforcement agency or agencies shall receive
9 immediate notification when the department, upon receipt of such
10 report, has reasonable cause to believe that a criminal act has been
11 committed.

12 **Sec. 17.** RCW 70.124.070 and 1979 ex.s. c 228 s 7 are each amended
13 to read as follows:

14 A person who is required to make or to cause to be made a report
15 pursuant to RCW 70.124.030 or 70.124.040 and who knowingly fails to
16 make such report or fails to cause such report to be made is guilty of
17 a gross misdemeanor.

18 NEW SECTION. **Sec. 18.** A new section is added to chapter 70.124
19 RCW to read as follows:

20 (1) An employee who is a whistleblower and who as a result of being
21 a whistleblower has been subjected to workplace reprisal or retaliatory
22 action, has the remedies provided under chapter 49.60 RCW. RCW
23 4.24.500 through 4.24.520, providing certain protection to persons who
24 communicate to government agencies, apply to complaints made under this
25 section. The identity of a whistleblower who complains, in good faith,
26 to the department about suspected abuse, neglect, financial
27 exploitation, or abandonment by any person in a nursing home, state
28 hospital, or adult family home, may remain confidential if requested.
29 The identity of the whistleblower shall subsequently remain
30 confidential unless the department determines that the complaint was
31 not made in good faith.

32 (2)(a) An attempt to expel a resident from a nursing home, state
33 hospital, or adult family home, or any type of discriminatory treatment
34 of a resident by whom, or upon whose behalf, a complaint has been
35 submitted to the department or any proceeding instituted under or
36 related to this chapter within one year of the filing of the complaint

1 or the institution of the action, raises a rebuttable presumption that
2 the action was in retaliation for the filing of the complaint.

3 (b) The presumption in (a) of this subsection is rebutted by
4 credible evidence establishing the alleged retaliatory action was
5 initiated before the complaint.

6 (3) For the purposes of this section:

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

11 (b) "Workplace reprisal or retaliatory action" means, but is not
12 limited to, an unwarranted or unsubstantiated: Denial of adequate
13 staff to perform duties; frequent staff changes; frequent and
14 undesirable office changes; refusal to assign meaningful work; report
15 of misconduct under Title 18 RCW; letters of reprimand or
16 unsatisfactory performance evaluations; demotion; or denial of
17 employment. It also includes a supervisor or superior encouraging
18 coworkers to behave in a hostile manner toward the whistleblower. The
19 protections provided to whistleblowers under this chapter shall not
20 prevent a nursing home, state hospital, or adult family home from: (i)
21 Terminating, suspending, or disciplining a whistleblower for other
22 lawful purposes; or (ii) for facilities with fewer than six residents,
23 reducing the hours of employment or terminating employment as a result
24 of the demonstrated inability to meet payroll requirements. The
25 department shall determine if the facility cannot meet payroll in cases
26 in which a whistleblower has been terminated or had hours of employment
27 reduced because of the inability of a facility to meet payroll.

28 (4) This section does not prohibit a nursing home, state hospital,
29 or adult family home from exercising its authority to terminate,
30 suspend, or discipline an employee who engages in workplace reprisal or
31 retaliatory action against a whistleblower. The protections provided
32 to whistleblowers under this chapter shall not prevent a nursing home,
33 state hospital, or adult family home from terminating, suspending, or
34 disciplining a whistleblower for other lawful purposes.

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

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

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

3 A person who is required to make or cause to be made a report under
4 RCW 74.34.030 or 74.34.040 and who knowingly fails to make the report
5 or fails to cause the report to be made is guilty of a gross
6 misdemeanor.

7 NEW SECTION. Sec. 20. A new section is added to chapter 74.34 RCW
8 to read as follows:

9 (1) An employee who is a whistleblower and who as a result of being
10 a whistleblower has been subjected to workplace reprisal or retaliatory
11 action, has the remedies provided under chapter 49.60 RCW. RCW
12 4.24.500 through 4.24.520, providing certain protection to persons who
13 communicate to government agencies, apply to complaints made under this
14 section. The identity of a whistleblower who complains, in good faith,
15 to the department about suspected abuse, neglect, exploitation, or
16 abandonment by any person in a boarding home licensed or required to be
17 licensed pursuant to chapter 18.20 RCW may remain confidential if
18 requested. The identity of the whistleblower shall subsequently remain
19 confidential unless the department determines that the complaint was
20 not made in good faith.

21 (2)(a) An attempt to expel a resident from a boarding home, or any
22 type of discriminatory treatment of a resident by whom, or upon whose
23 behalf, a complaint has been submitted to the department or any
24 proceeding instituted under or related to this chapter within one year
25 of the filing of the complaint or the institution of the action, raises
26 a rebuttable presumption that the action was in retaliation for the
27 filing of the complaint.

28 (b) The presumption in (a) of this subsection is rebutted by
29 credible evidence establishing the alleged retaliatory action was
30 initiated before the complaint.

31 (3) For the purposes of this section:

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

36 (b) "Workplace reprisal or retaliatory action" means, but is not
37 limited to, an unwarranted or unsubstantiated: Denial of adequate
38 staff to perform duties; frequent staff changes; frequent and

1 undesirable office changes; refusal to assign meaningful work; report
2 of misconduct under Title 18 RCW; letters of reprimand or
3 unsatisfactory performance evaluations; demotion; or denial of
4 employment. It also includes a supervisor or superior encouraging
5 coworkers to behave in a hostile manner toward the whistleblower. The
6 protections provided to whistleblowers under this chapter shall not
7 prevent a boarding home from: (i) Terminating, suspending, or
8 disciplining a whistleblower for other lawful purposes; or (ii) for
9 facilities with fewer than six residents, reducing the hours of
10 employment or terminating employment as a result of the demonstrated
11 inability to meet payroll requirements. The department shall determine
12 if the facility cannot meet payroll in cases in which a whistleblower
13 has been terminated or had hours of employment reduced because of the
14 inability of a facility to meet payroll.

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

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. The
22 protections provided to whistleblowers under this chapter shall not
23 prevent a boarding home from terminating, suspending, or disciplining
24 a whistleblower for other lawful purposes.

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

27 **Sec. 21.** RCW 74.34.020 and 1995 1st sp.s. c 18 s 84 are each
28 amended to read as follows:

29 Unless the context clearly requires otherwise, the definitions in
30 this section apply throughout this chapter.

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

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

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

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

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

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

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

14 (8) "Frail elder or vulnerable adult" means a person sixty years of
15 age or older who has the functional, mental, or physical inability to
16 care for himself or herself. "Frail elder or vulnerable adult" shall
17 include persons found incapacitated under chapter 11.88 RCW, or a
18 person who has a developmental disability under chapter 71A.10 RCW, and
19 persons admitted to any long-term care facility that is licensed or
20 required to be licensed under chapter 18.20, 18.51, 72.36, or 70.128
21 RCW, or persons receiving services from home health, hospice, or home
22 care agencies licensed or required to be licensed under chapter 70.127
23 RCW.

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

29 Correct the title.

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