

SENATE BILL REPORT

SSB 5561

As Passed Senate, March 11, 1999

Title: An act relating to protection of vulnerable adults.

Brief Description: Protecting vulnerable adults.

Sponsors: Senate Committee on Health & Long-Term Care (originally sponsored by Senators Thibaudeau, Wojahn, Deccio, Winsley and Kohl-Welles; by request of Department of Social and Health Services).

Brief History:

Committee Activity: Health & Long-Term Care: 2/10/99, 3/1/99 [DPS].
Passed Senate, 3/11/99, 46-0.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5561 be substituted therefor, and the substitute bill do pass.

Signed by Senators Thibaudeau, Chair; Wojahn, Vice Chair; Costa, Franklin and Winsley.

Staff: Rhoda Jones (786-7198)

Background: Adult Protective Services (APS) at the Department of Social and Health Services (DSHS) investigates allegations of abuse, abandonment, exploitation or neglect of vulnerable individuals living in their own homes. Residential Care Services at DSHS provides the same service to vulnerable individuals in facilities licensed by the department.

Currently the department follows three different statutes when investigating abuse. The target client population is described separately in each; as frail elders in 74.34 RCW, as adult dependent and developmentally disabled persons 26.44 RCW, and as patients in state hospitals and nursing homes in 70.124 RCW. Further, there are separate definitions of abuse and neglect, competing and duplicative references to reporting requirements, and inconsistencies in the general procedures used to protect the same populations.

In 1997 the department convened a committee of stakeholders and advocates to consolidate, clarify and strengthen these statutes into one statute, without broadening the current discretion of the department in its investigation of cases of abuse. The committee met over a two-year period to make the statutory provisions for investigating and providing remedies to vulnerable adults more understandable to practitioners and consistent among care settings.

Summary of Bill: The findings and intent related to vulnerable adults are combined from each of the above noted statutes and put under Chapter 74.34 RCW, entitled Abuse of Vulnerable Adults.

All illegal treatment covered under current statutes protecting vulnerable adults are consistently listed as abandonment, abuse, financial exploitation or neglect.

The definition of abuse is itemized to include sexual, mental, and physical abuse, and exploitation. The definition includes a presumption of harm, pain, or mental anguish regardless of mental status of the vulnerable adult.

The term "self-neglect" is taken from WAC.

The term "exploitation" is clarified to be "financial exploitation."

All categories of individuals who are required by law to report abuse, neglect, abandonment or exploitation of vulnerable adults are identified and consolidated, including so-called "permissive reporters" who may be volunteers working in facilities.

All facilities where DSHS provides protective services to vulnerable adults are listed, including homes, nursing homes, adult family homes and boarding homes.

Statutory provisions making failure to report abuse a gross misdemeanor and malicious false reporting a misdemeanor are transferred from elsewhere in statute.

A process for simultaneously reporting suspected criminal activities to law enforcement and the department is identified.

The department is given explicit authority to interview possible victims privately and to talk with persons thought to be familiar with the circumstances surrounding abuse.

The department or law enforcement agencies are required to get consent before photographing a vulnerable adult in his or her environment for the purpose of providing documentation of abuse.

Any vulnerable adult covered under this statute has a legal cause of action for civil penalties on account of his or her injuries, pain, suffering or loss of property caused by a client individual provider.

Confidentiality provisions are added to protect the files developed as a result of an investigation authorized under this chapter.

The department is authorized to conduct a feasibility study to determine the need, use and cost of maintaining an adult abuse registry. The study results are due by November 30, 1999.

Sections transferred from other statutes into 74.34 RCW are each repealed.

Appropriation: None.

Fiscal Note: Requested on January 29, 1999.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This will help make laws related to the abuse of vulnerable adults more consistent and easier to apply.

Testimony Against: None.

Testified: PRO: Kathy Leitch, DSHS; Nick Federici, WACHA; Donna Patrick, DDC; Kari Hyre, LTC Ombudsman; Bruce Reeves, Senior Lobby.