

HOUSE BILL REPORT

ESHB 1904

As Amended by the Senate

Title: An act relating to the reporting of incidents by mandated reporters.

Brief Description: Revising standards for reporting incidents involving harm to vulnerable adults.

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

Brief History:

Committee Activity:

Children & Family Services: 2/26/03, 3/5/03 [DPS].

Floor Activity:

Passed House: 3/18/03, 95-2.

Senate Amended.

Passed Senate: 4/11/03, 49-0.

<p style="text-align: center;">Brief Summary of Engrossed Substitute Bill</p> <ul style="list-style-type: none">· Limits the reporting requirements for mandated reporters of incidents involving vulnerable adults.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Kagi, Chair; Darneille, Vice Chair; Boldt, Ranking Minority Member; Bailey, Dickerson, Miloscia, Pettigrew and Shabro.

Staff: Cynthia Forland (786-7152).

Background:

When there is reasonable cause to believe that abandonment, abuse, financial exploitation, or neglect of a vulnerable adult has occurred, mandated reporters must immediately report to the Department of Social and Health Services (DSHS). If there is reason to suspect that sexual or physical assault has occurred, mandated reporters must immediately report to the appropriate law enforcement agency and to the DSHS.

"Mandated reporter" is defined as an employee of the DSHS; a law enforcement officer; a social worker; professional school personnel; an individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; a county coroner or medical examiner; a Christian Science practitioner; or a health care provider.

"Vulnerable adult" includes a person who:

- Is 60 years of age or older and who has the functional, mental, or physical inability to care for himself or herself;
- Is found incapacitated;
- Has a developmental disability;
- Has been admitted to any facility, including boarding homes, nursing homes, adult family homes, soldiers' homes, and residential habilitation centers;
- Is receiving services from a licensed home health, hospice, or home care agency; or
- Is receiving services from an individual provider under contract with the DSHS to provide services in the home.

Summary of Engrossed Substitute Bill:

A mandated reporter is not required to report to a law enforcement agency an incident that occurs between vulnerable adults, unless the incident results in harm or the injured vulnerable adult or his or her legal representative or interested family member requests that the mandated reporter report the incident.

If a report is requested, the mandated reporter must report the incident in accordance with the reporting requirements provided in current statute.

"Harm" is defined as contact between two or more vulnerable adults that results in any of the following:

- An injury that is more than superficial and requires frequent assessment or monitoring by a licensed health care professional; or
- A fracture, burn, deep bruise, or laceration requiring sutures.

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

The definition of facility— provided in current law is expanded to include, in addition to the specified facilities, not only any other facility licensed by the DSHS but also any other facility regulated by the DSHS.

EFFECT OF SENATE AMENDMENT(S):

The limitation provided on reporting requirements for mandated reporters of incidents involving vulnerable adults is changed as follows:

- It is provided that when there is reason to suspect that physical assault has occurred or there is reasonable cause to believe that an act has caused fear of imminent harm:

- Mandated reporters must immediately report to the DSHS; and

- Mandated reporters must immediately report to the appropriate law enforcement agency, unless the provided exclusions apply.

- It is provided that a mandated reporter is not required to report to a law enforcement agency an incident of physical assault, rather than any incident, between vulnerable adults that causes minor bodily injury and does not require more than basic first aid, unless:

- The injury appears on the back, face, head, neck, chest, breasts, groin, inner thigh, buttock, genital, or anal area;

- There is a fracture;

- There is a pattern of physical assault between the same vulnerable adults or involving the same vulnerable adults; or

- There is an attempt to choke a vulnerable adult.

This language replaces language providing that a mandated reporter is not required to report unless the incident results in harm, which is defined as contact between two or more vulnerable adults that results in any of the following:

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

- A fracture, burn, deep bruise, or laceration requiring sutures.

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

- It is no longer specified that if an injured vulnerable adult or his or her legal representative or interested family member requests a report, the mandated reporter must report the incident in accordance with the reporting requirements provided in current statute.

The expansion of the definition of "facility" provided in current statute to include any other facility licensed or regulated by the DSHS is removed. A technical correction is made to the definition of "neglect" provided in current statute.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: (In support) Under current reporting requirements, minor incidents must be reported. By eliminating some of those reports, the police and other agencies will save money. The current reporting requirements lead to anxiety and hostility within the neighborhoods surrounding provider facilities. Minor incidents must be reported that

providers are accustomed to handling. Local police are becoming frustrated with frequent calls. In some instances police involvement does not help the situation, especially in those situations that result in arrests.

(With concerns) The language referring to mental, emotional, or physical suffering in the definition of harm should be removed, and language referring to a fear of imminent harm should be added. The bill should not be changed to reduce reporting to the DSHS.

Testimony Against: The effort is worthwhile and should be supported, but the effect of this bill would be an expansion of reporting requirements. The language referring to mental and emotional suffering in the definition of harm should be removed. The DSHS should be granted rulemaking authority for exclusions from reporting requirements to the DSHS. The current reporting system is burdensome to providers and to the DSHS. The current requirements result in multiple reports of a single incident, which gives the appearance of excessive abuse and neglect and has an impact on providers' liability insurance premiums. The threshold for harm in the bill is too high. There is no mention of intention, willfulness, or capacity within the definition of harm. In addition, the terms "incident," "mental," and "emotional" are not defined in the bill.

Testified: Representative O'Brien, prime sponsor; Cara Lee Cook, Community Residential Services Association; Karina Briscoe, Service Alternatives; and Mike Sink, Seattle Specialized Residential Support.

(With concerns) Phil Jordan, Washington Protection and Advocacy System.

(Opposed) Deb Murphy, Washington Health Care Association; and Penny Black, Department of Social and Health Services.