
HOUSE BILL 1904

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58th Legislature

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By Representatives O'Brien, Boldt, Kagi, Roach and Miloscia

Read first time 02/13/2003. Referred to Committee on Children & Family Services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (d) Admitted to any facility; or

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

14 (f) Receiving services from an individual provider.

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

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

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

21 (c) Significant mental, emotional, or physical suffering. Harm
22 includes the following: Sexual assault or suspected sexual assault; a
23 pattern of or repeated assault either between the same vulnerable
24 adults or involving the same vulnerable adult; and an attempt to choke
25 another person.

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

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

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

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

36 (2) Permissive reporters may report to the department or a law

1 enforcement agency when there is reasonable cause to believe that a
2 vulnerable adult is being or has been abandoned, abused, financially
3 exploited, or neglected.

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

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

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

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

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

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

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

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

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

24 (5) Unless there is a judicial proceeding or the person consents,
25 the identity of the person making the report under this section is
26 confidential.

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

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

1 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 immediately.

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