

ESHB 2895 - S COMM AMD

By Committee on Human Services & Corrections

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 74.34.020 and 2003 c 230 s 1 are each amended to read
4 as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

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

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

19 (a) "Sexual abuse" means any form of nonconsensual sexual contact,
20 including but not limited to unwanted or inappropriate touching, rape,
21 sodomy, sexual coercion, sexually explicit photographing, and sexual
22 harassment. Sexual abuse includes any sexual contact between a staff
23 person, who is not also a resident or client, of a facility or a staff
24 person of a program authorized under chapter 71A.12 RCW, and a
25 vulnerable adult living in that facility or receiving service from a
26 program authorized under chapter 71A.12 RCW, whether or not it is
27 consensual.

28 (b) "Physical abuse" means the willful action of inflicting bodily
29 injury or physical mistreatment. Physical abuse includes, but is not
30 limited to, striking with or without an object, slapping, pinching,

1 choking, kicking, shoving, prodding, or the use of chemical restraints
2 or physical restraints unless the restraints are consistent with
3 licensing requirements, and includes restraints that are otherwise
4 being used inappropriately.

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

10 (d) "Exploitation" means an act of forcing, compelling, or exerting
11 undue influence over a vulnerable adult causing the vulnerable adult to
12 act in a way that is inconsistent with relevant past behavior, or
13 causing the vulnerable adult to perform services for the benefit of
14 another.

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

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

21 (5) "Facility" means a residence licensed or required to be
22 licensed under chapter 18.20 RCW, boarding homes; chapter 18.51 RCW,
23 nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36
24 RCW, soldiers' homes; or chapter 71A.20 RCW, residential habilitation
25 centers; or any other facility licensed by the department.

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

29 (7) "Individual provider" means a person under contract with the
30 department to provide services in the home under chapter 74.09 or
31 74.39A RCW.

32 (8) "Mandated reporter" is an employee of the department; law
33 enforcement officer; social worker; professional school personnel;
34 individual provider; an employee of a facility; an operator of a
35 facility; an employee of a social service, welfare, mental health,
36 adult day health, adult day care, home health, home care, or hospice
37 agency; county coroner or medical examiner; Christian Science
38 practitioner; or health care provider subject to chapter 18.130 RCW.

1 (9) "Neglect" means (a) a pattern of conduct or inaction by a
2 person or entity with a duty of care that fails to provide the goods
3 and services that maintain physical or mental health of a vulnerable
4 adult, or that fails to avoid or prevent physical or mental harm or
5 pain to a vulnerable adult, including but not limited to conduct
6 prohibited under RCW 9A.42.100; or (b) an act or omission that
7 demonstrates a serious disregard of consequences of such a magnitude as
8 to constitute a clear and present danger to the vulnerable adult's
9 health, welfare, or safety.

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

13 (11) "Protective services" means any services provided by the
14 department to a vulnerable adult with the consent of the vulnerable
15 adult, or the legal representative of the vulnerable adult, who has
16 been abandoned, abused, financially exploited, neglected, or in a state
17 of self-neglect. These services may include, but are not limited to
18 case management, social casework, home care, placement, arranging for
19 medical evaluations, psychological evaluations, day care, or referral
20 for legal assistance.

21 (12) "Self-neglect" means the failure of a vulnerable adult, not
22 living in a facility, to provide for himself or herself the goods and
23 services necessary for the vulnerable adult's physical or mental
24 health, and the absence of which impairs or threatens the vulnerable
25 adult's well-being. This definition may include a vulnerable adult who
26 is receiving services through home health, hospice, or a home care
27 agency, or an individual provider when the neglect is not a result of
28 inaction by that agency or individual provider.

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

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

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

33 (c) Who has a developmental disability as defined under RCW
34 71A.10.020; or

35 (d) Admitted to any facility; or

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

38 or

1 (f) Receiving services from an individual provider."

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2 On page 1, line 2 of the title, after "manufacturing;" strike the
3 remainder of the title and insert "and amending RCW 74.34.020."

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