
SUBSTITUTE HOUSE BILL 2895

State of Washington

59th Legislature

2006 Regular Session

By House Committee on Children & Family Services (originally sponsored by Representatives Lovick, Curtis, Ericks, O'Brien, Dunshee, Kessler, Blake, Clibborn, McCoy, Miloscia, Ahern, Roberts, McDermott, Hunt, McDonald, Williams, Haler, McCune, Kenney, Morrell, Wallace, Kilmer, Green, Springer, Ormsby and Woods)

READ FIRST TIME 02/03/06.

1 AN ACT Relating to protecting vulnerable adults from exposure to
2 methamphetamine manufacturing; and amending RCW 74.34.020.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (9) "Neglect" means (a) a pattern of conduct or inaction by a
15 person or entity with a duty of care that fails to provide the goods
16 and services that maintain physical or mental health of a vulnerable
17 adult, or that fails to avoid or prevent physical or mental harm or
18 pain to a vulnerable adult; ~~((e))~~ (b) an act or omission that
19 demonstrates a serious disregard of consequences of such a magnitude as
20 to constitute a clear and present danger to the vulnerable adult's
21 health, welfare, or safety; or (c) knowingly or intentionally
22 permitting a vulnerable adult to be exposed to, ingest, inhale, or have
23 contact with methamphetamine, including its salts, isomers, and salts
24 of isomers, or with any of the following substances being used in the
25 manufacture of methamphetamine: (i) Ephedrine; (ii) pseudoephedrine;
26 or (iii) anhydrous ammonia, including their salts, isomers, and salts
27 of isomers.

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

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

1 (12) "Self-neglect" means the failure of a vulnerable adult, not
2 living in a facility, to provide for himself or herself the goods and
3 services necessary for the vulnerable adult's physical or mental
4 health, and the absence of which impairs or threatens the vulnerable
5 adult's well-being. This definition may include a vulnerable adult who
6 is receiving services through home health, hospice, or a home care
7 agency, or an individual provider when the neglect is not a result of
8 inaction by that agency or individual provider.

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

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

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

13 (c) Who has a developmental disability as defined under RCW
14 71A.10.020; or

15 (d) Admitted to any facility; or

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

19 (f) Receiving services from an individual provider.

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