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**SUBSTITUTE SENATE BILL 6202**

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**State of Washington**

**61st Legislature**

**2010 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Hargrove, Holmquist, Franklin, Honeyford, McCaslin, Regala, Morton, Keiser, Delvin, Swecker, Rockefeller, Tom, Kline, McAuliffe, and Kilmer; by request of Attorney General)

READ FIRST TIME 02/05/10.

1       AN ACT Relating to vulnerable adults; amending RCW 30.22.210 and  
2       74.34.035; and adding a new section to chapter 74.34 RCW.

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

4       **Sec. 1.** RCW 30.22.210 and 1981 c 192 s 21 are each amended to read  
5       as follows:

6       (1) Nothing contained in this chapter shall be deemed to require  
7       any financial institution to make any payment from an account to a  
8       depositor, or any trust or P.O.D. account beneficiary, or any other  
9       person claiming an interest in any funds deposited in the account, if  
10      the financial institution has actual knowledge of the existence of a  
11      dispute between the depositors, beneficiaries, or other persons  
12      concerning their respective rights of ownerships to the funds contained  
13      in, or proposed to be withdrawn, or previously withdrawn from the  
14      account, or in the event the financial institution is otherwise  
15      uncertain as to who is entitled to the funds pursuant to the contract  
16      of deposit. In any such case, the financial institution may, without  
17      liability, notify, in writing, all depositors, beneficiaries, or other  
18      persons claiming an interest in the account of either its uncertainty  
19      as to who is entitled to the distributions or the existence of any

1 dispute, and may also, without liability, refuse to disburse any funds  
2 contained in the account to any depositor, and/or trust or P.O.D.  
3 account beneficiary thereof, and/or other persons claiming an interest  
4 therein, until such time as either:

5 ~~((1))~~ (a) All such depositors and/or beneficiaries have  
6 consented, in writing, to the requested payment; or

7 ~~((2))~~ (b) The payment is authorized or directed by a court of  
8 proper jurisdiction.

9 (2) Except as provided in subsection (1) of this section, if a  
10 financial institution reasonably believes that financial exploitation  
11 of a vulnerable adult, as defined in RCW 74.34.020, has occurred, has  
12 been attempted, or is being attempted, the financial institution may,  
13 but is not required to, refuse a transaction requiring disbursement of  
14 funds contained in the account of the vulnerable adult, an account on  
15 which the vulnerable adult is a beneficiary, including a trust or  
16 guardianship account, or an account of a person suspected of  
17 perpetrating financial exploitation of a vulnerable adult pending an  
18 investigation by the financial institution, the department of social  
19 and health services, or law enforcement. A financial institution may  
20 refuse to disburse funds under this subsection if the department of  
21 social and health services, law enforcement, or the prosecuting  
22 attorney's office, or a professional guardian as defined in RCW  
23 11.88.008 appointed by the court for the vulnerable adult, if any,  
24 provides information to the financial institution demonstrating that it  
25 is reasonable to believe that exploitation of a vulnerable adult, as  
26 defined in RCW 74.34.020, has occurred, has been attempted, or is being  
27 attempted.

28 (a) A financial institution is not required to refuse to disburse  
29 funds when provided with information alleging that financial  
30 exploitation has occurred, has been attempted, or is being attempted,  
31 but may determine whether to do so based on the information it has and  
32 within its discretion. A financial institution and its employees are  
33 immune from criminal, civil, and administrative liability for its good  
34 faith determination of whether or not to refuse to disburse funds based  
35 on information that financial exploitation of a vulnerable adult has  
36 occurred, has been attempted, or is being attempted, and for its  
37 actions taken in furtherance of such determination.

1       (b) A financial institution that refuses to disburse funds based  
2 upon a reasonable belief that financial exploitation of a vulnerable  
3 adult has occurred, has been attempted, or is being attempted, will  
4 notify all depositors, beneficiaries, or other persons claiming an  
5 interest therein for whom contact information is available to the  
6 institution, and any guardian appointed under chapter 11.88 RCW for the  
7 vulnerable adult, orally or in writing and shall report the incident to  
8 the adult protective services division of the department of social and  
9 health services and local law enforcement. Any refusal to disburse  
10 funds as authorized by this section based on a financial institution's  
11 reason to believe that financial exploitation has occurred, has been  
12 attempted, or is being attempted will expire upon the sooner of:

13       (i) Five business days after the date on which the financial  
14 institution first refused to disburse the funds, unless sooner  
15 terminated by an order of a court of competent jurisdiction; or

16       (ii) At the time that the financial institution is satisfied, that  
17 the disbursement will not result in financial exploitation.

18       (c) A court of competent jurisdiction may enter an order extending  
19 a financial institution's refusal to disburse funds based on reason to  
20 believe that financial exploitation has occurred, has been attempted,  
21 or is being attempted and/or order other protective relief as  
22 necessary, as authorized by RCW 7.40.010 or 74.34.130.

23       **Sec. 2.** RCW 74.34.035 and 2003 c 230 s 2 are each amended to read  
24 as follows:

25       (1) When there is reasonable cause to believe that abandonment,  
26 abuse, financial exploitation, or neglect of a vulnerable adult has  
27 occurred, mandated reporters shall immediately report to the  
28 department.

29       (2) When there is reason to suspect that sexual assault has  
30 occurred, mandated reporters shall immediately report to the  
31 appropriate law enforcement agency and to the department.

32       (3) When there is reason to suspect that physical assault has  
33 occurred or there is reasonable cause to believe that an act has caused  
34 fear of imminent harm:

35       (a) Mandated reporters shall immediately report to the department;  
36 and

1 (b) Mandated reporters shall immediately report to the appropriate  
2 law enforcement agency, except as provided in subsection (4) of this  
3 section.

4 (4) A mandated reporter is not required to report to a law  
5 enforcement agency, unless requested by the injured vulnerable adult or  
6 his or her legal representative or family member, an incident of  
7 physical assault between vulnerable adults that causes minor bodily  
8 injury and does not require more than basic first aid, unless:

9 (a) The injury appears on the back, face, head, neck, chest,  
10 breasts, groin, inner thigh, buttock, genital, or anal area;

11 (b) There is a fracture;

12 (c) There is a pattern of physical assault between the same  
13 vulnerable adults or involving the same vulnerable adults; or

14 (d) There is an attempt to choke a vulnerable adult.

15 (5) Mandated reporters shall report the death of a vulnerable adult  
16 to the medical examiner or coroner having jurisdiction pursuant to RCW  
17 68.50.020 in the most expeditious manner possible, when the  
18 circumstances indicate that death was caused by, or suspected to be  
19 caused by, abuse, neglect, or abandonment by another person. The  
20 mandated reporter shall also report the death, in the most expeditious  
21 manner possible, to the law enforcement agency having jurisdiction and  
22 to the department. A mandated reporter is not relieved from the  
23 reporting requirement provisions of this section by the existence of a  
24 previously signed death certificate. The death of a vulnerable adult,  
25 where abuse, neglect, or abandonment caused or contributed to the  
26 death, is a death caused by unnatural or unlawful means and the body  
27 shall be the jurisdiction of the coroner or medical examiner pursuant  
28 to RCW 68.50.010.

29 (6) Permissive reporters may report to the department or a law  
30 enforcement agency when there is reasonable cause to believe that a  
31 vulnerable adult is being or has been abandoned, abused, financially  
32 exploited, or neglected.

33 ((+6+)) (7) No facility, as defined by this chapter, agency  
34 licensed or required to be licensed under chapter 70.127 RCW, or  
35 facility or agency under contract with the department to provide care  
36 for vulnerable adults may develop policies or procedures that interfere  
37 with the reporting requirements of this chapter.

1       (~~(7)~~) (8) Each report, oral or written, must contain as much as  
2 possible of the following information:

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

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

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

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

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

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

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

16       (~~(8)~~) (9) Unless there is a judicial proceeding or the person  
17 consents, the identity of the person making the report under this  
18 section is confidential.

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

21       (1) A financial institution, as defined in RCW 30.22.040 and  
22 30.22.041, must ensure that existing employees who have contact with  
23 customers and account information on a regular basis and as part of  
24 their job receive training concerning the financial exploitation of  
25 vulnerable adults within one year of the effective date of this  
26 section, and must thereafter provide the training to any new employees  
27 who have contact with account information as part of their new employee  
28 orientation. The training must include recognition of indicators of  
29 financial exploitation, how employees may report suspected financial  
30 exploitation to the department and to law enforcement as permissive  
31 reporters, and what steps employees may take to prevent suspected  
32 financial exploitation, consistent with the employing institution's  
33 agreement with customers, or as otherwise authorized by law. The  
34 attorney general's office and the department will develop a  
35 standardized training that financial institutions may offer, or the  
36 financial institution may develop its own training.

1           (2) Financial institutions may provide access to or copies of  
2 records which are relevant to suspected financial exploitation or  
3 attempted financial exploitation of a vulnerable adult to the  
4 department, law enforcement, or the prosecuting attorney's office,  
5 either as part of a referral to the department, law enforcement, or  
6 prosecuting attorney's office, or upon request of the department, law  
7 enforcement, or prosecuting attorney's office as part of an  
8 investigation. The records may include those relating to the most  
9 recent transaction or transactions which may comprise financial  
10 exploitation, as well as historical records.

11           (3) No criminal, civil, or administrative liability shall attach to  
12 any financial institution or its employees for conduct relating to the  
13 reporting or prevention of financial exploitation or in providing  
14 access to or copies of records to the department, law enforcement, or  
15 prosecuting attorney's office as provided in this chapter.

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