

FINAL BILL REPORT

SSB 5042

C 170 L 11
Synopsis as Enacted

Brief Description: Concerning the protection of vulnerable adults.

Sponsors: Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Pflug, Chase, Kohl-Welles, Conway, Roach, Shin and McAuliffe; by request of Department of Social and Health Services).

Senate Committee on Health & Long-Term Care
House Committee on Judiciary

Background: Under current state law, the Department of Social and Health Services (department) has a duty to investigate allegations of abuse, abandonment, neglect, self-neglect, and financial exploitation of vulnerable adults. Within the department, Adult Protective Services (APS) handles cases where victims reside in their own home, and in facilities where there is an allegation of mistreatment by someone outside the facility. APS staff in six regions statewide, receive and investigate allegations of abuse and neglect, prioritizing action based on potential immediate harm to the alleged victim. The Residential Care Services (RCS) division handles cases when the victim resides in a long-term care facility licensed by the department.

In recent years, allegations of financial exploitation against vulnerable adults have increased substantially, according to the department. These allegations could include a wide variety of activities such as cashing an elderly person's checks without permission or forging signatures, stealing money or belongings, coercing a senior into signing an unfavorable will, or misusing legally obtained guardianships or powers of attorney.

There is concern that state law does not adequately clarify what constitutes financial exploitation and this results in difficulty prosecuting the offense. According to the National Center on Elder Abuse, this is the fastest growing area of abuse, and only a fraction of these cases are prosecuted.

Currently, APS and RCS initiate investigations on tribal lands when asked by tribes to do so. Once the investigations have been conducted, the cases are turned over to the tribal enforcement community to complete.

Summary: Financial exploitation is expanded to include the use of deception, intimidation, or undue influence by a person or entity who is trusted by the vulnerable adult, and using the

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property, income, resources, or trust funds to benefit someone other than the vulnerable adult. Financial exploitation is the breach of fiduciary duty that results in unauthorized appropriation, sale, or transfer of property, income, resources or trust funds to benefit some person other than the vulnerable adult. It is also obtaining or using the vulnerable adult's property, income, resources, or trust funds without lawful authority by someone who knows or should know that the vulnerable adult lacks the capacity to consent.

Property is further defined as interest in real or personal property income, credit, identity, or resources that are held for the benefit of a vulnerable adult by a fiduciary or representative of the vulnerable adult, including trust accounts, conservatorships, guardianships or other accounts.

Language is added requiring that the department provide an alleged victim of abuse or the victim's guardian with a written statement of the victim's rights afforded under RCW 74.34 at the time when an investigation begins.

The department's adult protective services division may enter into agreements with federally recognized tribes to investigate reports of abandonment, abuse, financial exploitation, neglect or self-neglect of vulnerable adults on property over which a federally recognized tribe has exclusive jurisdiction. After the tribe assumes jurisdiction, the department is not liable for any action or inaction of the tribe, for any harm to the alleged victim, to the person to whom the allegations were made, or to other parties.

Votes on Final Passage:

Senate	49	0	
House	95	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 22, 2011.