

SENATE BILL REPORT

SB 5510

As Amended by House, April 25, 2013

Title: An act relating to abuse of vulnerable adults.

Brief Description: Concerning the abuse of vulnerable adults.

Sponsors: Senators Becker, Keiser, Kohl-Welles, McAuliffe and Conway; by request of Department of Social and Health Services.

Brief History:

Committee Activity: Health Care: 2/11/13, 2/19/13 [DP].

Passed Senate: 3/12/13, 48-0.

Passed House: 4/15/13, 95-2; 4/25/13, 98-0.

SENATE COMMITTEE ON HEALTH CARE

Majority Report: Do pass.

Signed by Senators Becker, Chair; Dammeier, Vice Chair; Keiser, Ranking Member; Bailey, Cleveland, Ericksen, Frockt, Parlette and Schlicher.

Staff: Kathleen Buchli (786-7488)

Background: The term vulnerable adult includes a person who: is 60 years of age or older and who has a functional, mental, or physical inability to care for himself or herself; has been found to be incapacitated; who has a developmental disability; has been admitted to a facility licensed or certified by the Department of Social and Health Services (DSHS); receives services from home health, hospice, or home care agencies; receives services from an individual provider; or self-directs his or her own care and receives services from a personal aide.

Mandated reporters must immediately report suspected abandonment, abuse, financial exploitation, or neglect of a vulnerable adult to DSHS. Mandated reporters include the following: DSHS employees; law enforcement officers; social workers; professional school personnel; individual providers; employees of social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agencies; county coroners or medical examiners; Christian Science practitioners; and health care providers. The term neglect includes an act or omission that constitutes a clear and present danger to the health, welfare, or safety of the vulnerable adult.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

DSHS must investigate allegations of abuse, abandonment, neglect, self-neglect, and financial exploitation of vulnerable adults. Reports of abandonment, abuse, financial exploitation, or neglect of a vulnerable adult are confidential and not subject to disclosure.

Summary of Bill: The definition of neglect is modified to clarify that the act or omission that demonstrates a clear and present danger to a vulnerable adult must be an act or omission of a person with a duty of care to the vulnerable adult.

In conducting an investigation of abandonment, abuse, financial exploitation, self-neglect, or neglect of a vulnerable adult, DSHS or law enforcement must have access to all relevant records related to the vulnerable adult that are in possession of the mandated reporters and their employees. However, records maintained by professional review boards and quality improvement committees are not subject to disclosure. Providing access to required records is not considered a violation of any confidential communication privilege.

DSHS, the Certified Professional Guardian Board, and the Office of Public Guardianship may share information contained in reports and investigations of abuse, abandonment, neglect, self-neglect, and financial exploitation of vulnerable adults. This information must be used for recruiting guardians and for monitoring or disciplining certified professional or public guardians. These reports remain confidential and may not be subject to further disclosure.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The revisions will clarify language and remove barriers to investigators. The changes are consistent with the Child Protective Services statute. Guardians are professionals who provide protection for vulnerable adults from abuse, neglect, and exploitation. Allegations of abuse must be investigated and this bill will prevent potential abusers from entering the system. There are strong due process procedures in place to protect people who are accused of abuse or neglect.

OTHER: We would like to see a change to the bill that addresses the phrase relevant records. This phrase should permit the disclosure of peer-reviewed records or those records of a quality assurance committee. In the guardianship provisions the duties are permissive; these should be mandatory.

Persons Testifying: PRO: Bea Rector, DSHS, Aging and Disability Administration; Nancy Dapper, Certified Professional Guardian Board.

OTHER: Joe Maxwell, Lisa Thatcher, WA State Hospital Assn.

House Amendment(s): Records maintained by professional review boards and quality improvement committees or programs are not subject to disclosure during an investigation.