

# HOUSE BILL REPORT

## SSB 5600

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**As Passed House - Amended:**  
April 13, 2015

**Title:** An act relating to modifying certain definitions concerning vulnerable adults, including the definitions of abuse and sexual abuse.

**Brief Description:** Modifying certain definitions concerning the abuse of vulnerable adults.

**Sponsors:** Senate Committee on Human Services, Mental Health & Housing (originally sponsored by Senators Dammeier, Keiser, Darneille and Kohl-Welles; by request of Department of Social and Health Services).

**Brief History:**

**Committee Activity:**

Judiciary: 3/19/15, 3/26/15 [DPA].

**Floor Activity:**

Passed House - Amended: 4/13/15, 97-0.

**Brief Summary of Substitute Bill  
(As Amended by House)**

- Makes changes to the definitions of terms regarding the abuse of vulnerable adults.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass as amended. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall, Stokesbary and Walkinshaw.

**Staff:** Omeara Harrington (786-7136).

**Background:**

The Department of Social and Health Services (DSHS) investigates allegations of abandonment, abuse, financial exploitation, self-neglect, and neglect of vulnerable adults.

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*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.*

The statutes regarding vulnerable adults require certain persons to report suspected incidents of mistreatment to the DSHS, and, in some cases, to law enforcement. Individuals found to have abused a vulnerable adult are prohibited from being employed in the care of vulnerable adults. In addition, a vulnerable adult, interested person on behalf of a vulnerable adult, or the DSHS may file a petition for an order for protection of a vulnerable adult who has been abandoned, abused, financially exploited, or neglected, or is threatened with such.

A vulnerable adult includes a person who:

- is 60 years of age or older and has the functional, mental, or physical inability to care for himself or herself;
- is found to be incapacitated (meaning the individual is at a significant risk of personal harm based upon a demonstrated inability to adequately care for himself or herself);
- has a developmental disability as defined in statute;
- is admitted to a facility;
- is receiving services from a home health, hospice, or home care agency, or an individual provider; or
- self-directs his or her own care but receives services from a personal aide.

"Abuse," as it pertains to mistreatment of vulnerable adults, is defined as willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation:

- Sexual abuse refers to nonconsensual sexual contact, or sexual contact between a vulnerable adult and a facility staff person.
- Physical abuse is the willful infliction of bodily injury or physical mistreatment, and may include the use of physical or chemical restraints in a manner that is inappropriate or inconsistent with licensing requirements.
- Mental abuse is any willful action or inaction of mental or verbal abuse, including but not limited to: coercion, harassment, inappropriate isolation from friends, family, or regular activity, and verbal assault that includes ridicule, intimidation, yelling, or swearing.
- Exploitation is an act of forcing, compelling, or exerting undue influence over a vulnerable adult, causing that vulnerable adult to act inconsistently with relevant past behavior or causing the vulnerable adult to perform services for the benefit of another.

### **Summary of Amended Bill:**

Several changes are made to the definitions of terms concerning abuse of vulnerable adults.

#### *Improper Use of Restraint.*

Abuse includes the improper use of restraint against a vulnerable adult, meaning the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline in manner that is: (1) inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or state developmental disabilities programs; (2) is not medically authorized; or (3) otherwise constitutes abuse.

- Chemical restraint is defined as the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable

- adult or others, restricts the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.
- Physical restraint is defined as the application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. Physical restraint does not include briefly holding without undue force in order to calm or comfort, or holding a hand for safe escort from one area to another.
  - Mechanical restraint means any device attached or adjacent to the vulnerable adult's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. Mechanical restraint does not include the use of devices, materials, or equipment that are medically authorized and used consistently with facility, hospital, or state developmental disabilities program licensing or certification requirements.

*Sexual Abuse.*

Sexual abuse includes nonconsensual sexual conduct, or sexual conduct between a vulnerable adult and a facility staff person, rather than sexual contact.

*Mental Abuse.*

Mental abuse is a willful verbal or nonverbal action (rather than a willful action or inaction of mental or verbal abuse) that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, yelling or swearing.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill arose from the Joint Legislative Executive Committee on Aging and Disability (Committee). This bill is a small but important update to the law relating to vulnerable adults, and matches a bill the committee has already seen. There are slight language changes that do not change the intent or substance of the bill. This improper restraint provisions in the bill will not impact silver alert because things like delayed egress, door alarms, and similar measures are permitted under licensing requirements and would not fall under those definitions. Another bill that the Committee discussed regarding criminal mistreatment, House Bill 1499, would fit under the title of this bill and should be considered as an addition.

Some of the changes are bothersome. Specifically, the lines that are struck on page 2, lines 19 and 20 should be reinstated.

(Opposed) None.

**Persons Testifying:** Senator Dammeier, prime sponsor; Jacqueline Sorgeh, King County Democrats Committee on Disability; Bea Rector, Department of Social and Health Services; and David Lord, Disability Rights Washington.

**Persons Signed In To Testify But Not Testifying:** None.