

SENATE BILL REPORT

SB 5600

As of January 30, 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: Senators Dammeier, Keiser, Darneille and Kohl-Welles; by request of Department of Social and Health Services.

Brief History:

Committee Activity: Human Services, Mental Health & Housing: 2/02/15.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Staff: Lindsay Erickson (786-7465)

Background: The Abuse of Vulnerable Adults Act (Act) authorizes the Department of Social and Health Services (DSHS) and law enforcement agencies to investigate complaints of abandonment, abuse, financial exploitation, neglect, or self-neglect of vulnerable adults. The Act requires mandatory reporting and investigations. It also allows vulnerable adults to seek protection orders or file civil suits for damages resulting from abandonment, abuse, exploitation, or neglect.

A vulnerable adult includes a person who:

- is 60 years of age or older who has the functional, mental, or physical inability to care for himself or herself;
- is found to be incapacitated;
- has a developmental disability;
- has been admitted to any facility such as an assisted living facility, nursing home, adult family home, soldiers' home, or residential rehabilitation center;
- receives services from home health, hospice, or home care agencies;
- receives services from an individual provider; or
- who self-directs their own care and receives services from a person aide.

Summary of Bill: The definition of abuse includes personal or financial exploitation of a vulnerable adult. Abuse also includes improper use of restraint against a vulnerable adult, which means the inappropriate use of chemical, physical, or mechanical restraints for

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convenience or discipline or in a manner that: (1) is inconsistent with facility licensing or certification requirements; (2) is not medically authorized; or (3) otherwise constitutes abuse under this section.

Chemical restraint means the administration of any drug to manage a resident's or client's behavior in a way that reduces the safety risk to the resident or others, has the temporary effect of restricting the resident's freedom of movement, and is not standard treatment for the resident's medical or psychiatric condition. Physical restraint means the application of physical force without the use of any device, for the purpose of restraining the free movement of a resident's body. The term physical restraint does not include briefly holding without undue force a resident or client in order to calm or comfort the client, or holding a resident's or client's hand to safely escort a resident from one area to another. Mechanical restraint means any device attached or adjacent to the resident's body which the resident cannot easily remove that restricts freedom of movement or normal access to the resident's body.

Mental abuse means a willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Sexual abuse means any form of nonconsensual sexual conduct.

A vulnerable adult includes a person who DSHS reasonably believes has a developmental disability based on school or medical records.

It is a defense to an allegation of physical abuse or improper use of restraint that the alleged perpetrator reasonably acted to prevent an imminent danger of a substantial likelihood of harm to any person, the alleged perpetrator's conduct was necessary to prevent the harm, and the alleged perpetrator's conduct was proportional to the danger. It is the alleged perpetrator's duty to prove this defense by a preponderance of the evidence in any civil adjudicative hearing.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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