

# SENATE BILL REPORT

## SB 6111

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As of January 17, 2018

**Title:** An act relating to defining willful in chapter 74.34 RCW regarding abuse of vulnerable adults.

**Brief Description:** Defining "willful" in the chapter regarding abuse of vulnerable adults.

**Sponsors:** Senators Wilson, Pedersen, Rivers, Keiser, Conway, Dhingra and Kuderer; by request of Department of Social and Health Services.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 1/15/18.

**Brief Summary of Bill**

- Defines willful, in the abuse of vulnerable adult statutes, as a deliberate action, regardless of intent to inflict injury or harm.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Keri Waterland (786-7490)

**Background:** State law authorizes the Department of Social and Health Services (DSHS) and law enforcement agencies to investigate complaints of abandonment, abuse, financial exploitation, self-neglect, or neglect of vulnerable adults. Individuals found guilty of abuse of a vulnerable adult are prohibited from being a licensed caregiver for vulnerable adults.

Vulnerable adult means an individual who meets one of the following criteria:

- is 60 years of age or older and has the functional, mental, or physical inability to care for themselves;
- is found incapacitated;
- has a developmental disability;
- is admitted to any facility;
- is receiving services from home health, hospice, or home care agencies licensed or required to be licensed;
- is receiving services from an individual provider; or
- self-directs their own care and receives services from a personal aide.

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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.*

Abuse means willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances where a vulnerable adult is abused who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish.

Abuse includes sexual abuse, mental abuse, physical abuse, personal exploitation of a vulnerable adult, and improper use of restraint against a vulnerable adult, terms which are defined in statute. Willful is not defined in chapter 74.34 RCW, relating to the abuse of vulnerable adults.

**Summary of Bill:** Willful is defined in chapter 74.34 RCW, relating to the abuse, neglect, abandonment, financial exploitation, or self-neglect of vulnerable adults, as a deliberate act, not an intent to inflict injury or harm.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: Willful is not currently defined in the statute, which has led to confusion. The term willful used to be defined in the Washington Administrative Code, but it was invalidated by an appeals court. It has now been removed. This is agency requested legislation and adopts the federal definition related to nursing homes, which the department must already use. This creates a consistent standard. This protects vulnerable adults regardless of intent to harm.

**Persons Testifying:** PRO: Senator Lynda Wilson, Prime Sponsor; Bea Rector, Department of Social and Health Services.

**Persons Signed In To Testify But Not Testifying:** No one.