

SHB 1422 - H AMD 990

By Representative Valdez

ADOPTED 01/20/2020

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 74.34.020 and 2019 c 325 s 5030 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Abandonment" means action or inaction by a person or entity
8 with a duty of care for a vulnerable adult that leaves the vulnerable
9 person without the means or ability to obtain necessary food,
10 clothing, shelter, or health care.

11 (2) "Abuse" means (~~the willful~~) an intentional, knowing, or
12 reckless action or inaction that inflicts injury, unreasonable
13 confinement, intimidation, or punishment on a vulnerable adult.
14 Accidental actions that result in injury are not abuse. Actions
15 reasonable to protect a person from an immediate and substantial risk
16 of injury are not physical abuse, mental abuse, or improper use of
17 restraint. In instances of abuse of a vulnerable adult who is unable
18 to express or demonstrate physical harm, pain, or mental anguish, the
19 abuse is presumed to cause physical harm, pain, or mental anguish.

20 (a) For the purpose of this subsection, the following definitions
21 apply:

22 (i) INTENTIONAL. A person acts with intent or intentionally when
23 he or she acts with the objective or purpose to inflict injury,
24 unreasonable confinement, intimidation, or punishment on a vulnerable
25 adult.

26 (ii) KNOWING. A person knows, or acts knowingly or with
27 knowledge, when he or she is aware that his or her actions would
28 inflict injury, unreasonable confinement, intimidation, or punishment
29 on a vulnerable adult.

30 (iii) RECKLESS. A person is reckless or acts recklessly when he
31 or she knows of and disregards a substantial risk that his or her
32 action is likely to inflict injury, unreasonable confinement,

1 intimidation, or punishment on a vulnerable adult, and his or her
2 disregard of such substantial risk is a gross deviation from conduct
3 that a reasonable person would exercise in the same situation.

4 (b) Abuse includes sexual abuse, mental abuse, physical abuse,
5 (~~and~~) personal exploitation of a vulnerable adult, and improper use
6 of restraint against a vulnerable adult which have the following
7 meanings:

8 (~~(a)~~) (i) "Sexual abuse" means any form of nonconsensual sexual
9 conduct, including but not limited to unwanted or inappropriate
10 touching, rape, sodomy, sexual coercion, sexually explicit
11 photographing, and sexual harassment. Sexual abuse also includes any
12 sexual conduct between a staff person, who is not also a resident or
13 client, of a facility or a staff person of a program authorized under
14 chapter 71A.12 RCW, and a vulnerable adult living in that facility or
15 receiving service from a program authorized under chapter 71A.12 RCW,
16 whether or not it is consensual.

17 (~~(b)~~) (ii) "Physical abuse" means the (~~willful~~) action of
18 intentionally, knowingly, or recklessly inflicting bodily injury or
19 physical mistreatment. Physical abuse includes, but is not limited
20 to, striking with or without an object, slapping, pinching, choking,
21 kicking, shoving, or prodding.

22 (~~(c)~~) (iii) "Mental abuse" means a (~~willful~~) verbal or
23 nonverbal action that intentionally, knowingly, or recklessly
24 threatens, humiliates, harasses, coerces, intimidates, isolates,
25 unreasonably confines, or punishes a vulnerable adult. Mental abuse
26 may include ridiculing, yelling, or swearing.

27 (~~(d)~~) (iv) "Personal exploitation" means an act of forcing,
28 compelling, or exerting undue influence over a vulnerable adult
29 causing the vulnerable adult to act in a way that is inconsistent
30 with relevant past behavior, or causing the vulnerable adult to
31 perform services for the benefit of another.

32 (~~(e)~~) (v) "Improper use of restraint" means the inappropriate
33 use of chemical, physical, or mechanical restraints for convenience
34 or discipline or in a manner that: (~~(i)~~) (A) Is inconsistent with
35 federal or state licensing or certification requirements for
36 facilities, hospitals, or programs authorized under chapter 71A.12
37 RCW; (~~(ii)~~) (B) is not medically authorized; or (~~(iii)~~) (C)
38 otherwise constitutes abuse under this section.

39 (3) "Chemical restraint" means the administration of any drug to
40 manage a vulnerable adult's behavior in a way that reduces the safety

1 risk to the vulnerable adult or others, has the temporary effect of
2 restricting the vulnerable adult's freedom of movement, and is not
3 standard treatment for the vulnerable adult's medical or psychiatric
4 condition.

5 (4) "Consent" means express written consent granted after the
6 vulnerable adult or his or her legal representative has been fully
7 informed of the nature of the services to be offered and that the
8 receipt of services is voluntary.

9 (5) "Department" means the department of social and health
10 services.

11 (6) "Facility" means a residence licensed or required to be
12 licensed under chapter 18.20 RCW, assisted living facilities; chapter
13 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes;
14 chapter 72.36 RCW, soldiers' homes; chapter 70.97 RCW, enhanced
15 services facilities; chapter 71A.20 RCW, residential habilitation
16 centers; or any other facility licensed or certified by the
17 department.

18 (7) "Financial exploitation" means the illegal or improper use,
19 control over, or withholding of the property, income, resources, or
20 trust funds of the vulnerable adult by any person or entity for any
21 person's or entity's profit or advantage other than for the
22 vulnerable adult's profit or advantage. "Financial exploitation"
23 includes, but is not limited to:

24 (a) The use of deception, intimidation, or undue influence by a
25 person or entity in a position of trust and confidence with a
26 vulnerable adult to obtain or use the property, income, resources, or
27 trust funds of the vulnerable adult for the benefit of a person or
28 entity other than the vulnerable adult;

29 (b) The breach of a fiduciary duty, including, but not limited
30 to, the misuse of a power of attorney, trust, or a guardianship
31 appointment, that results in the unauthorized appropriation, sale, or
32 transfer of the property, income, resources, or trust funds of the
33 vulnerable adult for the benefit of a person or entity other than the
34 vulnerable adult; or

35 (c) Obtaining or using a vulnerable adult's property, income,
36 resources, or trust funds without lawful authority, by a person or
37 entity who knows or clearly should know that the vulnerable adult
38 lacks the capacity to consent to the release or use of his or her
39 property, income, resources, or trust funds.

1 (8) "Financial institution" has the same meaning as in RCW
2 30A.22.040 and 30A.22.041. For purposes of this chapter only,
3 "financial institution" also means a "broker-dealer" or "investment
4 adviser" as defined in RCW 21.20.005.

5 (9) "Hospital" means a facility licensed under chapter 70.41 or
6 71.12 RCW or a state hospital defined in chapter 72.23 RCW and any
7 employee, agent, officer, director, or independent contractor
8 thereof.

9 (10) "Incapacitated person" means a person who is at a
10 significant risk of personal or financial harm under RCW 11.88.010(1)
11 (a), (b), (c), or (d).

12 (11) "Individual provider" means a person under contract with the
13 department to provide services in the home under chapter 74.09 or
14 74.39A RCW.

15 (12) "Interested person" means a person who demonstrates to the
16 court's satisfaction that the person is interested in the welfare of
17 the vulnerable adult, that the person has a good faith belief that
18 the court's intervention is necessary, and that the vulnerable adult
19 is unable, due to incapacity, undue influence, or duress at the time
20 the petition is filed, to protect his or her own interests.

21 (13)(a) "Isolate" or "isolation" means to restrict a vulnerable
22 adult's ability to communicate, visit, interact, or otherwise
23 associate with persons of his or her choosing. Isolation may be
24 evidenced by acts including but not limited to:

25 (i) Acts that prevent a vulnerable adult from sending, making, or
26 receiving his or her personal mail, electronic communications, or
27 telephone calls; or

28 (ii) Acts that prevent or obstruct the vulnerable adult from
29 meeting with others, such as telling a prospective visitor or caller
30 that a vulnerable adult is not present, or does not wish contact,
31 where the statement is contrary to the express wishes of the
32 vulnerable adult.

33 (b) The term "isolate" or "isolation" may not be construed in a
34 manner that prevents a guardian or limited guardian from performing
35 his or her fiduciary obligations under chapter 11.92 RCW or prevents
36 a hospital or facility from providing treatment consistent with the
37 standard of care for delivery of health services.

38 (14) "Mandated reporter" is an employee of the department or the
39 department of children, youth, and families; law enforcement officer;
40 social worker; professional school personnel; individual provider;

1 (~~an employee of a facility;~~) an operator of a facility or a
2 certified residential services and supports agency under chapter
3 71A.12 RCW; an employee of a facility; an employee of a social
4 service, welfare, mental health, adult day health, adult day care,
5 home health, home care, ~~((or))~~ hospice, or certified residential
6 services and supports agency; county coroner or medical examiner;
7 Christian Science practitioner; or health care provider subject to
8 chapter 18.130 RCW.

9 (15) "Mechanical restraint" means any device attached or adjacent
10 to the vulnerable adult's body that he or she cannot easily remove
11 that restricts freedom of movement or normal access to his or her
12 body. "Mechanical restraint" does not include the use of devices,
13 materials, or equipment that are (a) medically authorized, as
14 required, and (b) used in a manner that is consistent with federal or
15 state licensing or certification requirements for facilities,
16 hospitals, or programs authorized under chapter 71A.12 RCW.

17 (16) "Neglect" means (a) a pattern of conduct or inaction by a
18 person or entity with a duty of care that fails to provide the goods
19 and services that maintain physical or mental health of a vulnerable
20 adult, or that fails to avoid or prevent physical or mental harm or
21 pain to a vulnerable adult; or (b) an act or omission by a person or
22 entity with a duty of care that demonstrates a serious disregard of
23 consequences of such a magnitude as to constitute a clear and present
24 danger to the vulnerable adult's health, welfare, or safety,
25 including but not limited to conduct prohibited under RCW 9A.42.100.

26 (17) "Permissive reporter" means any person, including, but not
27 limited to, an employee of a financial institution, attorney, or
28 volunteer in a facility or program providing services for vulnerable
29 adults.

30 (18) "Physical restraint" means the application of physical force
31 without the use of any device, for the purpose of restraining the
32 free movement of a vulnerable adult's body. "Physical restraint" does
33 not include (a) briefly holding without undue force a vulnerable
34 adult in order to calm or comfort him or her, or (b) holding a
35 vulnerable adult's hand to safely escort him or her from one area to
36 another.

37 (19) "Protective services" means any services provided by the
38 department to a vulnerable adult with the consent of the vulnerable
39 adult, or the legal representative of the vulnerable adult, who has
40 been abandoned, abused, financially exploited, neglected, or in a

1 state of self-neglect. These services may include, but are not
2 limited to case management, social casework, home care, placement,
3 arranging for medical evaluations, psychological evaluations, day
4 care, or referral for legal assistance.

5 (20) "Self-neglect" means the failure of a vulnerable adult, not
6 living in a facility, to provide for himself or herself the goods and
7 services necessary for the vulnerable adult's physical or mental
8 health, and the absence of which impairs or threatens the vulnerable
9 adult's well-being. This definition may include a vulnerable adult
10 who is receiving services through home health, hospice, or a home
11 care agency, or an individual provider when the neglect is not a
12 result of inaction by that agency or individual provider.

13 (21) "Social worker" means:

14 (a) A social worker as defined in RCW 18.320.010(2); or

15 (b) Anyone engaged in a professional capacity during the regular
16 course of employment in encouraging or promoting the health, welfare,
17 support, or education of vulnerable adults, or providing social
18 services to vulnerable adults, whether in an individual capacity or
19 as an employee or agent of any public or private organization or
20 institution.

21 (22) "Vulnerable adult" includes a person:

22 (a) Sixty years of age or older who has the functional, mental,
23 or physical inability to care for himself or herself; or

24 (b) Found incapacitated under chapter 11.88 RCW; or

25 (c) Who has a developmental disability as defined under RCW
26 71A.10.020; or

27 (d) Admitted to any facility; or

28 (e) Receiving services from home health, hospice, or home care
29 agencies licensed or required to be licensed under chapter 70.127
30 RCW; or

31 (f) Receiving services from an individual provider; or

32 (g) Who self-directs his or her own care and receives services
33 from a personal aide under chapter 74.39 RCW.

34 (23) "Vulnerable adult abuse registry" means a list of
35 individuals who have a final substantiated finding by the department
36 of abuse, abandonment, neglect, or financial exploitation of a
37 vulnerable adult.

38 (24) "Vulnerable adult advocacy team" means a team of three or
39 more persons who coordinate a multidisciplinary process, in
40 compliance with chapter 266, Laws of 2017 and the protocol governed

1 by RCW 74.34.320, for preventing, identifying, investigating,
2 prosecuting, and providing services related to abuse, neglect, or
3 financial exploitation of vulnerable adults.

4 **Sec. 2.** RCW 74.34.063 and 2017 3rd sp.s. c 6 s 818 are each
5 amended to read as follows:

6 (1) The department shall initiate a response to a report, no
7 later than twenty-four hours after knowledge of the report, of
8 suspected abandonment, abuse, financial exploitation, neglect, or
9 self-neglect of a vulnerable adult.

10 (2) When the initial report or investigation by the department
11 indicates that the alleged abandonment, abuse, financial
12 exploitation, or neglect may be criminal, the department shall make
13 an immediate report to the appropriate law enforcement agency. The
14 department and law enforcement will coordinate in investigating
15 reports made under this chapter. The department may provide
16 protective services and other remedies as specified in this chapter.

17 (3) The law enforcement agency or the department shall report the
18 incident in writing to the proper county prosecutor or city attorney
19 for appropriate action whenever the investigation reveals that a
20 crime may have been committed.

21 (4) Upon request, the department and law enforcement ((may)) must
22 share information contained in reports and findings of abandonment,
23 abuse, financial exploitation, and neglect of vulnerable adults with
24 each other, consistent with RCW 74.04.060(, chapter 42.56 RCW,) and
25 other applicable confidentiality laws. The information contained in
26 reports and findings may not be further disseminated and is not
27 subject to disclosure under chapter 42.56 RCW.

28 ~~((Unless prohibited by federal law, the department of social~~
29 ~~and health services may share with the department of children, youth,~~
30 ~~and families information contained in reports and findings of~~
31 ~~abandonment, abuse, financial exploitation, and neglect of vulnerable~~
32 ~~adults.)) (a) The investigation of alleged abandonment, abuse,~~
33 financial exploitation, neglect, or self-neglect of a vulnerable
34 adult is a legitimate state purpose. Upon request, the department and
35 the department of children, youth, and families must share
36 information with each other contained in reports and findings of: (i)
37 Abandonment, abuse, financial exploitation, neglect, or self-neglect
38 of vulnerable adults; and (ii) abuse and neglect of children but only
39 for the purposes set forth in (b) of this subsection.

1 (b) Upon request, the department and the department of children,
2 youth, and families may only share information with each other to the
3 extent that such information pertains to or may assist with (i)
4 investigating or preventing child abuse or neglect; (ii) providing
5 for the health and well-being of children in foster care; or (iii)
6 investigating or preventing the abandonment, abuse, financial
7 exploitation, neglect, or self-neglect of a vulnerable adult.

8 (c) This information sharing is required for purposes of the
9 federal health insurance portability and accountability act of 1996.
10 The information contained in reports and findings retains its
11 confidentiality under federal and state law and may not be further
12 disseminated except as authorized by law. This information is not
13 subject to public disclosure under chapter 42.56 RCW.

14 (6) The department shall notify the proper licensing authority
15 concerning any report received under this chapter that alleges that a
16 person who is professionally licensed, certified, or registered under
17 Title 18 RCW has abandoned, abused, financially exploited, or
18 neglected a vulnerable adult.

19 **Sec. 3.** RCW 74.34.095 and 2013 c 23 s 218 are each amended to
20 read as follows:

21 (1) The following information is confidential and not subject to
22 disclosure, except as provided in this section:

23 (a) A report of abandonment, abuse, financial exploitation, or
24 neglect made under this chapter;

25 (b) The identity of the person making the report; and

26 (c) All files, reports, records, communications, and working
27 papers used or developed in the investigation or provision of
28 protective services.

29 (2) Information considered confidential may be disclosed only for
30 a purpose consistent with this chapter, or as authorized by chapter
31 18.20, 18.51, or 74.39A RCW(~~(, or as authorized by)~~); the long-term
32 care ombuds programs under federal law or state law, chapter 43.190
33 RCW; or the office of the developmental disabilities ombuds program
34 under chapter 43.382 RCW.

35 (3) A court or presiding officer in an administrative proceeding
36 may order disclosure of confidential information only if the court,
37 or presiding officer in an administrative proceeding, determines that
38 disclosure is essential to the administration of justice and will not
39 endanger the life or safety of the vulnerable adult or individual who

1 made the report. The court or presiding officer in an administrative
2 hearing may place restrictions on such disclosure as the court or
3 presiding officer deems proper.

4 (4) (a) Except as provided in (b) of this subsection, upon a
5 request for information regarding a specifically named vulnerable
6 adult, the department may disclose only the following information:

7 (i) Whether or not a report was received;

8 (ii) The status of the report; and

9 (iii) The outcome of an investigation.

10 (b) The department may not disclose any information regarding a
11 specifically named vulnerable adult if any of the following
12 circumstances apply:

13 (i) The information concerns a vulnerable adult residing in or
14 receiving services from a department licensed or certified facility
15 or provider where an unannounced investigation in response to the
16 report has not been initiated;

17 (ii) The requester is the alleged perpetrator;

18 (iii) The department has a reasonable belief that disclosure may
19 compromise any investigation by a law enforcement agency,
20 disciplinary authority, the department, or the department of
21 children, youth, and families; or

22 (iv) The department has a reasonable belief that the information
23 may endanger any person.

24 **Sec. 4.** RCW 74.34.110 and 2007 c 312 s 3 are each amended to
25 read as follows:

26 (1) An action known as a petition for an order for protection of
27 a vulnerable adult in cases of abandonment, abuse, financial
28 exploitation, or neglect is created.

29 ~~((1))~~ (a) A vulnerable adult, or interested person on behalf of
30 the vulnerable adult, may seek relief from abandonment, abuse,
31 financial exploitation, or neglect, or the threat thereof, by filing
32 a petition for an order for protection in superior court.

33 ~~((2))~~ (b) A petition shall allege that the petitioner, or
34 person on whose behalf the petition is brought, is a vulnerable adult
35 and that the petitioner, or person on whose behalf the petition is
36 brought, has been abandoned, abused, financially exploited, or
37 neglected, or is threatened with abandonment, abuse, financial
38 exploitation, or neglect by respondent.

1 ((+3)) (c) A petition shall be accompanied by affidavit made
2 under oath, or a declaration signed under penalty of perjury, stating
3 the specific facts and circumstances which demonstrate the need for
4 the relief sought. If the petition is filed by an interested person,
5 the affidavit or declaration must also include a statement of why the
6 petitioner qualifies as an interested person.

7 ((+4)) (d) A petition for an order may be made whether or not
8 there is a pending lawsuit, complaint, petition, or other action
9 pending that relates to the issues presented in the petition for an
10 order for protection.

11 ((+5)) (e) Within ninety days of receipt of the master copy from
12 the administrative office of the courts, all court clerk's offices
13 shall make available the standardized forms and instructions required
14 by RCW 74.34.115.

15 ((+6)) (f) Any assistance or information provided by any person,
16 including, but not limited to, court clerks, employees of the
17 department, and other court facilitators, to another to complete the
18 forms provided by the court in (e) of this subsection ~~((+5) of this~~
19 ~~section))~~ does not constitute the practice of law.

20 ((+7)) (g) A petitioner is not required to post bond to obtain
21 relief in any proceeding under this section.

22 ((+8)) (h) An action under this section shall be filed in the
23 county where the vulnerable adult resides; except that if the
24 vulnerable adult has left or been removed from the residence as a
25 result of abandonment, abuse, financial exploitation, or neglect, or
26 in order to avoid abandonment, abuse, financial exploitation, or
27 neglect, the petitioner may bring an action in the county of either
28 the vulnerable adult's previous or new residence.

29 ((+9)) (i) No filing fee may be charged to the petitioner for
30 proceedings under this section. Standard forms and written
31 instructions shall be provided free of charge.

32 (2) A vulnerable adult who is the victim of stalking, or an
33 interested person on behalf of the vulnerable adult, may apply for a
34 stalking protection order under RCW 7.92.040.

35 **Sec. 5.** RCW 74.34.300 and 2016 c 172 s 4 are each amended to
36 read as follows:

37 (1) The department shall conduct quality assurance reviews to
38 monitor processes related to the receipt of and timely response to
39 reports of vulnerable adult abuse, abandonment, neglect, self-

1 neglect, and financial exploitation; quality of investigations; and
2 implementation of protective services.

3 (a) As part of the quality assurance process, the department
4 shall conduct a vulnerable adult fatality review in the event of a
5 death of a vulnerable adult when the department has reason to believe
6 that the death of the vulnerable adult may be related to the abuse,
7 abandonment, financial exploitation, or neglect of the vulnerable
8 adult, or may be related to the vulnerable adult's self-neglect, and
9 the vulnerable adult was:

10 ~~((a))~~ (i) Receiving home and community-based services in his or
11 her own home or licensed or certified settings, described under
12 chapters 74.39, 74.39A, 18.20, 70.128, and 71A.12 RCW, within sixty
13 days preceding his or her death; or

14 ~~((b))~~ (ii) Living in his or her own home or licensed or
15 certified settings described under chapters 74.39, 74.39A, 18.20,
16 70.128, and 71A.12 RCW and was the subject of a report under this
17 chapter received by the department within twelve months preceding his
18 or her death.

19 ~~((2))~~ (b) When conducting a vulnerable adult fatality review of
20 a person who had been receiving hospice care services before the
21 person's death, the review shall provide particular consideration to
22 the similarities between the signs and symptoms of abuse and those of
23 many patients receiving hospice care services.

24 (2)(a) Quality assurance reviews completed pursuant to this
25 section are not subject to discovery in a civil or administrative
26 proceeding and may not be admitted into evidence or otherwise used in
27 a civil or administrative proceeding except pursuant to this section.

28 (b) A department employee responsible for conducting quality
29 assurance reviews, or a member of a quality assurance team, may not
30 be examined in a civil or administrative proceeding regarding (i) the
31 work of the quality assurance review or quality assurance team, (ii)
32 the incident under review, (iii) his or her statements,
33 deliberations, thoughts, analyses, or impressions relating to the
34 work of the quality assurance review or the incident under review, or
35 (iv) the statements, deliberations, thoughts, analyses, or
36 impressions of any other member of the quality assurance review or
37 quality assurance team, or any person who provided information to the
38 quality assurance review or quality assurance team, relating to the
39 work of the quality assurance review or the incident under review.

1 (c) Documents prepared by or for a quality assurance review or
2 quality assurance team are inadmissible and may not be used in a
3 civil or administrative proceeding, except that any document that
4 exists before its use or consideration in a quality assurance review,
5 or that is created independently of such review, does not become
6 inadmissible merely because it is reviewed or used by a quality
7 assurance team. A person is not unavailable as a witness merely
8 because the person has been interviewed by or has provided a
9 statement for a quality assurance review, but if called as a witness,
10 a person may not be examined regarding the person's interactions with
11 the quality assurance review including, without limitation, whether
12 the person was interviewed during such review, the questions that
13 were asked during such review, and the answers that the person
14 provided during such review. This section does not restrict the
15 person from testifying fully in any proceeding regarding his or her
16 knowledge of the incident under review.

17 ~~(3) ((All files, reports, records, communications, and working~~
18 ~~papers used or developed for purposes of a fatality review are~~
19 ~~confidential and not subject to disclosure pursuant to RCW 74.34.095.~~
20 ~~(4))~~) The department may adopt rules to implement this section.

21 NEW SECTION. Sec. 6. A new section is added to chapter 74.34
22 RCW to read as follows:

23 (1) The department shall maintain a vulnerable adult abuse
24 registry. Upon request of any person, the department may disclose the
25 identity of a person who has been entered on the registry with a
26 final substantiated finding of abandonment, abuse, financial
27 exploitation, or neglect of a vulnerable adult.

28 (2) The department must develop a process in rule by which the
29 department may remove individuals from the vulnerable adult abuse
30 registry. The process must not allow a removal that would conflict
31 with federal law.

32 (3) Except as described in subsection (4) of this section, a
33 person who is on the vulnerable adult abuse registry may petition the
34 department, in writing, for removal from the registry after three
35 years have elapsed from the date on which the final substantiated
36 finding is entered.

37 (4) A person may not petition the department to be removed from
38 the registry if:

1 (a) The final substantiated finding that the person abused,
2 abandoned, neglected, or financially exploited a vulnerable adult
3 included information that:

4 (i) The person sexually abused a vulnerable adult;

5 (ii) The abuse or neglect caused a vulnerable adult to suffer
6 great bodily harm or death;

7 (iii) The person financially exploited a vulnerable adult of
8 property, resources, or services exceeding five thousand dollars; or

9 (iv) The abuse involved a lethal weapon;

10 (b) The person has a conviction for a disqualifying crime under
11 RCW 43.43.842;

12 (c) The person has more than one final substantiated finding of
13 abuse, abandonment, neglect, financial exploitation, or any
14 combination thereof, of a vulnerable adult; or has a final
15 substantiated finding involving more than one vulnerable adult
16 victim; or has a final substantiated finding involving multiple
17 instances of misconduct against a single vulnerable adult victim; or

18 (d) The person is a nursing assistant whose name is on the
19 registry for conduct committed while working as a certified nursing
20 assistant in a nursing facility, unless the removal from the registry
21 maintained by the department under 42 C.F.R. Sec. 483.156 would be
22 authorized under 42 U.S.C. Sec. 1396r(g)(1)(D).

23 (5) A person may petition the department for removal from the
24 vulnerable adult abuse registry a maximum of three times and may only
25 file one petition in any twelve-month period.

26 (6) If the petition is granted, the individual is removed from
27 the vulnerable adult abuse registry and the individual is no longer
28 disqualified from employment under RCW 74.39A.056 or 18.20.125 by
29 reason of the final substantiated finding. Nothing in this subsection
30 affects a finding against the individual that is on the vulnerable
31 adult abuse registry maintained by the department under 42 C.F.R.
32 Sec. 483.156 unless removal from that registry is permitted by 42
33 U.S.C. Sec. 1396r(g)(1)(D).

34 (7) If the department removes an individual from the vulnerable
35 adult abuse registry, the department shall maintain a record of the
36 individual and the underlying finding. These records are exempt from
37 disclosure under subsection (1) of this section and chapter 42.56
38 RCW.

39 (8) (a) The state of Washington and its officers, employees,
40 contractors, agents, and agencies, including the department, are

1 immune from suit in law, equity, or any action under the
2 administrative procedure act, chapter 34.05 RCW, based on the
3 exercise of discretion to remove an individual from the vulnerable
4 adult abuse registry, except as specified in (b) of this subsection.
5 This section does not modify an applicant's right to seek review of
6 an agency's licensing or certification decision under the
7 administrative procedure act, chapter 34.05 RCW, or other applicable
8 statute or agency rule.

9 (b) A person denied removal from the vulnerable adult abuse
10 registry has the right to an adjudicative proceeding, and to judicial
11 review of that adjudicative proceeding, to challenge the denial
12 pursuant to chapter 34.05 RCW. In any such proceeding, it is the
13 appellant's burden to prove that the appellant should be removed from
14 the registry.

15 (9) (a) Except as provided in (b) of this subsection, the
16 following information is inadmissible and may not be used against the
17 department or its employees in any civil or administrative action
18 related to the hiring of a person who is or was on the vulnerable
19 adult abuse registry:

20 (i) Documents prepared by department staff during the
21 department's review and consideration of a petition for removal of a
22 registry finding; and

23 (ii) Facts related to the underlying finding, including the
24 underlying finding itself.

25 (b) Any documents that existed before a petition for removal was
26 filed or that were created independently of the department's review
27 and consideration of such petition do not become inadmissible merely
28 because they were used during the department's review process.

29 (10) An individual's removal from the vulnerable adult abuse
30 registry does not require an employer to use that individual for the
31 care of, or allow that individual unsupervised access to, vulnerable
32 adults.

33 (11) The department shall adopt rules necessary to implement this
34 section.

35 (12) Nothing in this section limits any rights or remedies
36 available under federal law, including the removal of a name from the
37 nurse aide registry under 42 U.S.C. Sec. 1395i-3(g) (1) (D).

38 (13) This section does not create a protected class; private
39 right of action; any right, privilege, or duty; or change any right,
40 privilege, or duty existing under law.

1 **Sec. 7.** RCW 74.39A.056 and 2018 c 278 s 8 are each amended to
2 read as follows:

3 (1) (a) All long-term care workers shall be screened through state
4 and federal background checks in a uniform and timely manner to
5 verify that they do not have a history that would disqualify them
6 from working with vulnerable persons. The department must process
7 background checks for long-term care workers and make the information
8 available to employers, prospective employers, and others as
9 authorized by law.

10 (b) (i) Except as provided in (b) (ii) of this subsection, for
11 long-term care workers hired on or after January 7, 2012, the
12 background checks required under this section shall include checking
13 against the federal bureau of investigation fingerprint
14 identification records system and against the national sex offenders
15 registry or their successor programs. The department shall require
16 these long-term care workers to submit fingerprints for the purpose
17 of investigating conviction records through both the Washington state
18 patrol and the federal bureau of investigation. The department shall
19 not pass on the cost of these criminal background checks to the
20 workers or their employers.

21 (ii) This subsection does not apply to long-term care workers
22 employed by community residential service businesses until January 1,
23 2016.

24 (c) The department shall share state and federal background check
25 results with the department of health in accordance with RCW
26 18.88B.080.

27 (d) Background check screening required under this section and
28 department rules is not required for an employee of a consumer
29 directed employer if all of the following circumstances apply:

30 (i) The individual has an individual provider contract with the
31 department;

32 (ii) The last background check on the contracted individual
33 provider is still valid under department rules and did not disqualify
34 the individual from providing personal care services;

35 (iii) Employment by the consumer directed employer is the only
36 reason a new background check would be required; and

37 (iv) The department's background check results have been shared
38 with the consumer directed employer.

39 (2) ~~((No provider, or its staff, or long-term care worker, or
40 prospective provider or long-term care worker, with a stipulated~~

1 ~~finding of fact, conclusion of law, an agreed order, or finding of~~
2 ~~fact, conclusion of law, or final order issued by a disciplining~~
3 ~~authority or a court of law or entered into a state registry with a~~
4 ~~final substantiated finding of abuse, neglect, exploitation, or~~
5 ~~abandonment of a minor or a vulnerable adult as defined in chapter~~
6 ~~74.34 RCW shall be employed in the care of and have unsupervised~~
7 ~~access to vulnerable adults.)) A provider may not be employed in the~~
8 ~~care of and have unsupervised access to vulnerable adults if:~~

9 (a) The provider is on the vulnerable adult abuse registry as
10 defined in RCW 74.34.020 or on any other registry based upon a
11 finding of abuse, abandonment, neglect, or financial exploitation;

12 (b) On or after October 1, 1998, the department of children,
13 youth, and families, or its predecessor agency, has made a founded
14 finding of abuse or neglect of a child against the provider;

15 (c) A disciplining authority, including the department of health,
16 has made a finding of abuse, abandonment, neglect, or financial
17 exploitation of a minor or a vulnerable adult against the provider;
18 or

19 (d) A court has issued an order that includes a finding of fact
20 or conclusion of law that the provider has committed abuse,
21 abandonment, neglect, or financial exploitation of a minor or
22 vulnerable adult.

23 (3) ~~((The department shall establish, by rule, a state registry~~
24 ~~which contains identifying information about long-term care workers~~
25 ~~identified under this chapter who have final substantiated findings~~
26 ~~of abuse, neglect, financial exploitation, or abandonment of a~~
27 ~~vulnerable adult as defined in RCW 74.34.020. The rule must include~~
28 ~~disclosure, disposition of findings, notification, findings of fact,~~
29 ~~appeal rights, and fair hearing requirements. The department shall~~
30 ~~disclose, upon request, final substantiated findings of abuse,~~
31 ~~neglect, financial exploitation, or abandonment to any person so~~
32 ~~requesting this information. This information must also be shared~~
33 ~~with the department of health to advance the purposes of chapter~~
34 ~~18.88B RCW.)) For the purposes of this section, "provider" means:~~

35 (a) An individual provider as defined in RCW 74.39A.240;

36 (b) An employee, licensee, or contractor of any of the following:
37 A home care agency licensed under chapter 70.127 RCW, a nursing home
38 under chapter 18.51 RCW, an assisted living facility under chapter
39 18.20 RCW, an enhanced services facility under chapter 70.97 RCW, a
40 certified residential services and supports agency licensed or

1 certified under chapter 71A.12 RCW, an adult family home under
2 chapter 70.128 RCW, or any other long-term care facility certified to
3 provide medicaid or medicare services; and

4 (c) Any contractor of the department who may have unsupervised
5 access to vulnerable adults.

6 (4) The department shall adopt rules to implement this section.

7 **Sec. 8.** RCW 13.50.010 and 2019 c 470 s 22 and 2019 c 82 s 1 are
8 each reenacted and amended to read as follows:

9 (1) For purposes of this chapter:

10 (a) "Good faith effort to pay" means a juvenile offender has
11 either (i) paid the principal amount in full; (ii) made at least
12 eighty percent of the value of full monthly payments within the
13 period from disposition or deferred disposition until the time the
14 amount of restitution owed is under review; or (iii) can show good
15 cause why he or she paid an amount less than eighty percent of the
16 value of full monthly payments;

17 (b) "Juvenile justice or care agency" means any of the following:
18 Police, diversion units, court, prosecuting attorney, defense
19 attorney, detention center, attorney general, the oversight board for
20 children, youth, and families, the office of the family and
21 children's ombuds, the department of social and health services and
22 its contracting agencies, the department of children, youth, and
23 families and its contracting agencies, schools; persons or public or
24 private agencies having children committed to their custody; and any
25 placement oversight committee created under RCW 72.05.415;

26 (c) "Official juvenile court file" means the legal file of the
27 juvenile court containing the petition or information, motions,
28 memorandums, briefs, notices of hearing or appearance, service
29 documents, witness and exhibit lists, findings of the court and court
30 orders, agreements, judgments, decrees, notices of appeal, as well as
31 documents prepared by the clerk, including court minutes, letters,
32 warrants, waivers, affidavits, declarations, invoices, and the index
33 to clerk papers;

34 (d) "Records" means the official juvenile court file, the social
35 file, and records of any other juvenile justice or care agency in the
36 case;

37 (e) "Social file" means the juvenile court file containing the
38 records and reports of the probation counselor.

1 (2) Each petition or information filed with the court may include
2 only one juvenile and each petition or information shall be filed
3 under a separate docket number. The social file shall be filed
4 separately from the official juvenile court file.

5 (3) It is the duty of any juvenile justice or care agency to
6 maintain accurate records. To this end:

7 (a) The agency may never knowingly record inaccurate information.
8 Any information in records maintained by the department of social and
9 health services or the department of children, youth, and families
10 relating to a petition filed pursuant to chapter 13.34 RCW that is
11 found by the court to be false or inaccurate shall be corrected or
12 expunged from such records by the agency;

13 (b) An agency shall take reasonable steps to assure the security
14 of its records and prevent tampering with them; and

15 (c) An agency shall make reasonable efforts to insure the
16 completeness of its records, including action taken by other agencies
17 with respect to matters in its files.

18 (4) Each juvenile justice or care agency shall implement
19 procedures consistent with the provisions of this chapter to
20 facilitate inquiries concerning records.

21 (5) Any person who has reasonable cause to believe information
22 concerning that person is included in the records of a juvenile
23 justice or care agency and who has been denied access to those
24 records by the agency may make a motion to the court for an order
25 authorizing that person to inspect the juvenile justice or care
26 agency record concerning that person. The court shall grant the
27 motion to examine records unless it finds that in the interests of
28 justice or in the best interests of the juvenile the records or parts
29 of them should remain confidential.

30 (6) A juvenile, or his or her parents, or any person who has
31 reasonable cause to believe information concerning that person is
32 included in the records of a juvenile justice or care agency may make
33 a motion to the court challenging the accuracy of any information
34 concerning the moving party in the record or challenging the
35 continued possession of the record by the agency. If the court grants
36 the motion, it shall order the record or information to be corrected
37 or destroyed.

38 (7) The person making a motion under subsection (5) or (6) of
39 this section shall give reasonable notice of the motion to all

1 parties to the original action and to any agency whose records will
2 be affected by the motion.

3 (8) The court may permit inspection of records by, or release of
4 information to, any clinic, hospital, or agency which has the subject
5 person under care or treatment. The court may also permit inspection
6 by or release to individuals or agencies, including juvenile justice
7 advisory committees of county law and justice councils, engaged in
8 legitimate research for educational, scientific, or public purposes.
9 Each person granted permission to inspect juvenile justice or care
10 agency records for research purposes shall present a notarized
11 statement to the court stating that the names of juveniles and
12 parents will remain confidential.

13 (9) The court shall release to the caseload forecast council the
14 records needed for its research and data-gathering functions. Access
15 to caseload forecast data may be permitted by the council for
16 research purposes only if the anonymity of all persons mentioned in
17 the records or information will be preserved.

18 (10) Juvenile detention facilities shall release records to the
19 caseload forecast council upon request. The commission shall not
20 disclose the names of any juveniles or parents mentioned in the
21 records without the named individual's written permission.

22 (11) Requirements in this chapter relating to the court's
23 authority to compel disclosure shall not apply to the oversight board
24 for children, youth, and families or the office of the family and
25 children's ombuds.

26 (12) For the purpose of research only, the administrative office
27 of the courts shall maintain an electronic research copy of all
28 records in the judicial information system related to juveniles.
29 Access to the research copy is restricted to the administrative
30 office of the courts for research purposes as authorized by the
31 supreme court or by state statute. The administrative office of the
32 courts shall maintain the confidentiality of all confidential records
33 and shall preserve the anonymity of all persons identified in the
34 research copy. Data contained in the research copy may be shared with
35 other governmental agencies as authorized by state statute, pursuant
36 to data-sharing and research agreements, and consistent with
37 applicable security and confidentiality requirements. The research
38 copy may not be subject to any records retention schedule and must
39 include records destroyed or removed from the judicial information
40 system pursuant to RCW 13.50.270 and 13.50.100(3).

1 (13) The court shall release to the Washington state office of
2 public defense records needed to implement the agency's oversight,
3 technical assistance, and other functions as required by RCW
4 2.70.020. Access to the records used as a basis for oversight,
5 technical assistance, or other agency functions is restricted to the
6 Washington state office of public defense. The Washington state
7 office of public defense shall maintain the confidentiality of all
8 confidential information included in the records.

9 (14) The court shall release to the Washington state office of
10 civil legal aid records needed to implement the agency's oversight,
11 technical assistance, and other functions as required by RCW
12 2.53.045. Access to the records used as a basis for oversight,
13 technical assistance, or other agency functions is restricted to the
14 Washington state office of civil legal aid. The Washington state
15 office of civil legal aid shall maintain the confidentiality of all
16 confidential information included in the records, and shall, as soon
17 as possible, destroy any retained notes or records obtained under
18 this section that are not necessary for its functions related to RCW
19 2.53.045.

20 (15) For purposes of providing for the educational success of
21 youth in foster care, the department of children, youth, and families
22 may disclose only those confidential child welfare records that
23 pertain to or may assist with meeting the educational needs of
24 current and former foster youth to another state agency or state
25 agency's contracted provider responsible under state law or contract
26 for assisting current and former foster youth to attain educational
27 success. The records retain their confidentiality pursuant to this
28 chapter and federal law and cannot be further disclosed except as
29 allowed under this chapter and federal law.

30 (16) For the purpose of ensuring the safety and welfare of the
31 youth who are in foster care, the department of children, youth, and
32 families may disclose to the department of commerce and its
33 contracted providers responsible under state law or contract for
34 providing services to youth, only those confidential child welfare
35 records that pertain to ensuring the safety and welfare of the youth
36 who are in foster care who are admitted to crisis residential centers
37 or HOPE centers under contract with the office of homeless youth
38 prevention and protection. Records disclosed under this subsection
39 retain their confidentiality pursuant to this chapter and federal law

1 and may not be further disclosed except as permitted by this chapter
2 and federal law.

3 (17) Except as provided in subsection (19) of this section, for
4 purposes of investigating and preventing child abuse and neglect, and
5 providing for the health care coordination and the well-being of
6 children in foster care, the department of children, youth, and
7 families may disclose only those confidential child welfare records
8 that pertain to or may assist with investigation and prevention of
9 child abuse and neglect, or may assist with providing for the health
10 and well-being of children in foster care to the department of social
11 and health services, the health care authority, or their contracting
12 agencies. For purposes of investigating and preventing child abuse
13 and neglect, and to provide for the coordination of health care and
14 the well-being of children in foster care, the department of social
15 and health services and the health care authority may disclose only
16 those confidential child welfare records that pertain to or may
17 assist with investigation and prevention of child abuse and neglect,
18 or may assist with providing for the health care coordination and the
19 well-being of children in foster care to the department of children,
20 youth, and families, or its contracting agencies. The records retain
21 their confidentiality pursuant to this chapter and federal law and
22 cannot be further disclosed except as allowed under this chapter and
23 federal law.

24 (18) For the purpose of investigating child sexual abuse, online
25 sexual exploitation and commercial sexual exploitation of minors, and
26 child fatality, child physical abuse, and criminal neglect cases for
27 the well-being of the child, the department of children, youth, and
28 families may disclose only those confidential child welfare records
29 that pertain to or may assist with such an investigation pursuant to
30 RCW 26.44.180 and 26.44.175. The records retain their confidentiality
31 pursuant to this chapter and federal law and cannot be further
32 disclosed except as allowed under this chapter and federal law.

33 (19) (a) Upon request, the department and the department of social
34 and health services must share information with each other contained
35 in reports and findings of: (i) Abandonment, abuse, financial
36 exploitation, self-neglect, and neglect of vulnerable adults; and
37 (ii) abuse and neglect of children.

38 (b) Upon request, the department and the department of social and
39 health services must share information with each other to the extent
40 that such information pertains to or may assist with (i)

1 investigating or preventing child abuse or neglect; (ii) providing
2 for the health and well-being of children in foster care; or (iii)
3 investigating or preventing the abandonment, abuse, financial
4 exploitation, self-neglect, and neglect of a vulnerable adult.

5 (c) This information sharing is required for purposes of the
6 federal health insurance portability and accountability act of 1996.
7 The information contained in reports and findings retains its
8 confidentiality under federal and state law and may not be further
9 disseminated except as authorized by law. This information is not
10 subject to public disclosure under chapter 42.56 RCW.

11 **Sec. 9.** RCW 68.50.105 and 2019 c 470 s 14 are each amended to
12 read as follows:

13 (1) Reports and records of autopsies or postmortems shall be
14 confidential, except that the following persons may examine and
15 obtain copies of any such report or record: The personal
16 representative of the decedent as defined in RCW 11.02.005, any
17 family member, the attending physician or advanced registered nurse
18 practitioner, the prosecuting attorney or law enforcement agencies
19 having jurisdiction, public health officials, the department of labor
20 and industries in cases in which it has an interest under RCW
21 68.50.103, ~~((or))~~ the secretary of the department of children, youth,
22 and families or his or her designee in cases being reviewed under RCW
23 74.13.640, or the secretary of the department of social and health
24 services or his or her designee in cases being reviewed under RCW
25 74.34.300.

26 (2) (a) Notwithstanding the restrictions contained in this section
27 regarding the dissemination of records and reports of autopsies or
28 postmortems, nor the exemptions referenced under RCW 42.56.240(1),
29 nothing in this chapter prohibits a coroner, medical examiner, or his
30 or her designee, from publicly discussing his or her findings as to
31 any death subject to the jurisdiction of his or her office where
32 actions of a law enforcement officer or corrections officer have been
33 determined to be a proximate cause of the death, except as provided
34 in (b) of this subsection.

35 (b) A coroner, medical examiner, or his or her designee may not
36 publicly discuss his or her findings outside of formal court or
37 inquest proceedings if there is a pending or active criminal
38 investigation, or a criminal or civil action, concerning a death that
39 has commenced prior to January 1, 2014.

1 (3) The coroner, the medical examiner, or the attending physician
2 shall, upon request, meet with the family of the decedent to discuss
3 the findings of the autopsy or postmortem. For the purposes of this
4 section, the term "family" means the surviving spouse, state
5 registered domestic partner, or any child, parent, grandparent,
6 grandchild, brother, or sister of the decedent, or any person who was
7 guardian of the decedent at the time of death.

8 NEW SECTION. **Sec. 10.** Section 6 of this act takes effect
9 January 1, 2021."

10 Correct the title.

EFFECT: Deletes a definition of "misappropriation of resident property" and removes the term from provisions relating to information sharing, quality assurance, and employment restrictions. Makes technical corrections to update RCW sections amended by legislation enacted in 2019 and to change the effective date of the bill from January 1, 2020, to January 1, 2021.

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