
ENGROSSED SUBSTITUTE HOUSE BILL 1422

State of Washington

66th Legislature

2019 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Valdez, Harris, Tharinger, Jinkins, Macri, Kilduff, Van Werven, Doglio, Morgan, Fey, and Ormsby; by request of Department of Social and Health Services)

READ FIRST TIME 02/14/19.

1 AN ACT Relating to the protection of vulnerable adults; amending
2 RCW 74.34.020, 74.34.063, 74.34.095, 74.34.110, 74.34.300,
3 74.39A.056, and 68.50.105; reenacting and amending RCW 13.50.010;
4 adding a new section to chapter 74.34 RCW; and providing an effective
5 date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

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

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

1 to express or demonstrate physical harm, pain, or mental anguish, the
2 abuse is presumed to cause physical harm, pain, or mental anguish.

3 (a) For the purpose of this subsection, the following definitions
4 apply:

5 (i) INTENTIONAL. A person acts with intent or intentionally when
6 he or she acts with the objective or purpose to inflict injury,
7 unreasonable confinement, intimidation, or punishment on a vulnerable
8 adult.

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

13 (iii) RECKLESS. A person is reckless or acts recklessly when he
14 or she knows of and disregards a substantial risk that his or her
15 action is likely to inflict injury, unreasonable confinement,
16 intimidation, or punishment on a vulnerable adult, and his or her
17 disregard of such substantial risk is a gross deviation from conduct
18 that a reasonable person would exercise in the same situation.

19 (b) Abuse includes sexual abuse, mental abuse, physical abuse,
20 ((and)) personal exploitation of a vulnerable adult, and improper use
21 of restraint against a vulnerable adult which have the following
22 meanings:

23 ((a)) (i) "Sexual abuse" means any form of nonconsensual sexual
24 conduct, including but not limited to unwanted or inappropriate
25 touching, rape, sodomy, sexual coercion, sexually explicit
26 photographing, and sexual harassment. Sexual abuse also includes any
27 sexual conduct between a staff person, who is not also a resident or
28 client, of a facility or a staff person of a program authorized under
29 chapter 71A.12 RCW, and a vulnerable adult living in that facility or
30 receiving service from a program authorized under chapter 71A.12 RCW,
31 whether or not it is consensual.

32 ((b)) (ii) "Physical abuse" means the ((willful)) action of
33 intentionally, knowingly, or recklessly inflicting bodily injury or
34 physical mistreatment. Physical abuse includes, but is not limited
35 to, striking with or without an object, slapping, pinching, choking,
36 kicking, shoving, or prodding.

37 ((c)) (iii) "Mental abuse" means a ((willful)) verbal or
38 nonverbal action that intentionally, knowingly, or recklessly
39 threatens, humiliates, harasses, coerces, intimidates, isolates,

1 unreasonably confines, or punishes a vulnerable adult. Mental abuse
2 may include ridiculing, yelling, or swearing.

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

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

15 (3) "Chemical restraint" means the administration of any drug to
16 manage a vulnerable adult's behavior in a way that reduces the safety
17 risk to the vulnerable adult or others, has the temporary effect of
18 restricting the vulnerable adult's freedom of movement, and is not
19 standard treatment for the vulnerable adult's medical or psychiatric
20 condition.

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

25 (5) "Department" means the department of social and health
26 services.

27 (6) "Facility" means a residence licensed or required to be
28 licensed under chapter 18.20 RCW, assisted living facilities; chapter
29 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes;
30 chapter 72.36 RCW, soldiers' homes; chapter 70.97 RCW, enhanced
31 services facilities; chapter 71A.20 RCW, residential habilitation
32 centers; or any other facility licensed or certified by the
33 department.

34 (7) "Financial exploitation" means the illegal or improper use,
35 control over, or withholding of the property, income, resources, or
36 trust funds of the vulnerable adult by any person or entity for any
37 person's or entity's profit or advantage other than for the
38 vulnerable adult's profit or advantage. "Financial exploitation"
39 includes, but is not limited to:

1 (a) The use of deception, intimidation, or undue influence by a
2 person or entity in a position of trust and confidence with a
3 vulnerable adult to obtain or use the property, income, resources, or
4 trust funds of the vulnerable adult for the benefit of a person or
5 entity other than the vulnerable adult;

6 (b) The breach of a fiduciary duty, including, but not limited
7 to, the misuse of a power of attorney, trust, or a guardianship
8 appointment, that results in the unauthorized appropriation, sale, or
9 transfer of the property, income, resources, or trust funds of the
10 vulnerable adult for the benefit of a person or entity other than the
11 vulnerable adult; or

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

17 (8) "Financial institution" has the same meaning as in RCW
18 30A.22.040 and 30A.22.041. For purposes of this chapter only,
19 "financial institution" also means a "broker-dealer" or "investment
20 adviser" as defined in RCW 21.20.005.

21 (9) "Hospital" means a facility licensed under chapter 70.41 or
22 71.12 RCW or a state hospital defined in chapter 72.23 RCW and any
23 employee, agent, officer, director, or independent contractor
24 thereof.

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

28 (11) "Individual provider" means a person under contract with the
29 department to provide services in the home under chapter 74.09 or
30 74.39A RCW.

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

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

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

4 (ii) Acts that prevent or obstruct the vulnerable adult from
5 meeting with others, such as telling a prospective visitor or caller
6 that a vulnerable adult is not present, or does not wish contact,
7 where the statement is contrary to the express wishes of the
8 vulnerable adult.

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

14 (14) "Mandated reporter" is an employee of the department or the
15 department of children, youth, and families; law enforcement officer;
16 social worker; professional school personnel; individual provider;
17 (~~an employee of a facility~~;) an operator of a facility or a
18 certified residential services and supports agency under chapter
19 71A.12 RCW; an employee of a facility; an employee of a social
20 service, welfare, mental health, adult day health, adult day care,
21 home health, home care, (~~or~~) hospice, or certified residential
22 services and supports agency; county coroner or medical examiner;
23 Christian Science practitioner; or health care provider subject to
24 chapter 18.130 RCW.

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

33 (16) "Neglect" means (a) a pattern of conduct or inaction by a
34 person or entity with a duty of care that fails to provide the goods
35 and services that maintain physical or mental health of a vulnerable
36 adult, or that fails to avoid or prevent physical or mental harm or
37 pain to a vulnerable adult; or (b) an act or omission by a person or
38 entity with a duty of care that demonstrates a serious disregard of
39 consequences of such a magnitude as to constitute a clear and present

1 danger to the vulnerable adult's health, welfare, or safety,
2 including but not limited to conduct prohibited under RCW 9A.42.100.

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

7 (18) "Physical restraint" means the application of physical force
8 without the use of any device, for the purpose of restraining the
9 free movement of a vulnerable adult's body. "Physical restraint" does
10 not include (a) briefly holding without undue force a vulnerable
11 adult in order to calm or comfort him or her, or (b) holding a
12 vulnerable adult's hand to safely escort him or her from one area to
13 another.

14 (19) "Protective services" means any services provided by the
15 department to a vulnerable adult with the consent of the vulnerable
16 adult, or the legal representative of the vulnerable adult, who has
17 been abandoned, abused, financially exploited, neglected, or in a
18 state of self-neglect. These services may include, but are not
19 limited to case management, social casework, home care, placement,
20 arranging for medical evaluations, psychological evaluations, day
21 care, or referral for legal assistance.

22 (20) "Self-neglect" means the failure of a vulnerable adult, not
23 living in a facility, to provide for himself or herself the goods and
24 services necessary for the vulnerable adult's physical or mental
25 health, and the absence of which impairs or threatens the vulnerable
26 adult's well-being. This definition may include a vulnerable adult
27 who is receiving services through home health, hospice, or a home
28 care agency, or an individual provider when the neglect is not a
29 result of inaction by that agency or individual provider.

30 (21) "Social worker" means:

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

32 (b) Anyone engaged in a professional capacity during the regular
33 course of employment in encouraging or promoting the health, welfare,
34 support, or education of vulnerable adults, or providing social
35 services to vulnerable adults, whether in an individual capacity or
36 as an employee or agent of any public or private organization or
37 institution.

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

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

- 1 (b) Found incapacitated under chapter 11.88 RCW; or
2 (c) Who has a developmental disability as defined under RCW
3 71A.10.020; or
4 (d) Admitted to any facility; or
5 (e) Receiving services from home health, hospice, or home care
6 agencies licensed or required to be licensed under chapter 70.127
7 RCW; or
8 (f) Receiving services from an individual provider; or
9 (g) Who self-directs his or her own care and receives services
10 from a personal aide under chapter 74.39 RCW.

11 (23) "Vulnerable adult abuse registry" means a list of
12 individuals who have a final substantiated finding by the department
13 of abuse, abandonment, neglect, or financial exploitation of a
14 vulnerable adult.

15 (24) "Vulnerable adult advocacy team" means a team of three or
16 more persons who coordinate a multidisciplinary process, in
17 compliance with chapter 266, Laws of 2017 and the protocol governed
18 by RCW 74.34.320, for preventing, identifying, investigating,
19 prosecuting, and providing services related to abuse, neglect, or
20 financial exploitation of vulnerable adults.

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

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

27 (2) When the initial report or investigation by the department
28 indicates that the alleged abandonment, abuse, financial
29 exploitation, or neglect may be criminal, the department shall make
30 an immediate report to the appropriate law enforcement agency. The
31 department and law enforcement will coordinate in investigating
32 reports made under this chapter. The department may provide
33 protective services and other remedies as specified in this chapter.

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

38 (4) Upon request, the department and law enforcement (~~may~~) must
39 share information contained in reports and findings of abandonment,

1 abuse, financial exploitation, and neglect of vulnerable adults with
2 each other, consistent with RCW 74.04.060 (~~(, chapter 42.56 RCW,)~~) and
3 other applicable confidentiality laws. The information contained in
4 reports and findings may not be further disseminated and is not
5 subject to disclosure under chapter 42.56 RCW.

6 (~~(Unless prohibited by federal law, the department of social~~
7 ~~and health services may share with the department of children, youth,~~
8 ~~and families information contained in reports and findings of~~
9 ~~abandonment, abuse, financial exploitation, and neglect of vulnerable~~
10 ~~adults.))~~ (a) The investigation of alleged abandonment, abuse,
11 financial exploitation, neglect, or self-neglect of a vulnerable
12 adult is a legitimate state purpose. Upon request, the department and
13 the department of children, youth, and families must share
14 information with each other contained in reports and findings of: (i)
15 Abandonment, abuse, financial exploitation, neglect, or self-neglect
16 of vulnerable adults; and (ii) abuse and neglect of children but only
17 for the purposes set forth in (b) of this subsection.

18 (b) Upon request, the department and the department of children,
19 youth, and families may only share information with each other to the
20 extent that such information pertains to or may assist with (i)
21 investigating or preventing child abuse or neglect; (ii) providing
22 for the health and well-being of children in foster care; or (iii)
23 investigating or preventing the abandonment, abuse, financial
24 exploitation, neglect, or self-neglect of a vulnerable adult.

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

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

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

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

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

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

4 (c) All files, reports, records, communications, and working
5 papers used or developed in the investigation or provision of
6 protective services.

7 (2) Information considered confidential may be disclosed only for
8 a purpose consistent with this chapter, or as authorized by chapter
9 18.20, 18.51, or 74.39A RCW(~~(, or as authorized by)~~); the long-term
10 care ombuds programs under federal law or state law, chapter 43.190
11 RCW; or the office of the developmental disabilities ombuds program
12 under chapter 43.382 RCW.

13 (3) A court or presiding officer in an administrative proceeding
14 may order disclosure of confidential information only if the court,
15 or presiding officer in an administrative proceeding, determines that
16 disclosure is essential to the administration of justice and will not
17 endanger the life or safety of the vulnerable adult or individual who
18 made the report. The court or presiding officer in an administrative
19 hearing may place restrictions on such disclosure as the court or
20 presiding officer deems proper.

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

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

25 (ii) The status of the report; and

26 (iii) The outcome of an investigation.

27 (b) The department may not disclose any information regarding a
28 specifically named vulnerable adult if any of the following
29 circumstances apply:

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

34 (ii) The requester is the alleged perpetrator;

35 (iii) The department has a reasonable belief that disclosure may
36 compromise any investigation by a law enforcement agency,
37 disciplinary authority, the department, or the department of
38 children, youth, and families; or

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

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

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

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

10 ~~((2))~~ (b) A petition shall allege that the petitioner, or
11 person on whose behalf the petition is brought, is a vulnerable adult
12 and that the petitioner, or person on whose behalf the petition is
13 brought, has been abandoned, abused, financially exploited, or
14 neglected, or is threatened with abandonment, abuse, financial
15 exploitation, or neglect by respondent.

16 ~~((3))~~ (c) A petition shall be accompanied by affidavit made
17 under oath, or a declaration signed under penalty of perjury, stating
18 the specific facts and circumstances which demonstrate the need for
19 the relief sought. If the petition is filed by an interested person,
20 the affidavit or declaration must also include a statement of why the
21 petitioner qualifies as an interested person.

22 ~~((4))~~ (d) A petition for an order may be made whether or not
23 there is a pending lawsuit, complaint, petition, or other action
24 pending that relates to the issues presented in the petition for an
25 order for protection.

26 ~~((5))~~ (e) Within ninety days of receipt of the master copy from
27 the administrative office of the courts, all court clerk's offices
28 shall make available the standardized forms and instructions required
29 by RCW 74.34.115.

30 ~~((6))~~ (f) Any assistance or information provided by any person,
31 including, but not limited to, court clerks, employees of the
32 department, and other court facilitators, to another to complete the
33 forms provided by the court in (e) of this subsection ~~((5) of this~~
34 ~~section))~~ does not constitute the practice of law.

35 ~~((7))~~ (g) A petitioner is not required to post bond to obtain
36 relief in any proceeding under this section.

37 ~~((8))~~ (h) An action under this section shall be filed in the
38 county where the vulnerable adult resides; except that if the
39 vulnerable adult has left or been removed from the residence as a
40 result of abandonment, abuse, financial exploitation, or neglect, or

1 in order to avoid abandonment, abuse, financial exploitation, or
2 neglect, the petitioner may bring an action in the county of either
3 the vulnerable adult's previous or new residence.

4 ~~((9))~~ (i) No filing fee may be charged to the petitioner for
5 proceedings under this section. Standard forms and written
6 instructions shall be provided free of charge.

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

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

12 (1) The department shall conduct quality assurance reviews to
13 monitor processes related to the receipt of and timely response to
14 reports of vulnerable adult abuse, abandonment, neglect, self-
15 neglect, and financial exploitation; quality of investigations; and
16 implementation of protective services.

17 (a) As part of the quality assurance process, the department
18 shall conduct a vulnerable adult fatality review in the event of a
19 death of a vulnerable adult when the department has reason to believe
20 that the death of the vulnerable adult may be related to the abuse,
21 abandonment, financial exploitation, or neglect of the vulnerable
22 adult, or may be related to the vulnerable adult's self-neglect, and
23 the vulnerable adult was:

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

28 ~~((b))~~ (ii) Living in his or her own home or licensed or
29 certified settings described under chapters 74.39, 74.39A, 18.20,
30 70.128, and 71A.12 RCW and was the subject of a report under this
31 chapter received by the department within twelve months preceding his
32 or her death.

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

38 (2)(a) Quality assurance reviews completed pursuant to this
39 section are not subject to discovery in a civil or administrative

1 proceeding and may not be admitted into evidence or otherwise used in
2 a civil or administrative proceeding except pursuant to this section.

3 (b) A department employee responsible for conducting quality
4 assurance reviews, or a member of a quality assurance team, may not
5 be examined in a civil or administrative proceeding regarding (i) the
6 work of the quality assurance review or quality assurance team, (ii)
7 the incident under review, (iii) his or her statements,
8 deliberations, thoughts, analyses, or impressions relating to the
9 work of the quality assurance review or the incident under review, or
10 (iv) the statements, deliberations, thoughts, analyses, or
11 impressions of any other member of the quality assurance review or
12 quality assurance team, or any person who provided information to the
13 quality assurance review or quality assurance team, relating to the
14 work of the quality assurance review or the incident under review.

15 (c) Documents prepared by or for a quality assurance review or
16 quality assurance team are inadmissible and may not be used in a
17 civil or administrative proceeding, except that any document that
18 exists before its use or consideration in a quality assurance review,
19 or that is created independently of such review, does not become
20 inadmissible merely because it is reviewed or used by a quality
21 assurance team. A person is not unavailable as a witness merely
22 because the person has been interviewed by or has provided a
23 statement for a quality assurance review, but if called as a witness,
24 a person may not be examined regarding the person's interactions with
25 the quality assurance review including, without limitation, whether
26 the person was interviewed during such review, the questions that
27 were asked during such review, and the answers that the person
28 provided during such review. This section does not restrict the
29 person from testifying fully in any proceeding regarding his or her
30 knowledge of the incident under review.

31 ~~(3) ((All files, reports, records, communications, and working~~
32 ~~papers used or developed for purposes of a fatality review are~~
33 ~~confidential and not subject to disclosure pursuant to RCW 74.34.095.~~

34 ~~(4))~~ The department may adopt rules to implement this section.

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

37 (1) The department shall maintain a vulnerable adult abuse
38 registry. Upon request of any person, the department may disclose the
39 identity of a person who has been entered on the registry with a

1 final substantiated finding of abandonment, abuse, financial
2 exploitation, or neglect of a vulnerable adult.

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

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

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

14 (a) The final substantiated finding that the person abused,
15 abandoned, neglected, or financially exploited a vulnerable adult
16 included information that:

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

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

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

22 (iv) The abuse involved a lethal weapon;

23 (b) The person has a conviction for a disqualifying crime under
24 RCW 43.43.842;

25 (c) The person has more than one final substantiated finding of
26 abuse, abandonment, neglect, financial exploitation, or any
27 combination thereof, of a vulnerable adult; or has a final
28 substantiated finding involving more than one vulnerable adult
29 victim; or has a final substantiated finding involving multiple
30 instances of misconduct against a single vulnerable adult victim; or

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

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

39 (6) If the petition is granted, the individual is removed from
40 the vulnerable adult abuse registry and the individual is no longer

1 disqualified from employment under RCW 74.39A.056 or 18.20.125 by
2 reason of the final substantiated finding. Nothing in this subsection
3 affects a finding against the individual that is on the vulnerable
4 adult abuse registry maintained by the department under 42 C.F.R.
5 Sec. 483.156 unless removal from that registry is permitted by 42
6 U.S.C. Sec. 1396r(g)(1)(D).

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

12 (8)(a) The state of Washington and its officers, employees,
13 contractors, agents, and agencies, including the department, are
14 immune from suit in law, equity, or any action under the
15 administrative procedure act, chapter 34.05 RCW, based on the
16 exercise of discretion to remove an individual from the vulnerable
17 adult abuse registry, except as specified in (b) of this subsection.
18 This section does not modify an applicant's right to seek review of
19 an agency's licensing or certification decision under the
20 administrative procedure act, chapter 34.05 RCW, or other applicable
21 statute or agency rule.

22 (b) A person denied removal from the vulnerable adult abuse
23 registry has the right to an adjudicative proceeding, and to judicial
24 review of that adjudicative proceeding, to challenge the denial
25 pursuant to chapter 34.05 RCW. In any such proceeding, it is the
26 appellant's burden to prove that the appellant should be removed from
27 the registry.

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

33 (i) Documents prepared by department staff during the
34 department's review and consideration of a petition for removal of a
35 registry finding; and

36 (ii) Facts related to the underlying finding, including the
37 underlying finding itself.

38 (b) Any documents that existed before a petition for removal was
39 filed or that were created independently of the department's review

1 and consideration of such petition do not become inadmissible merely
2 because they were used during the department's review process.

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

7 (11) The department shall adopt rules necessary to implement this
8 section.

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

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

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

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

24 (b)(i) Except as provided in (b)(ii) of this subsection, for
25 long-term care workers hired on or after January 7, 2012, the
26 background checks required under this section shall include checking
27 against the federal bureau of investigation fingerprint
28 identification records system and against the national sex offenders
29 registry or their successor programs. The department shall require
30 these long-term care workers to submit fingerprints for the purpose
31 of investigating conviction records through both the Washington state
32 patrol and the federal bureau of investigation. The department shall
33 not pass on the cost of these criminal background checks to the
34 workers or their employers.

35 (ii) This subsection does not apply to long-term care workers
36 employed by community residential service businesses until January 1,
37 2016.

1 (c) The department shall share state and federal background check
2 results with the department of health in accordance with RCW
3 18.88B.080.

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

7 (i) The individual has an individual provider contract with the
8 department;

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

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

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

16 (2) (~~No provider, or its staff, or long-term care worker, or~~
17 ~~prospective provider or long-term care worker, with a stipulated~~
18 ~~finding of fact, conclusion of law, an agreed order, or finding of~~
19 ~~fact, conclusion of law, or final order issued by a disciplining~~
20 ~~authority or a court of law or entered into a state registry with a~~
21 ~~final substantiated finding of abuse, neglect, exploitation, or~~
22 ~~abandonment of a minor or a vulnerable adult as defined in chapter~~
23 ~~74.34 RCW shall be employed in the care of and have unsupervised~~
24 ~~access to vulnerable adults.)) A provider may not be employed in the
25 care of and have unsupervised access to vulnerable adults if:~~

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

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

32 (c) A disciplining authority, including the department of health,
33 has made a finding of abuse, abandonment, neglect, or financial
34 exploitation of a minor or a vulnerable adult against the provider;
35 or

36 (d) A court has issued an order that includes a finding of fact
37 or conclusion of law that the provider has committed abuse,
38 abandonment, neglect, or financial exploitation of a minor or
39 vulnerable adult.

1 (3) (~~The department shall establish, by rule, a state registry~~
2 ~~which contains identifying information about long-term care workers~~
3 ~~identified under this chapter who have final substantiated findings~~
4 ~~of abuse, neglect, financial exploitation, or abandonment of a~~
5 ~~vulnerable adult as defined in RCW 74.34.020. The rule must include~~
6 ~~disclosure, disposition of findings, notification, findings of fact,~~
7 ~~appeal rights, and fair hearing requirements. The department shall~~
8 ~~disclose, upon request, final substantiated findings of abuse,~~
9 ~~neglect, financial exploitation, or abandonment to any person so~~
10 ~~requesting this information. This information must also be shared~~
11 ~~with the department of health to advance the purposes of chapter~~
12 ~~18.88B RCW.)) For the purposes of this section, "provider" means:~~

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

14 (b) An employee, licensee, or contractor of any of the following:
15 A home care agency licensed under chapter 70.127 RCW, a nursing home
16 under chapter 18.51 RCW, an assisted living facility under chapter
17 18.20 RCW, an enhanced services facility under chapter 70.97 RCW, a
18 certified residential services and supports agency licensed or
19 certified under chapter 71A.12 RCW, an adult family home under
20 chapter 70.128 RCW, or any other long-term care facility certified to
21 provide medicaid or medicare services; and

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

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

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

27 (1) For purposes of this chapter:

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

35 (b) "Juvenile justice or care agency" means any of the following:
36 Police, diversion units, court, prosecuting attorney, defense
37 attorney, detention center, attorney general, the oversight board for
38 children, youth, and families, the office of the family and
39 children's ombuds, the department of social and health services and

1 its contracting agencies, the department of children, youth, and
2 families and its contracting agencies, schools; persons or public or
3 private agencies having children committed to their custody; and any
4 placement oversight committee created under RCW 72.05.415;

5 (c) "Official juvenile court file" means the legal file of the
6 juvenile court containing the petition or information, motions,
7 memorandums, briefs, notices of hearing or appearance, service
8 documents, witness and exhibit lists, findings of the court and court
9 orders, agreements, judgments, decrees, notices of appeal, as well as
10 documents prepared by the clerk, including court minutes, letters,
11 warrants, waivers, affidavits, declarations, invoices, and the index
12 to clerk papers;

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

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

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

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

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

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

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

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

38 (5) Any person who has reasonable cause to believe information
39 concerning that person is included in the records of a juvenile
40 justice or care agency and who has been denied access to those

1 records by the agency may make a motion to the court for an order
2 authorizing that person to inspect the juvenile justice or care
3 agency record concerning that person. The court shall grant the
4 motion to examine records unless it finds that in the interests of
5 justice or in the best interests of the juvenile the records or parts
6 of them should remain confidential.

7 (6) A juvenile, or his or her parents, or any person who has
8 reasonable cause to believe information concerning that person is
9 included in the records of a juvenile justice or care agency may make
10 a motion to the court challenging the accuracy of any information
11 concerning the moving party in the record or challenging the
12 continued possession of the record by the agency. If the court grants
13 the motion, it shall order the record or information to be corrected
14 or destroyed.

15 (7) The person making a motion under subsection (5) or (6) of
16 this section shall give reasonable notice of the motion to all
17 parties to the original action and to any agency whose records will
18 be affected by the motion.

19 (8) The court may permit inspection of records by, or release of
20 information to, any clinic, hospital, or agency which has the subject
21 person under care or treatment. The court may also permit inspection
22 by or release to individuals or agencies, including juvenile justice
23 advisory committees of county law and justice councils, engaged in
24 legitimate research for educational, scientific, or public purposes.
25 Each person granted permission to inspect juvenile justice or care
26 agency records for research purposes shall present a notarized
27 statement to the court stating that the names of juveniles and
28 parents will remain confidential.

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

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

38 (11) Requirements in this chapter relating to the court's
39 authority to compel disclosure shall not apply to the oversight board

1 for children, youth, and families or the office of the family and
2 children's ombuds.

3 (12) For the purpose of research only, the administrative office
4 of the courts shall maintain an electronic research copy of all
5 records in the judicial information system related to juveniles.
6 Access to the research copy is restricted to the administrative
7 office of the courts for research purposes as authorized by the
8 supreme court or by state statute. The administrative office of the
9 courts shall maintain the confidentiality of all confidential records
10 and shall preserve the anonymity of all persons identified in the
11 research copy. Data contained in the research copy may be shared with
12 other governmental agencies as authorized by state statute, pursuant
13 to data-sharing and research agreements, and consistent with
14 applicable security and confidentiality requirements. The research
15 copy may not be subject to any records retention schedule and must
16 include records destroyed or removed from the judicial information
17 system pursuant to RCW 13.50.270 and 13.50.100(3).

18 (13) The court shall release to the Washington state office of
19 public defense records needed to implement the agency's oversight,
20 technical assistance, and other functions as required by RCW
21 2.70.020. Access to the records used as a basis for oversight,
22 technical assistance, or other agency functions is restricted to the
23 Washington state office of public defense. The Washington state
24 office of public defense shall maintain the confidentiality of all
25 confidential information included in the records.

26 (14) The court shall release to the Washington state office of
27 civil legal aid records needed to implement the agency's oversight,
28 technical assistance, and other functions as required by RCW
29 2.53.045. Access to the records used as a basis for oversight,
30 technical assistance, or other agency functions is restricted to the
31 Washington state office of civil legal aid. The Washington state
32 office of civil legal aid shall maintain the confidentiality of all
33 confidential information included in the records, and shall, as soon
34 as possible, destroy any retained notes or records obtained under
35 this section that are not necessary for its functions related to RCW
36 2.53.045.

37 (15) For purposes of providing for the educational success of
38 youth in foster care, the department of children, youth, and families
39 may disclose only those confidential child welfare records that
40 pertain to or may assist with meeting the educational needs of

1 current and former foster youth to another state agency or state
2 agency's contracted provider responsible under state law or contract
3 for assisting current and former foster youth to attain educational
4 success. The records retain their confidentiality pursuant to this
5 chapter and federal law and cannot be further disclosed except as
6 allowed under this chapter and federal law.

7 (16) For the purpose of ensuring the safety and welfare of the
8 youth who are in foster care, the department of children, youth, and
9 families may disclose to the department of commerce and its
10 contracted providers responsible under state law or contract for
11 providing services to youth, only those confidential child welfare
12 records that pertain to ensuring the safety and welfare of the youth
13 who are in foster care who are admitted to crisis residential centers
14 or HOPE centers under contract with the office of homeless youth
15 prevention and protection. Records disclosed under this subsection
16 retain their confidentiality pursuant to this chapter and federal law
17 and may not be further disclosed except as permitted by this chapter
18 and federal law.

19 (17) Except as provided in subsection (19) of this section, for
20 purposes of investigating and preventing child abuse and neglect, and
21 providing for the health care coordination and the well-being of
22 children in foster care, the department of children, youth, and
23 families may disclose only those confidential child welfare records
24 that pertain to or may assist with investigation and prevention of
25 child abuse and neglect, or may assist with providing for the health
26 and well-being of children in foster care to the department of social
27 and health services, the health care authority, or their contracting
28 agencies. For purposes of investigating and preventing child abuse
29 and neglect, and to provide for the coordination of health care and
30 the well-being of children in foster care, the department of social
31 and health services and the health care authority may disclose only
32 those confidential child welfare records that pertain to or may
33 assist with investigation and prevention of child abuse and neglect,
34 or may assist with providing for the health care coordination and the
35 well-being of children in foster care to the department of children,
36 youth, and families, or its contracting agencies. The records retain
37 their confidentiality pursuant to this chapter and federal law and
38 cannot be further disclosed except as allowed under this chapter and
39 federal law.

1 (18) For the purpose of investigating child sexual abuse, online
2 sexual exploitation and commercial sexual exploitation of minors, and
3 child fatality, child physical abuse, and criminal neglect cases for
4 the well-being of the child, the department of children, youth, and
5 families may disclose only those confidential child welfare records
6 that pertain to or may assist with such an investigation pursuant to
7 RCW 26.44.180 and 26.44.175. The records retain their confidentiality
8 pursuant to this chapter and federal law and cannot be further
9 disclosed except as allowed under this chapter and federal law.

10 (19) (a) Upon request, the department and the department of social
11 and health services must share information with each other contained
12 in reports and findings of: (i) Abandonment, abuse, financial
13 exploitation, self-neglect, and neglect of vulnerable adults; and
14 (ii) abuse and neglect of children.

15 (b) Upon request, the department and the department of social and
16 health services must share information with each other to the extent
17 that such information pertains to or may assist with (i)
18 investigating or preventing child abuse or neglect; (ii) providing
19 for the health and well-being of children in foster care; or (iii)
20 investigating or preventing the abandonment, abuse, financial
21 exploitation, self-neglect, and neglect of a vulnerable adult.

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

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

30 (1) Reports and records of autopsies or postmortems shall be
31 confidential, except that the following persons may examine and
32 obtain copies of any such report or record: The personal
33 representative of the decedent as defined in RCW 11.02.005, any
34 family member, the attending physician or advanced registered nurse
35 practitioner, the prosecuting attorney or law enforcement agencies
36 having jurisdiction, public health officials, the department of labor
37 and industries in cases in which it has an interest under RCW
38 68.50.103, ((~~or~~)) the secretary of the department of children, youth,
39 and families or his or her designee in cases being reviewed under RCW

1 74.13.640, or the secretary of the department of social and health
2 services or his or her designee in cases being reviewed under RCW
3 74.34.300.

4 (2) (a) Notwithstanding the restrictions contained in this section
5 regarding the dissemination of records and reports of autopsies or
6 postmortems, nor the exemptions referenced under RCW 42.56.240(1),
7 nothing in this chapter prohibits a coroner, medical examiner, or his
8 or her designee, from publicly discussing his or her findings as to
9 any death subject to the jurisdiction of his or her office where
10 actions of a law enforcement officer or corrections officer have been
11 determined to be a proximate cause of the death, except as provided
12 in (b) of this subsection.

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

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

25 NEW SECTION. **Sec. 10.** Section 6 of this act takes effect
26 January 1, 2021.

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