

HOUSE BILL REPORT

SB 5370

As Passed House:
March 24, 2023

Title: An act relating to adult protective services.

Brief Description: Concerning adult protective services.

Sponsors: Senators Wagoner, Dhingra, Van De Wege and Wilson, C.; by request of Department of Social and Health Services.

Brief History:

Committee Activity:

Human Services, Youth, & Early Learning: 3/15/23, 3/17/23 [DP].

Floor Activity:

Passed House: 3/24/23, 96-0.

Brief Summary of Bill

- Requires upon request, rather than authorizes, the Department of Social and Health Services (DSHS) and law enforcement to share with each other information contained in reports and findings of vulnerable adult abuse.
- Outlines the authority of the DSHS to confirm receipt and status of and disclose the outcome of reports of vulnerable adult abuse, with certain exceptions.
- Authorizes the DSHS to examine and obtain copies of autopsy records in cases of vulnerable adult abuse.
- Modifies the definitions of "individual provider" and "mandated reporter" in the provisions related to abuse of vulnerable adults.

HOUSE COMMITTEE ON HUMAN SERVICES, YOUTH, & EARLY LEARNING

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass. Signed by 11 members: Representatives Senn, Chair; Cortes, Vice Chair; Taylor, Vice Chair; Eslick, Ranking Minority Member; Couture, Assistant Ranking Minority Member; Callan, Dent, Goodman, Ortiz-Self, Rule and Walsh.

Staff: Omeara Harrington (786-7136).

Background:

Abuse and Neglect of Vulnerable Adults.

The Department of Social and Health Services (DSHS) Adult Protective Services investigates reports of abuse, abandonment, neglect, exploitation, and self-neglect of vulnerable adults. Vulnerable adults include persons who: are 60 years of age or older and unable to care for themselves; are subject to a guardianship or conservatorship; have a developmental disability; or are admitted to a facility or are receiving certain types of care, including care through an individual provider. Individual providers are persons under contract with the DSHS that provide in-home services.

Certain categories of persons are designated as "mandated reporters" of vulnerable adult abuse. The list of mandated reporters includes: the DSHS employees; law enforcement; social workers; professional school personnel; individual providers; facility employees and operators; employees of social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agencies; county coroners and medical examiners; Christian Science practitioners; and certain health care providers.

A mandated reporter is required to immediately report to the DSHS when there is reasonable cause to believe that abuse or neglect of a vulnerable adult has occurred. When there is reasonable suspicion to suspect that a sexual or physical assault has occurred, mandated reporters must immediately report to law enforcement, in addition to the DSHS. If a vulnerable adult has died and there is reason to suspect that the death was caused by abuse or neglect, mandated reporters must report the death to the medical examiner or coroner with jurisdiction, as well as the DSHS and law enforcement.

Confidentiality and Information Sharing.

A report of abandonment, abuse, financial exploitation, or neglect of a vulnerable adult, and all files, records, and communications used or developed in an investigation, or in provision of protective services, are confidential and not subject to disclosure, except for a purpose consistent with the vulnerable adult laws or as authorized by specific laws or the Long-Term Care Ombuds programs under federal or state law. The DSHS and law enforcement may share information in reports and findings of abandonment, abuse, financial exploitation, and neglect of vulnerable adults consistent with other confidentiality laws. The DSHS also may share this same information with the Department of Children, Youth, and Families (DCYF) unless prohibited by federal law.

Autopsies and Postmortems.

Reports and records of autopsies and postmortems are generally confidential; however, certain persons and entities may obtain copies of these reports and records. Those authorized to obtain copies include: the personal representative of the decedent; any family member; the attending physician or advanced registered nurse practitioner; the prosecuting attorney and law enforcement agencies with jurisdiction; public health officials; and the Department of Labor and Industries and the DCYF when associated with cases relevant to the agency.

Summary of Bill:

Definitions of Mandated Reporter and Individual Provider.

The definition of mandated reporter is modified to include employees of the DCYF and operators and employees of certified residential services and supports agencies.

The definition of individual provider is modified to match the definition used elsewhere in statute, which includes persons who provide personal or respite care through a consumer directed employment arrangement, in addition to persons who provide care pursuant to a contract with the DSHS.

Confidentiality and Information Sharing.

Upon request, the DSHS and law enforcement must share with one another information in reports and findings of abandonment, abuse, financial exploitation, and neglect of vulnerable adults consistent with other confidentiality laws.

When information regarding a specifically named vulnerable adult is requested, the DSHS may disclose the following information: (1) whether or not a report was received; (2) the status of the report; and (3) the outcome of any investigation. However, the DSHS may not disclose this information in certain circumstances, including when the requestor is the alleged perpetrator or disclosure may compromise an investigation or endanger a person.

Confidential information relating to vulnerable adults may be disclosed as authorized by the Office of Developmental Disabilities Ombuds program.

Autopsies and Postmortems.

Reports and records of autopsies and postmortems may be disclosed to the DSHS in cases being reviewed under laws for the protection of vulnerable adults.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) In 2022 the DSHS investigated 66,000 reports of vulnerable adult abuse and neglect. This bill enhances the work of the DSHS Adult Protective Services and its collaboration with outside partners. It also includes some technical changes. In terms of the changes to definitions, it is important to understand who is a mandated reporter and who is not. Usually reports from mandated reporters are how vulnerable adult abuse and neglect are discovered. The bill reinstates the DCYF employees as mandated reporters, which was lost when the DCYF was created as a separate agency. The definition of independent provider is updated to align with the consumer-directed employment program. The bill also outlines what information can be disclosed by the DSHS and ensures coroners and medical examiners can share their reports with the DSHS. Additionally, it aligns the Office of Developmental Disabilities Ombuds with the Long-Term Care Ombuds. The bill has been vetted by the interested parties and will help protect vulnerable adults.

(Opposed) None.

Persons Testifying: Senator Keith Wagoner, prime sponsor; and Bea Rector, Department of Social and Health Services.

Persons Signed In To Testify But Not Testifying: None.