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**SUBSTITUTE SENATE BILL 5338**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Human Services, Reentry & Rehabilitation (originally sponsored by Senators Darneille, Rivers, Conway, Keiser, Van De Wege, and Kuderer; by request of Department of Social and Health Services)

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

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

**Sec.**  RCW 74.34.020 and 2018 c 201 s 9016 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) "Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage.

"Financial exploitation" includes, but is not limited to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(16) "Misappropriation of resident property" has the same meaning as defined in 42 C.F.R. Sec. 483.5 as it existed on the effective date of this section.

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

((~~(17)~~)) (18) "Permissive reporter" means any person, including, but not limited to, an employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults.

((~~(18)~~)) (19) "Physical restraint" means the application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include (a) briefly holding without undue force a vulnerable adult in order to calm or comfort him or her, or (b) holding a vulnerable adult's hand to safely escort him or her from one area to another.

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

((~~(20)~~)) (21) "Self-neglect" means the failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of which impairs or threatens the vulnerable adult's well-being. This definition may include a vulnerable adult who is receiving services through home health, hospice, or a home care agency, or an individual provider when the neglect is not a result of inaction by that agency or individual provider.

((~~(21)~~)) (22) "Social worker" means:

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

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

((~~(22)~~)) (23) "Vulnerable adult" includes a person:

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

(b) Found incapacitated under chapter 11.88 RCW; or

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

(d) Admitted to any facility; or

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

(f) Receiving services from an individual provider; or

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

((~~(23)~~)) (24) "Vulnerable adult abuse registry" means a list of individuals who have a final substantiated finding by the department of abuse, abandonment, neglect, or financial exploitation of a vulnerable adult.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Whether or not a report was received;

(ii) The status of the report; and

(iii) The outcome of an investigation.

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

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

(ii) The requester is the alleged perpetrator;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) The person sexually abused a vulnerable adult;

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

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

(iv) The abuse involved a lethal weapon;

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

(c) The person has more than one final substantiated finding of abuse, abandonment, neglect, financial exploitation of a vulnerable adult, or misappropriation of resident property; or has a final substantiated finding involving more than one vulnerable adult victim; or has a final substantiated finding involving multiple instances of misconduct against a single vulnerable adult victim; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec.**  RCW 13.50.010 and 2018 c 58 s 78 are each amended to read as follows:

(1) For purposes of this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) Except as provided in subsection (18) of this section, for purposes of investigating and preventing child abuse and neglect, and providing for the health care coordination and the well-being of children in foster care, the department of children, youth, and families may disclose only those confidential child welfare records that pertain to or may assist with investigation and prevention of child abuse and neglect, or may assist with providing for the health and well-being of children in foster care to the department of social and health services, the health care authority, or their contracting agencies. For purposes of investigating and preventing child abuse and neglect, and to provide for the coordination of health care and the well-being of children in foster care, the department of social and health services and the health care authority may disclose only those confidential child welfare records that pertain to or may assist with investigation and prevention of child abuse and neglect, or may assist with providing for the health care coordination and the well-being of children in foster care to the department of children, youth, and families, or its contracting agencies. The records retain their confidentiality pursuant to this chapter and federal law and cannot be further disclosed except as allowed under this chapter and federal law.

(18)(a) Upon request, the department and the department of social and health services must share information with each other contained in reports and findings of: (i) Abandonment, abuse, financial exploitation, self-neglect and neglect of vulnerable adults, or misappropriation of resident property; and (ii) abuse and neglect of children.

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

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

**Sec.**  RCW 68.50.105 and 2013 c 295 s 1 are each amended to read as follows:

(1) Reports and records of autopsies or postmortems shall be confidential, except that the following persons may examine and obtain copies of any such report or record: The personal representative of the decedent as defined in RCW 11.02.005, any family member, the attending physician or advanced registered nurse practitioner, the prosecuting attorney or law enforcement agencies having jurisdiction, public health officials, the department of labor and industries in cases in which it has an interest under RCW 68.50.103, or the secretary of the department of social and health services or his or her designee in cases being reviewed under RCW 74.13.640 and chapter 74.34 RCW.

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

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

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

NEW SECTION. **Sec.**  Section 6 of this act takes effect January 1, 2020.

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