

SENATE BILL REPORT

SB 5889

As Reported By Senate Committee On:
Health & Long-Term Care, February 28, 1995

Title: An act relating to civil remedies for abuse, abandonment, neglect, and exploitation of frail elderly and vulnerable adults.

Brief Description: Enacting the frail elderly and vulnerable adult civil protection act.

Sponsors: Senators Fairley and Kohl.

Brief History:

Committee Activity: Health & Long-Term Care: 2/24/95, 2/28/95 [DPS].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5889 be substituted therefor, and the substitute bill do pass.

Signed by Senators Quigley, Chair; Wojahn, Vice Chair; C. Anderson, Fairley, Franklin, Winsley and Wood.

Staff: Joanne Conrad (786-7472)

Background: Concern exists that frail elders and vulnerable adults without the ability to care for themselves may not have effective access to judicial protection. Barriers to obtaining appropriate legal counsel include poverty and legal costs. Giving this population a statutory cause of action, with the possibility of increased damage awards, attorney's fees, costs, and survival of action, may increase the likelihood of obtaining counsel and legal remedy for abuse and other maltreatment.

Summary of Substitute Bill: Legislative intent to provide frail elders and vulnerable adults with the protection of the courts is stated.

Frail elders and vulnerable adults who are abused, neglected, exploited or abandoned (as defined), while residing in certain licensed care facilities or receiving other licensed care, have a cause of action for damages, including injuries, pain and suffering and loss of property. If they prevail in the legal action, they are awarded actual damages (money), costs of the suit (including fees for guardians ad litem and expert witnesses), and reasonable attorney's fees. The court may order treble damages, or increase the award to \$10,000, whichever is less. The right of action can survive the plaintiff, for the benefit of the surviving spouse, children, or heirs.

Substitute Bill Compared to Original Bill: The scope of statutory legal rights of frail elders and vulnerable adults is expanded to include remedy for abuse arising from treatment by home health, hospice and home care agencies. Mandatory abuse reporting is expanded.

The statutory age of vulnerable adults is maintained as 60 years, but the private right of action for damages is allowed for vulnerable adults of 18 years or older, in certain situations.

Appropriation: None.

Fiscal Note: Requested on February 17, 1995.

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

Testimony For: This bill is needed to address abuses of persons unable to care for themselves. It will increase access to legal remedies in a realistic manner.

Testimony Against: None.

Testified: Senator Fairley, prime sponsor; Kathy Swanson, Citizens for Improving Nursing Homes; Jeff Crollard, Evergreen Legal Services; Irene Robbins, Senior Lobby, David Vannest.