
SUBSTITUTE HOUSE BILL 1471

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Dyer, Cody, Zellinsky, Conway, Ogden, Linville, Tokuda, Kessler, Scott, Blalock, Gombosky, Costa and Dickerson; by request of Attorney General)

Read first time 03/05/97.

1 AN ACT Relating to vulnerable adults; amending RCW 9A.42.010,
2 9A.42.050, 9A.42.020, 9A.42.030, 9A.44.010, 9A.44.050, 9A.44.100,
3 18.130.200, 43.43.842, 70.124.020, 70.124.030, 70.124.040, and
4 70.124.070; reenacting and amending RCW 18.130.040; adding a new
5 section to chapter 9A.42 RCW; adding a new section to chapter 70.124
6 RCW; adding new sections to chapter 74.34 RCW; creating a new section;
7 and prescribing penalties.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that there is a
10 significant need to protect children and dependent persons, including
11 frail elder and vulnerable adults, from abuse and neglect by their
12 parents, by persons entrusted with their physical custody, or by
13 persons employed to provide them with the basic necessities of life.
14 The legislature further finds that such abuse and neglect often takes
15 the forms of either withholding from them the basic necessities of
16 life, including food, water, shelter, clothing, and health care, or
17 abandoning them, or both. Therefore, it is the intent of the
18 legislature that criminal penalties be imposed on those guilty of such
19 abuse or neglect. It is the intent of the legislature that a person

1 who, in good faith, is furnished Christian Science treatment by a duly
2 accredited Christian Science practitioner in lieu of medical care is
3 not considered deprived of health care or abandoned.

4 Furthermore, it is the intent of the legislature that RCW
5 9A.42.020, 9A.42.030, and 9A.42.050 do not apply to withholding food,
6 water, or curative health care treatments from a terminally ill person
7 who is receiving care from a licensed health agency, hospice agency, or
8 hospital providing hospice care.

9 **Sec. 2.** RCW 9A.42.010 and 1996 c 302 s 1 are each amended to read
10 as follows:

11 As used in this chapter:

12 (1) "Basic necessities of life" means food, water, shelter,
13 clothing, and medically necessary health care, including but not
14 limited to health-related treatment or activities, hygiene, oxygen, and
15 medication.

16 (2)(a) "Bodily injury" means physical pain or injury, illness, or
17 an impairment of physical condition;

18 (b) "Substantial bodily harm" means bodily injury which involves a
19 temporary but substantial disfigurement, or which causes a temporary
20 but substantial loss or impairment of the function of any bodily part
21 or organ, or which causes a fracture of any bodily part;

22 (c) "Great bodily harm" means bodily injury which creates a high
23 probability of death, or which causes serious permanent disfigurement,
24 or which causes a permanent or protracted loss or impairment of the
25 function of any bodily part or organ.

26 (3) "Child" means a person under eighteen years of age.

27 (4) "Dependent person" means a person who, because of physical or
28 mental disability, or because of extreme advanced age, is dependent
29 upon another person to provide the basic necessities of life. A
30 resident of a nursing home, as defined in RCW 18.51.010, a resident of
31 an adult family home, as defined in RCW 70.128.010, and a frail elder
32 or vulnerable adult, as defined in RCW 74.34.020(8), is presumed to be
33 a dependent person for purposes of this chapter.

34 (5) "Employed" means hired by a dependent person, another person
35 acting on behalf of a dependent person, or by an organization or
36 governmental entity, to provide to a dependent person any of the basic
37 necessities of life. A person may be "employed" regardless of whether

1 the person is paid for the services or, if paid, regardless of who pays
2 for the person's services.

3 (6) "Parent" has its ordinary meaning and also includes a guardian
4 and the authorized agent of a parent or guardian.

5 (7) "Abandons" means leaving a child or other dependent person
6 without the means or ability to obtain one or more of the basic
7 necessities of life.

8 **Sec. 3.** RCW 9A.42.050 and 1986 c 250 s 5 are each amended to read
9 as follows:

10 In any prosecution for criminal mistreatment, it shall be a defense
11 that the withholding of the basic necessities of life is due to
12 financial inability only if the person charged has made a reasonable
13 effort to obtain adequate assistance. This defense is available to
14 persons in the business of providing care only when the agreed-upon
15 payment for the care has not been received.

16 **Sec. 4.** RCW 9A.42.020 and 1986 c 250 s 2 are each amended to read
17 as follows:

18 (1) A parent of a child ((~~or~~)), the person entrusted with the
19 physical custody of a child or dependent person, or a person employed
20 to provide to the child or dependent person the basic necessities of
21 life is guilty of criminal mistreatment in the first degree if he or
22 she recklessly causes great bodily harm to a child or dependent person
23 by withholding any of the basic necessities of life.

24 (2) Criminal mistreatment in the first degree is a class B felony.

25 **Sec. 5.** RCW 9A.42.030 and 1986 c 250 s 3 are each amended to read
26 as follows:

27 (1) A parent of a child ((~~or~~)), the person entrusted with the
28 physical custody of a child or dependent person, or a person employed
29 to provide to the child or dependent person the basic necessities of
30 life is guilty of criminal mistreatment in the second degree if he or
31 she recklessly either (a) creates an imminent and substantial risk of
32 death or great bodily harm, or (b) causes substantial bodily harm by
33 withholding any of the basic necessities of life.

34 (2) Criminal mistreatment in the second degree is a class C felony.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 9A.42 RCW
2 to read as follows:

3 (1) A person is guilty of the crime of criminal mistreatment in the
4 third degree if the person is the parent of a child, is a person
5 entrusted with the physical custody of a child or other dependent
6 person, or is a person employed to provide to the child or dependent
7 person the basic necessities of life, and either:

8 (a) With criminal negligence, the person negligently creates an
9 imminent and substantial risk of bodily injury to a child or dependent
10 person by withholding any of the basic necessities of life; or

11 (b) With criminal negligence, the person negligently causes bodily
12 injury to a child or dependent person by withholding any of the basic
13 necessities of life.

14 (2) Criminal mistreatment in the third degree is a gross
15 misdemeanor.

16 **Sec. 7.** RCW 9A.44.010 and 1994 c 271 s 302 are each amended to
17 read as follows:

18 As used in this chapter:

19 (1) "Sexual intercourse" (a) has its ordinary meaning and occurs
20 upon any penetration, however slight, and

21 (b) Also means any penetration of the vagina or anus however
22 slight, by an object, when committed on one person by another, whether
23 such persons are of the same or opposite sex, except when such
24 penetration is accomplished for medically recognized treatment or
25 diagnostic purposes, and

26 (c) Also means any act of sexual contact between persons involving
27 the sex organs of one person and the mouth or anus of another whether
28 such persons are of the same or opposite sex.

29 (2) "Sexual contact" means any touching of the sexual or other
30 intimate parts of a person done for the purpose of gratifying sexual
31 desire of either party or a third party.

32 (3) "Married" means one who is legally married to another, but does
33 not include a person who is living separate and apart from his or her
34 spouse and who has filed in an appropriate court for legal separation
35 or for dissolution of his or her marriage.

36 (4) "Mental incapacity" is that condition existing at the time of
37 the offense which prevents a person from understanding the nature or
38 consequences of the act of sexual intercourse whether that condition is

1 produced by illness, defect, the influence of a substance or from some
2 other cause.

3 (5) "Physically helpless" means a person who is unconscious or for
4 any other reason is physically unable to communicate unwillingness to
5 an act.

6 (6) "Forcible compulsion" means physical force which overcomes
7 resistance, or a threat, express or implied, that places a person in
8 fear of death or physical injury to herself or himself or another
9 person, or in fear that she or he or another person will be kidnapped.

10 (7) "Consent" means that at the time of the act of sexual
11 intercourse or sexual contact there are actual words or conduct
12 indicating freely given agreement to have sexual intercourse or sexual
13 contact.

14 (8) "Significant relationship" means a situation in which the
15 perpetrator is:

16 (a) A person who undertakes the responsibility, professionally or
17 voluntarily, to provide education, health, welfare, or organized
18 recreational activities principally for minors; ((or))

19 (b) A person who in the course of his or her employment supervises
20 minors; or

21 (c) A person who provides welfare, health or residential
22 assistance, personal care, or organized recreational activities to
23 frail elders or vulnerable adults, including a provider, employee,
24 temporary employee, volunteer, or independent contractor who supplies
25 services to long-term care facilities licensed or required to be
26 licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and home
27 health, hospice, or home care agencies licensed or required to be
28 licensed under chapter 70.127 RCW.

29 (9) "Abuse of a supervisory position" means a direct or indirect
30 threat or promise to use authority to the detriment or benefit of a
31 minor.

32 (10) "Developmentally disabled," for purposes of RCW
33 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a
34 developmental disability as defined in RCW 71A.10.020.

35 (11) "Person with supervisory authority," for purposes of RCW
36 9A.44.050(1) (c) or (e) and 9A.44.100(1) (c) or (e), means any
37 proprietor or employee of any public or private care or treatment
38 facility who directly supervises developmentally disabled, mentally
39 disordered, or chemically dependent persons at the facility.

1 (12) "Mentally disordered person" for the purposes of RCW
2 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental
3 disorder" as defined in RCW 71.05.020(2).

4 (13) "Chemically dependent person" for purposes of RCW
5 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically
6 dependent" as defined in RCW 70.96A.020(4).

7 (14) "Health care provider" for purposes of RCW 9A.44.050 and
8 9A.44.100 means a person who is, holds himself or herself out to be, or
9 provides services as if he or she were: (a) A member of a health care
10 profession under chapter 18.130 RCW; or (b) registered or certified
11 under chapter 18.19 RCW, regardless of whether the health care provider
12 is licensed, certified, or registered by the state.

13 (15) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100 means
14 the active delivery of professional services by a health care provider
15 which the health care provider holds himself or herself out to be
16 qualified to provide.

17 (16) "Frail elder or vulnerable adult" means a person sixty years
18 of age or older who has the functional, mental, or physical inability
19 to care for himself or herself. "Frail elder or vulnerable adult" also
20 includes a person found incapacitated under chapter 11.88 RCW, a person
21 over eighteen years of age who has a developmental disability under
22 chapter 71A.10 RCW, a person admitted to a long-term care facility that
23 is licensed or required to be licensed under chapter 18.20, 18.51,
24 72.36, or 70.128 RCW, and a person receiving services from a home
25 health, hospice, or home care agency licensed or required to be
26 licensed under chapter 70.127 RCW.

27 **Sec. 8.** RCW 9A.44.050 and 1993 c 477 s 2 are each amended to read
28 as follows:

29 (1) A person is guilty of rape in the second degree when, under
30 circumstances not constituting rape in the first degree, the person
31 engages in sexual intercourse with another person:

32 (a) By forcible compulsion;

33 (b) When the victim is incapable of consent by reason of being
34 physically helpless or mentally incapacitated;

35 (c) When the victim is developmentally disabled and the perpetrator
36 is a person who is not married to the victim and who has supervisory
37 authority over the victim;

1 (d) When the perpetrator is a health care provider, the victim is
2 a client or patient, and the sexual intercourse occurs during a
3 treatment session, consultation, interview, or examination. It is an
4 affirmative defense that the defendant must prove by a preponderance of
5 the evidence that the client or patient consented to the sexual
6 intercourse with the knowledge that the sexual intercourse was not for
7 the purpose of treatment; ((~~or~~))

8 (e) When the victim is a resident of a facility for mentally
9 disordered or chemically dependent persons and the perpetrator is a
10 person who is not married to the victim and has supervisory authority
11 over the victim; or

12 (f) When the victim is a frail elder or vulnerable adult and the
13 perpetrator is a person who is not married to the victim and who has a
14 significant relationship with the victim.

15 (2) Rape in the second degree is a class A felony.

16 **Sec. 9.** RCW 9A.44.100 and 1993 c 477 s 3 are each amended to read
17 as follows:

18 (1) A person is guilty of indecent liberties when he knowingly
19 causes another person who is not his spouse to have sexual contact with
20 him or another:

21 (a) By forcible compulsion; ((~~or~~))

22 (b) When the other person is incapable of consent by reason of
23 being mentally defective, mentally incapacitated, or physically
24 helpless;

25 (c) When the victim is developmentally disabled and the perpetrator
26 is a person who is not married to the victim and who has supervisory
27 authority over the victim;

28 (d) When the perpetrator is a health care provider, the victim is
29 a client or patient, and the sexual contact occurs during a treatment
30 session, consultation, interview, or examination. It is an affirmative
31 defense that the defendant must prove by a preponderance of the
32 evidence that the client or patient consented to the sexual contact
33 with the knowledge that the sexual contact was not for the purpose of
34 treatment; ((~~or~~))

35 (e) When the victim is a resident of a facility for mentally
36 disordered or chemically dependent persons and the perpetrator is a
37 person who is not married to the victim and has supervisory authority
38 over the victim; or

1 (f) When the victim is a frail elder or vulnerable adult and the
2 perpetrator is a person who is not married to the victim and who has a
3 significant relationship with the victim.

4 (2) Indecent liberties is a class B felony.

5 **Sec. 10.** RCW 18.130.040 and 1996 c 200 s 32 and 1996 c 81 s 5 are
6 each reenacted and amended to read as follows:

7 (1) This chapter applies only to the secretary and the boards and
8 commissions having jurisdiction in relation to the professions licensed
9 under the chapters specified in this section. This chapter does not
10 apply to any business or profession not licensed under the chapters
11 specified in this section.

12 (2)(a) The secretary has authority under this chapter in relation
13 to the following professions:

14 (i) Dispensing opticians licensed under chapter 18.34 RCW;

15 (ii) Naturopaths licensed under chapter 18.36A RCW;

16 (iii) Midwives licensed under chapter 18.50 RCW;

17 (iv) Ocularists licensed under chapter 18.55 RCW;

18 (v) Massage operators and businesses licensed under chapter 18.108
19 RCW;

20 (vi) Dental hygienists licensed under chapter 18.29 RCW;

21 (vii) Acupuncturists licensed under chapter 18.06 RCW;

22 (viii) Radiologic technologists certified and X-ray technicians
23 registered under chapter 18.84 RCW;

24 (ix) Respiratory care practitioners certified under chapter 18.89
25 RCW;

26 (x) Persons registered or certified under chapter 18.19 RCW;

27 (xi) Persons registered as nursing pool operators under chapter
28 18.52C RCW;

29 (xii) Nursing assistants registered or certified under chapter
30 (~~18.79~~) 18.88A RCW;

31 (xiii) Health care assistants certified under chapter 18.135 RCW;

32 (xiv) Dietitians and nutritionists certified under chapter 18.138
33 RCW;

34 (xv) Sex offender treatment providers certified under chapter
35 18.155 RCW;

36 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
37 18.71.205;

1 (xvii) Persons registered as adult family home providers and
2 resident managers under RCW 18.48.020; and
3 (xviii) Denturists licensed under chapter 18.30 RCW.
4 (b) The boards and commissions having authority under this chapter
5 are as follows:
6 (i) The podiatric medical board as established in chapter 18.22
7 RCW;
8 (ii) The chiropractic quality assurance commission as established
9 in chapter 18.25 RCW;
10 (iii) The dental quality assurance commission as established in
11 chapter 18.32 RCW;
12 (iv) The board of hearing and speech as established in chapter
13 18.35 RCW;
14 (v) The board of examiners for nursing home administrators as
15 established in chapter 18.52 RCW;
16 (vi) The optometry board as established in chapter 18.54 RCW
17 governing licenses issued under chapter 18.53 RCW;
18 (vii) The board of osteopathic medicine and surgery as established
19 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
20 18.57A RCW;
21 (viii) The board of pharmacy as established in chapter 18.64 RCW
22 governing licenses issued under chapters 18.64 and 18.64A RCW;
23 (ix) The medical quality assurance commission as established in
24 chapter 18.71 RCW governing licenses and registrations issued under
25 chapters 18.71 and 18.71A RCW;
26 (x) The board of physical therapy as established in chapter 18.74
27 RCW;
28 (xi) The board of occupational therapy practice as established in
29 chapter 18.59 RCW;
30 (xii) The nursing care quality assurance commission as established
31 in chapter 18.79 RCW governing licenses issued under that chapter;
32 (xiii) The examining board of psychology and its disciplinary
33 committee as established in chapter 18.83 RCW; and
34 (xiv) The veterinary board of governors as established in chapter
35 18.92 RCW.
36 (3) In addition to the authority to discipline license holders, the
37 disciplining authority has the authority to grant or deny licenses
38 based on the conditions and criteria established in this chapter and
39 the chapters specified in subsection (2) of this section. This chapter

1 also governs any investigation, hearing, or proceeding relating to
2 denial of licensure or issuance of a license conditioned on the
3 applicant's compliance with an order entered pursuant to RCW 18.130.160
4 by the disciplining authority.

5 (4) All disciplining authorities shall adopt procedures to ensure
6 substantially consistent application of this chapter, the Uniform
7 Disciplinary Act, among the disciplining authorities listed in
8 subsection (2) of this section.

9 **Sec. 11.** RCW 18.130.200 and 1986 c 259 s 12 are each amended to
10 read as follows:

11 A person who attempts to obtain ~~((or))~~, obtains, or attempts to
12 maintain a license by willful misrepresentation or fraudulent
13 representation is guilty of a gross misdemeanor.

14 **Sec. 12.** RCW 43.43.842 and 1992 c 104 s 1 are each amended to read
15 as follows:

16 (1)(a) The secretary of social and health services and the
17 secretary of health shall adopt additional requirements for the
18 licensure or relicensure of agencies ~~((or))~~, facilities ((which)), and
19 licensed individuals who provide care and treatment to vulnerable
20 adults. These additional requirements shall ensure that any person
21 associated with a licensed agency or facility having direct contact
22 with a vulnerable adult shall not have been: ~~((a))~~ (i) Convicted of
23 a crime against persons as defined in RCW 43.43.830, except as provided
24 in this section; ~~((b))~~ (ii) convicted of crimes relating to financial
25 exploitation as defined in RCW 43.43.830, except as provided in this
26 section; ~~((c))~~ (iii) found in any disciplinary board final decision
27 to have abused a vulnerable adult under RCW 43.43.830; or ~~((d))~~ (iv)
28 the subject in a protective proceeding under chapter 74.34 RCW.

29 (b) A person associated with a licensed agency or facility who has
30 direct contact with a vulnerable adult shall make the disclosures
31 specified in RCW 43.43.834(2). The person shall make the disclosures
32 in writing, sign, and swear to the contents under penalty of perjury.
33 The person shall, in the disclosures, specify all crimes against
34 children or other persons, and all crimes relating to financial
35 exploitation as defined in RCW 43.43.830, committed by the person.

36 (2) The rules adopted under this section shall permit the licensee
37 to consider the criminal history of an applicant for employment in a

1 licensed facility when the applicant has one or more convictions for a
2 past offense and:

3 (a) The offense was simple assault, assault in the fourth degree,
4 or the same offense as it may be renamed, and three or more years have
5 passed between the most recent conviction and the date of application
6 for employment;

7 (b) The offense was prostitution, or the same offense as it may be
8 renamed, and three or more years have passed between the most recent
9 conviction and the date of application for employment;

10 (c) The offense was theft in the third degree, or the same offense
11 as it may be renamed, and three or more years have passed between the
12 most recent conviction and the date of application for employment;

13 (d) The offense was theft in the second degree, or the same offense
14 as it may be renamed, and five or more years have passed between the
15 most recent conviction and the date of application for employment;

16 (e) The offense was forgery, or the same offense as it may be
17 renamed, and five or more years have passed between the most recent
18 conviction and the date of application for employment.

19 The offenses set forth in (a) through (e) of this subsection do not
20 automatically disqualify an applicant from employment by a licensee.
21 Nothing in this section may be construed to require the employment of
22 any person against a licensee's judgment.

23 In consultation with law enforcement personnel, the secretary of
24 social and health services and the secretary of health shall
25 investigate the conviction record and the protection proceeding record
26 information under this chapter ((43.43 RCW)) of each agency or facility
27 and its staff under their respective jurisdictions seeking licensure or
28 relicensure. The individual responding to criminal background inquiry
29 requests by the individual's employer or potential employer shall
30 disclose the information about the individual's criminal history under
31 penalty of perjury. The secretaries shall use the information solely
32 for the purpose of determining eligibility for licensure or
33 relicensure. Criminal justice agencies shall provide the secretaries
34 such information as they may have and that the secretaries may require
35 for such purpose.

36 **Sec. 13.** RCW 70.124.020 and 1996 c 178 s 24 are each amended to
37 read as follows:

1 Unless the context requires otherwise, the definitions in this
2 section apply throughout this chapter.

3 (1) "Court" means the superior court of the state of Washington.

4 (2) "Law enforcement agency" means the police department, the
5 director of public safety, or the office of the sheriff.

6 (3) "Practitioner of the healing arts" or "practitioner" means a
7 person licensed by this state to practice podiatric medicine and
8 surgery, optometry, pharmacy, physical therapy, chiropractic, nursing,
9 dentistry, osteopathic medicine and surgery, or medicine and surgery.
10 The term "practitioner" shall include a nurses aide, a nursing home
11 administrator licensed under chapter 18.52 RCW, and a duly accredited
12 Christian Science practitioner: PROVIDED, HOWEVER, That a nursing home
13 patient who is being furnished Christian Science treatment by a duly
14 accredited Christian Science practitioner shall not be considered, for
15 that reason alone, a neglected patient for the purposes of this
16 chapter.

17 (4) "Department" means the state department of social and health
18 services.

19 (5) "Nursing home" has the meaning prescribed by RCW 18.51.010.

20 (6) "Social worker" means anyone engaged in a professional capacity
21 during the regular course of employment in encouraging or promoting the
22 health, welfare, support, or education of nursing home patients, or
23 providing social services to nursing home patients, whether in an
24 individual capacity or as an employee or agent of any public or private
25 organization or institution.

26 (7) "Psychologist" means any person licensed to practice psychology
27 under chapter 18.83 RCW, whether acting in an individual capacity or as
28 an employee or agent of any public or private organization or
29 institution.

30 (8) "Pharmacist" means any registered pharmacist under chapter
31 18.64 RCW, whether acting in an individual capacity or as an employee
32 or agent of any public or private organization or institution.

33 (9) "Abuse or neglect" or "patient abuse or neglect" means the
34 nonaccidental physical injury or condition, sexual abuse, or negligent
35 treatment of a nursing home, adult family home, or state hospital
36 patient under circumstances which indicate that the patient's health,
37 welfare, ((and)) or safety is harmed thereby.

38 (10) "Negligent treatment" means an act or omission which evinces
39 a serious disregard of consequences of such magnitude as to constitute

1 a clear and present danger to the patient's health, welfare, (~~and~~) or
2 safety.

3 (11) "State hospital" means any hospital operated and maintained by
4 the state for the care of the mentally ill under chapter 72.23 RCW.

5 (12) "Adult family home" has the meaning set forth in RCW
6 70.128.010.

7 **Sec. 14.** RCW 70.124.030 and 1981 c 174 s 3 are each amended to
8 read as follows:

9 (1) When any practitioner, social worker, psychologist, pharmacist,
10 employee of a nursing home, employee of an adult family home, employee
11 of a state hospital, or employee of the department has reasonable cause
12 to believe that a nursing home, adult family home, or state hospital
13 patient has suffered abuse or neglect, the person shall report such
14 incident, or cause a report to be made, to either a law enforcement
15 agency or to the department as provided in RCW 70.124.040.

16 (2) Any other person who has reasonable cause to believe that a
17 nursing home, adult family home, or state hospital patient has suffered
18 abuse or neglect may report such incident to either a law enforcement
19 agency or to the department as provided in RCW 70.124.040.

20 (3) The department or any law enforcement agency receiving a report
21 of an incident of abuse or neglect involving a nursing home, adult
22 family home, or state hospital patient who has died or has had physical
23 injury or injuries inflicted other than by accidental means or who has
24 been subjected to sexual abuse shall report the incident to the proper
25 county prosecutor for appropriate action.

26 **Sec. 15.** RCW 70.124.040 and 1981 c 174 s 4 are each amended to
27 read as follows:

28 (1) Where a report is (~~deemed warranted~~) required under RCW
29 70.124.030, an immediate oral report shall be made by telephone or
30 otherwise to either a law enforcement agency or to the department and,
31 upon request, shall be followed by a report in writing. The reports
32 shall contain the following information, if known:

33 (a) The name and address of the person making the report;

34 (b) The name and address of the nursing home, adult family home, or
35 state hospital patient;

36 (c) The name and address of the patient's relatives having
37 responsibility for the patient;

- 1 (d) The nature and extent of the injury or injuries;
- 2 (e) The nature and extent of the neglect;
- 3 (f) The nature and extent of the sexual abuse;
- 4 (g) Any evidence of previous injuries, including their nature and
5 extent; and
- 6 (h) Any other information which may be helpful in establishing the
7 cause of the patient's death, injury, or injuries, and the identity of
8 the perpetrator or perpetrators.

9 (2) Each law enforcement agency receiving such a report shall, in
10 addition to taking the action required by RCW 70.124.050, immediately
11 relay the report to the department, and to other law enforcement
12 agencies, including the medicaid fraud control unit of the office of
13 the attorney general, as appropriate. For any report it receives, the
14 department shall likewise take the required action and in addition
15 relay the report to the appropriate law enforcement agency or agencies.
16 The appropriate law enforcement agency or agencies shall receive
17 immediate notification when the department, upon receipt of such
18 report, has reasonable cause to believe that a criminal act has been
19 committed.

20 **Sec. 16.** RCW 70.124.070 and 1979 ex.s. c 228 s 7 are each amended
21 to read as follows:

22 A person who is required to make or to cause to be made a report
23 pursuant to RCW 70.124.030 or 70.124.040 and who knowingly fails to
24 make such report or fails to cause such report to be made is guilty of
25 a gross misdemeanor.

26 NEW SECTION. **Sec. 17.** A new section is added to chapter 70.124
27 RCW to read as follows:

28 (1) An employee who is a whistleblower and who as a result of being
29 a whistleblower has been subjected to workplace reprisal or retaliatory
30 action, has the remedies provided under chapter 49.60 RCW. RCW
31 4.24.500 through 4.24.520, providing certain protection to persons who
32 communicate to government agencies, apply to complaints made under this
33 section. The identity of a whistleblower who complains, in good faith,
34 to the department about suspected abuse, neglect, financial
35 exploitation, or abandonment by any person in a nursing home, state
36 hospital, or adult family home, may remain confidential if requested.
37 The identity of the whistleblower shall subsequently remain

1 confidential unless the department determines that the complaint was
2 not made in good faith.

3 (2)(a) An attempt to expel a resident from a nursing home, state
4 hospital, or adult family home, or any type of discriminatory treatment
5 of a resident by whom, or upon whose behalf, a complaint has been
6 submitted to the department or any proceeding instituted under or
7 related to this chapter within one year of the filing of the complaint
8 or the institution of the action, raises a rebuttable presumption that
9 the action was in retaliation for the filing of the complaint.

10 (b) The presumption in (a) of this subsection is rebutted by
11 credible evidence establishing the alleged retaliatory action was
12 initiated before the complaint.

13 (3) For the purposes of this section:

14 (a) "Whistleblower" means a resident or employee of a nursing home,
15 state hospital, or adult family home, or any person licensed under
16 Title 18 RCW, who in good faith reports alleged abuse or neglect to the
17 department or to a law enforcement agency; and

18 (b) "Workplace reprisal or retaliatory action" means, but is not
19 limited to, an unwarranted or unsubstantiated: Denial of adequate
20 staff to perform duties; frequent staff changes; frequent and
21 undesirable office changes; refusal to assign meaningful work; report
22 of misconduct under Title 18 RCW; letters of reprimand or
23 unsatisfactory performance evaluations; demotion; or denial of
24 employment. It also includes a supervisor or superior encouraging
25 coworkers to behave in a hostile manner toward the whistleblower.

26 (4) This section does not prohibit a nursing home, state hospital,
27 or adult family home from exercising its authority to terminate,
28 suspend, or discipline an employee who engages in workplace reprisal or
29 retaliatory action against a whistleblower. The protections provided
30 to whistleblowers under this chapter shall not prevent a nursing home,
31 state hospital, or adult family home from terminating, suspending, or
32 disciplining a whistleblower for other lawful purposes.

33 (5) The department shall adopt rules to implement procedures for
34 filing, investigation, and resolution of whistleblower complaints that
35 are integrated with complaint procedures under this chapter.

36 NEW SECTION. **Sec. 18.** A new section is added to chapter 74.34 RCW
37 to read as follows:

1 A person who is required to make or cause to be made a report under
2 RCW 74.34.030 or 74.34.040 and who knowingly fails to make the report
3 or fails to cause the report to be made is guilty of a gross
4 misdemeanor.

5 NEW SECTION. **Sec. 19.** A new section is added to chapter 74.34 RCW
6 to read as follows:

7 (1) An employee who is a whistleblower and who as a result of being
8 a whistleblower has been subjected to workplace reprisal or retaliatory
9 action, has the remedies provided under chapter 49.60 RCW. RCW
10 4.24.500 through 4.24.520, providing certain protection to persons who
11 communicate to government agencies, apply to complaints made under this
12 section. The identity of a whistleblower who complains, in good faith,
13 to the department about suspected abuse, neglect, exploitation, or
14 abandonment by any person in a boarding home licensed or required to be
15 licensed pursuant to chapter 18.20 RCW may remain confidential if
16 requested. The identity of the whistleblower shall subsequently remain
17 confidential unless the department determines that the complaint was
18 not made in good faith.

19 (2)(a) An attempt to expel a resident from a boarding home, or any
20 type of discriminatory treatment of a resident by whom, or upon whose
21 behalf, a complaint has been submitted to the department or any
22 proceeding instituted under or related to this chapter within one year
23 of the filing of the complaint or the institution of the action, raises
24 a rebuttable presumption that the action was in retaliation for the
25 filing of the complaint.

26 (b) The presumption in (a) of this subsection is rebutted by
27 credible evidence establishing the alleged retaliatory action was
28 initiated before the complaint.

29 (3) For the purposes of this section:

30 (a) "Whistleblower" means a resident or employee of a boarding
31 home, or any person licensed under Title 18 RCW, who in good faith
32 reports alleged abuse or neglect to the department or to a law
33 enforcement agency; and

34 (b) "Workplace reprisal or retaliatory action" means, but is not
35 limited to, an unwarranted or unsubstantiated: Denial of adequate
36 staff to perform duties; frequent staff changes; frequent and
37 undesirable office changes; refusal to assign meaningful work; report
38 of misconduct under Title 18 RCW; letters of reprimand or

1 unsatisfactory performance evaluations; demotion; or denial of
2 employment. It also includes a supervisor or superior encouraging
3 coworkers to behave in a hostile manner toward the whistleblower.

4 (4) This section does not prohibit a boarding home from exercising
5 its authority to terminate, suspend, or discipline any employee who
6 engages in workplace reprisal or retaliatory action against a
7 whistleblower.

8 (5) The department shall adopt rules to implement procedures for
9 filing, investigation, and resolution of whistleblower complaints that
10 are integrated with complaint procedures under this chapter. The
11 protections provided to whistleblowers under this chapter shall not
12 prevent a boarding home from terminating, suspending, or disciplining
13 a whistleblower for other lawful purposes.

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