

SENATE BILL REPORT

SB 5600

As Reported by Senate Committee On:
Human Services, Mental Health & Housing, February 19, 2015

Title: An act relating to modifying certain definitions concerning vulnerable adults, including the definitions of abuse and sexual abuse.

Brief Description: Modifying certain definitions concerning the abuse of vulnerable adults.

Sponsors: Senators Dammeier, Keiser, Darneille and Kohl-Welles; by request of Department of Social and Health Services.

Brief History:

Committee Activity: Human Services, Mental Health & Housing: 2/02/15, 2/19/15 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Majority Report: That Substitute Senate Bill No. 5600 be substituted therefor, and the substitute bill do pass.

Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Darneille, Ranking Minority Member; Hargrove and Padden.

Staff: Lindsay Erickson (786-7465)

Background: The Abuse of Vulnerable Adults Act (Act) authorizes the Department of Social and Health Services (DSHS) and law enforcement agencies to investigate complaints of abandonment, abuse, financial exploitation, neglect, or self-neglect of vulnerable adults. The Act requires mandatory reporting and investigations. It also allows vulnerable adults to seek protection orders or file civil suits for damages resulting from abandonment, abuse, exploitation, or neglect.

A vulnerable adult includes a person who:

- is 60 years of age or older who has the functional, mental, or physical inability to care for himself or herself;
- is found to be incapacitated;
- has a developmental disability;
- has been admitted to any facility such as an assisted living facility, nursing home, adult family home, soldiers' home, or residential rehabilitation center;
- receives services from home health, hospice, or home care agencies;

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- receives services from an individual provider; or
- who self-directs their own care and receives services from a person aide.

Summary of Bill (Recommended Substitute): The definition of abuse includes personal exploitation of a vulnerable adult. Abuse also includes improper use of restraint against a vulnerable adult, which means the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline or in a manner that: (1) is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or program authorized under chapter 71A.12 RCW; (2) is not medically authorized; or (3) otherwise constitutes abuse under this section.

Chemical restraint means the administration of any drug to manage a vulnerable adult's or client's behavior in a way that reduces the safety risk to the resident or others, has the temporary effect of restricting the resident's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition. 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. The term physical restraint does not include briefly holding without undue force a resident or client in order to calm or comfort the client, or holding a resident's or client's hand to safely escort a resident from one area to another. Mechanical restraint means any device attached or adjacent to the vulnerable adult's body which the adult cannot easily remove that restricts freedom of movement or normal access to the adult's body; this does not include the use of devices, materials, or equipment that are medically authorized and used in a manner consistent with federal or state licensing or certification requirements.

Mental abuse means a willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Sexual abuse means any form of nonconsensual sexual conduct.

Hospital means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW and any employee, agent, officer, director, or independent contractor.

EFFECT OF CHANGES MADE BY HUMAN SERVICES, MENTAL HEALTH & HOUSING COMMITTEE (Recommended Substitute): Expands the improper use of restraint definition to include restraints that are inconsistent with federal or state licensing or certification requirements. Removes financial exploitation from the definition of abuse. Removes all references to resident, and replaces them with vulnerable adult. Defines hospital to mean a facility licensed under chapter 70.41, 71.12, or 72.23 RCW and any employee, agent, officer, director, or independent contractor. Provides that mechanical restraint does not include the use of devices, materials, or equipment that are medically authorized and used in a manner consistent with federal or state licensing or certification requirements. The vulnerable adult definition no longer includes a person who DSHS reasonably believes has a developmental disability based on school or medical records. Removes subsection (3) which created a defense to an allegation of physical abuse or improper use of restraint.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: The general intent of this bill is to broaden the protections of the Act. DSHS investigates approximately 20,000 allegations of abuse, neglect, and exploitation of vulnerable adults each year. Many definitions within the current statute are limited and lacking clarity, and this impacts the ability of DSHS to pursue and substantiate cases of abuse and neglect. This bill fixes the definition of mental abuse which is circular in its current form; the proposal also focuses on isolation of a vulnerable adult as a type of mental abuse and broadens the current definition. Use of restraint is not currently defined in statute, so this would help to clarify that terminology.

Persons Testifying: PRO: Senator Dammeier, prime sponsor; Bea Rector, DSHS, Aging and Long Term Support Administration.