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5 On page 32, after line 9, insert the following:

6 "Sec. 53. RCW 74.34.010 and 1984 c 97 s 7 are each amended to read  
7 as follows:

8 The legislature finds that frail elders and vulnerable adults may  
9 be subjected to abuse, neglect, exploitation, or abandonment. The  
10 legislature finds that there are a number of adults (~~sixty years of~~  
11 ~~age or older~~) who lack the ability to perform or obtain those services  
12 necessary to maintain or establish their well-being. The legislature  
13 finds that many frail elders and vulnerable adults have health problems  
14 that place them in a dependent position. The legislature further finds  
15 that a significant number of frail elders and vulnerable adults have  
16 mental and verbal limitations that leave them vulnerable and incapable  
17 of asking for help and protection.

18 It is the intent of the legislature to prevent or remedy the abuse,  
19 neglect, exploitation, or abandonment of persons sixty years of age or  
20 older who have a functional, mental, or physical inability to care for  
21 or protect themselves.

22 It is the intent of the legislature to assist frail elders and  
23 vulnerable adults by providing these persons with the protection of the  
24 courts and with the least-restrictive services, such as home care, and  
25 by preventing or reducing inappropriate institutional care. The  
26 legislature finds that it is in the interests of the public health,  
27 safety, and welfare of the people of the state to provide a procedure  
28 for identifying these vulnerable persons and providing the services and  
29 remedies necessary for their well-being.

30 **Sec. 54.** RCW 74.34.100 and 1986 c 187 s 4 are each amended to read  
31 as follows:

32 The legislature finds that frail elders and vulnerable adults(~~(7)~~)  
33 who are (~~physically or emotionally~~) abused, neglected, abandoned, or  
34 (~~financially~~) exploited may need the protection of the courts. The  
35 legislature further finds that many of these elderly or vulnerable

1 persons may be homebound or otherwise may be unable to represent  
2 themselves in court or to retain legal counsel in order to obtain the  
3 relief available to them under this chapter.

4 It is the intent of the legislature to improve access to the courts  
5 for victims of abuse, neglect, exploitation, and abandonment in order  
6 to better protect the state's frail elderly and vulnerable adults.

7 **Sec. 55.** RCW 74.34.020 and 1984 c 97 s 8 are each amended to read  
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in  
10 this section apply throughout this chapter.

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

15 (2) "Abuse" means (~~an~~) a nonaccidental act of physical or mental  
16 mistreatment or injury, or sexual mistreatment, which harms (~~or~~  
17 threatens)) a person through action or inaction by another individual.

18 (3) "Consent" means express written consent granted after the  
19 person has been fully informed of the nature of the services to be  
20 offered and that the receipt of services is voluntary.

21 (4) "Department" means the department of social and health  
22 services.

23 (5) "Exploitation" means the illegal or improper use of a frail  
24 elder or vulnerable adult or that (~~adult's~~) person's income or  
25 resources for another person's profit or advantage.

26 (6) "Neglect" means a pattern of conduct (~~resulting~~) or inaction  
27 by a person or entity with a duty of care for a frail elder or  
28 vulnerable adult that results in the deprivation of care necessary to  
29 maintain (~~minimum~~) the vulnerable person's physical (~~and~~) or mental  
30 health.

31 (7) "Secretary" means the secretary of social and health services.

32 (8) "Frail elder or vulnerable adult" means a person sixty years of  
33 age or older who has the functional, mental, or physical inability to  
34 care for himself or herself. "Frail elder or vulnerable adult" shall  
35 include, but not be limited to, persons found incapacitated under  
36 chapter 11.88 RCW, or a person who has a developmental disability under  
37 chapter 71A.10 RCW, and persons admitted to any long-term care facility  
38 that is licensed or required to be licensed under chapter 18.20, 18.51,

1 72.36, or 70.128 RCW, or persons receiving services from home health,  
2 hospice, or home care agencies licensed or required to be licensed  
3 under chapter 70.127 RCW.

4 NEW SECTION. Sec. 56. A new section is added to chapter 74.34 RCW  
5 to read as follows:

6 (1) In addition to other remedies available under the law, a frail  
7 elder or vulnerable adult or a person age eighteen or older who has  
8 been subjected to abuse, neglect, exploitation, or abandonment either  
9 while residing in a long-term care facility or in the case of a person  
10 in the care of a home health, hospice, or home care agency, residing at  
11 home, shall have a cause of action for damages on account of his or her  
12 injuries, pain and suffering, and loss of property sustained thereby.  
13 This action shall be available where the defendant is or was a  
14 corporation, trust, unincorporated association, partnership,  
15 administrator, employee, agent, officer, partner, or director of a  
16 long-term care facility, such as a nursing home or boarding home, that  
17 is licensed or required to be licensed under chapter 18.20, 18.51,  
18 72.36, or 70.128 RCW, or of a home health, hospice, or home care agency  
19 licensed or required to be licensed under chapter 70.127 RCW, as now or  
20 subsequently designated.

21 (2) In an action brought under this section, a prevailing plaintiff  
22 shall be awarded his or her actual damages, together with the costs of  
23 the suit, including a reasonable attorney's fee, and the court may in  
24 its discretion increase the award of damages to an amount not to exceed  
25 three times the actual damages sustained. However, such increased  
26 damages award may not exceed ten thousand dollars. The term "costs"  
27 includes, but is not limited to, the reasonable fees for a guardian,  
28 guardian ad litem, and experts, if any, that may be necessary to the  
29 litigation of a claim brought under this section.

30 NEW SECTION. Sec. 57. A new section is added to chapter 74.34 RCW  
31 to read as follows:

32 A petition for an order for protection or an action for damages  
33 under this chapter may be brought by the plaintiff, or where necessary,  
34 by his or her family members and/or guardian or legal fiduciary, or as  
35 otherwise provided under this chapter. The death of the plaintiff  
36 shall not deprive the court of jurisdiction over a petition or claim  
37 brought under this chapter. Upon petition, after the death of the

1 vulnerable person, the right to initiate or maintain the action shall  
2 be transferred to the executor or administrator of the deceased, for  
3 the benefit of the surviving spouse, child or children, or other heirs  
4 set forth in chapter 4.20 RCW.

5 **Sec. 58.** RCW 74.34.070 and 1984 c 97 s 13 are each amended to read  
6 as follows:

7 In responding to reports of abuse, exploitation, neglect, or  
8 abandonment under this chapter, the department shall provide  
9 information to the (~~elderly person~~) frail elder or vulnerable adult  
10 on protective services available to the person and inform the person of  
11 the right to refuse such services. The department shall develop  
12 cooperative agreements with community-based agencies servicing the  
13 abused elderly and vulnerable adults. The agreements shall cover such  
14 subjects as the appropriate roles and responsibilities of the  
15 department and community-based agencies in identifying and responding  
16 to reports of (~~elderly~~) abuse, the provision of case-management  
17 services, standardized data collection procedures, and related  
18 coordination activities.

19 **Sec. 59.** RCW 74.34.030 and 1986 c 187 s 1 are each amended to read  
20 as follows:

21 Any person, including but not limited to, financial institutions or  
22 attorneys, having reasonable cause to believe that a vulnerable adult  
23 has suffered abuse, exploitation, neglect, or abandonment, or is  
24 otherwise in need of protective services may report such information to  
25 the department. Any police officer, social worker, employee of the  
26 department, a social service, welfare, mental health, or health agency,  
27 including but not limited to home health, hospice, and home care  
28 agencies licensed under chapter 70.127 RCW, congregate long-term care  
29 facility, including but not limited to adult family homes licensed  
30 under chapter 70.128 RCW, boarding homes licensed under chapter 18.20  
31 RCW, and nursing homes licensed under chapter 18.51 RCW, or assisted  
32 living services pursuant to RCW 74.39A.010, or health care provider  
33 licensed under Title 18 RCW, including but not limited to doctors,  
34 nurses, psychologists, and pharmacists, having reasonable cause to  
35 believe that a vulnerable adult has suffered abuse, exploitation,  
36 neglect, or abandonment, shall make an immediate oral report of such  
37 information to the department and shall report such information in

1 writing to the department within ten calendar days of receiving the  
2 information.

3 NEW SECTION. **Sec. 60.** RCW 74.34.100 is recodified as RCW  
4 74.34.015."

5 Renumber remaining sections consecutively and correct internal  
6 references accordingly.

7 **2SSB 5622** - S AMD  
8 By Senator Fairley

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10 On page 1, line 6 of the title, after "18.88A.030," insert  
11 "74.34.010, 74.34.100, 74.34.020, 74.34.070, 74.34.030,"

12 On page 1, line 15 of the title, after "18.79 RCW;" insert "adding  
13 new sections to chapter 74.34 RCW;"

14 On page 1, line 18 of the title, after "74.08.545," strike "and  
15 74.08.550" and insert "74.08.550, and 74.34.100"

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