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HOUSE BILL 2451

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State of Washington

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By Representatives Clibborn, Morrell, Bailey, Cody, Hinkle, Alexander, Ruderman, Darneille, Chase, Simpson, G., Rockefeller and Schual-Berke

Read first time 01/14/2004. Referred to Committee on Health Care.

1 AN ACT Relating to mandated reporters in boarding homes and nursing  
2 homes; amending RCW 74.34.020 and 9A.42.010; and declaring an  
3 emergency.

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

5 **Sec. 1.** RCW 74.34.020 and 2003 c 230 s 1 are each amended to read  
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

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

13 (2) "Abuse" means the willful action or inaction that inflicts  
14 injury, unreasonable confinement, intimidation, or punishment on a  
15 vulnerable adult. In instances of abuse of a vulnerable adult who is  
16 unable to express or demonstrate physical harm, pain, or mental  
17 anguish, the abuse is presumed to cause physical harm, pain, or mental  
18 anguish. Abuse includes sexual abuse, mental abuse, physical abuse,

1 and exploitation of a vulnerable adult, which have the following  
2 meanings:

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

12 (b) "Physical abuse" means the willful action of inflicting bodily  
13 injury or physical mistreatment. Physical abuse includes, but is not  
14 limited to, striking with or without an object, slapping, pinching,  
15 choking, kicking, shoving, prodding, or the use of chemical restraints  
16 or physical restraints unless the restraints are consistent with  
17 licensing requirements, and includes restraints that are otherwise  
18 being used inappropriately.

19 (c) "Mental abuse" means any willful action or inaction of mental  
20 or verbal abuse. Mental abuse includes, but is not limited to,  
21 coercion, harassment, inappropriately isolating a vulnerable adult from  
22 family, friends, or regular activity, and verbal assault that includes  
23 ridiculing, intimidating, yelling, or swearing.

24 (d) "Exploitation" means an act of forcing, compelling, or exerting  
25 undue influence over a vulnerable adult causing the vulnerable adult to  
26 act in a way that is inconsistent with relevant past behavior, or  
27 causing the vulnerable adult to perform services for the benefit of  
28 another.

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

33 (4) "Department" means the department of social and health  
34 services.

35 (5) "Facility" means a residence licensed or required to be  
36 licensed under chapter 18.20 RCW, boarding homes; chapter 18.51 RCW,  
37 nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36

1 RCW, soldiers' homes; or chapter 71A.20 RCW, residential habilitation  
2 centers; or any other facility licensed by the department.

3 (6) "Financial exploitation" means the illegal or improper use of  
4 the property, income, resources, or trust funds of the vulnerable adult  
5 by any person for any person's profit or advantage.

6 (7) "Incident" means an allegation of abuse, neglect, abandonment,  
7 or financial exploitation.

8 (8) "Individual provider" means a person under contract with the  
9 department to provide services in the home under chapter 74.09 or  
10 74.39A RCW.

11 (~~(+8)~~) (9) "Mandated reporter" is an employee of the department;  
12 law enforcement officer; social worker; professional school personnel;  
13 individual provider; an employee of a facility, excluding employees in  
14 licensed boarding homes and licensed nursing homes; an operator of a  
15 facility; an employee of a social service, welfare, mental health,  
16 adult day health, adult day care, home health, home care, or hospice  
17 agency; county coroner or medical examiner; Christian Science  
18 practitioner; or health care provider subject to chapter 18.130 RCW.  
19 A "mandated reporter" is an employee of a licensed boarding home or of  
20 a licensed nursing home who:

21 (a)(i) Observes the incident or hears the resident state that an  
22 incident occurred; or

23 (ii) Learns of an incident from a permissive reporter who has  
24 direct knowledge of the incident; and

25 (b) Is designated as the individual who is to receive incident  
26 information.

27 (~~(+9)~~) (10) "Neglect" means (a) a pattern of conduct or inaction  
28 by a person or entity with a duty of care that fails to provide the  
29 goods and services that maintain physical or mental health of a  
30 vulnerable adult, or that fails to avoid or prevent physical or mental  
31 harm or pain to a vulnerable adult; or (b) an act or omission that  
32 demonstrates a serious disregard of consequences of such a magnitude as  
33 to constitute a clear and present danger to the vulnerable adult's  
34 health, welfare, or safety.

35 (~~(+10)~~) (11) "Permissive reporter" means any person, employee of  
36 a financial institution, attorney, or volunteer in a facility or  
37 program providing services for vulnerable adults.

1       (~~(11)~~) (12) "Protective services" means any services provided by  
2 the department to a vulnerable adult with the consent of the vulnerable  
3 adult, or the legal representative of the vulnerable adult, who has  
4 been abandoned, abused, financially exploited, neglected, or in a state  
5 of self-neglect. These services may include, but are not limited to  
6 case management, social casework, home care, placement, arranging for  
7 medical evaluations, psychological evaluations, day care, or referral  
8 for legal assistance.

9       (~~(12)~~) (13) "Self-neglect" means the failure of a vulnerable  
10 adult, not living in a facility, to provide for himself or herself the  
11 goods and services necessary for the vulnerable adult's physical or  
12 mental health, and the absence of which impairs or threatens the  
13 vulnerable adult's well-being. This definition may include a  
14 vulnerable adult who is receiving services through home health,  
15 hospice, or a home care agency, or an individual provider when the  
16 neglect is not a result of inaction by that agency or individual  
17 provider.

18       (~~(13)~~) (14) "Vulnerable adult" includes a person:

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

21       (b) Found incapacitated under chapter 11.88 RCW; or

22       (c) Who has a developmental disability as defined under RCW  
23 71A.10.020; or

24       (d) Admitted to any facility; or

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

28       (f) Receiving services from an individual provider.

29       **Sec. 2.** RCW 9A.42.010 and 1997 c 392 s 508 are each amended to  
30 read as follows:

31       As used in this chapter:

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

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

1 (b) "Substantial bodily harm" means bodily injury which involves a  
2 temporary but substantial disfigurement, or which causes a temporary  
3 but substantial loss or impairment of the function of any bodily part  
4 or organ, or which causes a fracture of any bodily part;

5 (c) "Great bodily harm" means bodily injury which creates a high  
6 probability of death, or which causes serious permanent disfigurement,  
7 or which causes a permanent or protracted loss or impairment of the  
8 function of any bodily part or organ.

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

10 (4) "Dependent person" means a person who, because of physical or  
11 mental disability, or because of extreme advanced age, is dependent  
12 upon another person to provide the basic necessities of life. A  
13 resident of a nursing home, as defined in RCW 18.51.010, a resident of  
14 an adult family home, as defined in RCW 70.128.010, and a frail elder  
15 or vulnerable adult, as defined in RCW 74.34.020(~~((+8))~~) (14), is  
16 presumed to be a dependent person for purposes of this chapter.

17 (5) "Employed" means hired by a dependent person, another person  
18 acting on behalf of a dependent person, or by an organization or  
19 governmental entity, to provide to a dependent person any of the basic  
20 necessities of life. A person may be "employed" regardless of whether  
21 the person is paid for the services or, if paid, regardless of who pays  
22 for the person's services.

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

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

28 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
29 preservation of the public peace, health, or safety, or support of the  
30 state government and its existing public institutions, and takes effect  
31 immediately.

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