

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1904

58th Legislature
2003 Regular Session

Passed by the House April 21, 2003
Yeas 97 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 11, 2003
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1904** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1904

AS AMENDED BY THE SENATE

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By House Committee on Children & Family Services (originally sponsored by Representatives O'Brien, Boldt, Kagi, Roach and Miloscia)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to the reporting of incidents by mandated
2 reporters; amending RCW 74.34.020 and 74.34.035; 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 1999 c 176 s 3 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) "Individual provider" means a person under contract with the
7 department to provide services in the home under chapter 74.09 or
8 74.39A RCW.

9 (8) "Mandated reporter" is an employee of the department; law
10 enforcement officer; social worker; professional school personnel;
11 individual provider; an employee of a facility; an operator of a
12 facility; an employee of a social service, welfare, mental health,
13 adult day health, adult day care, home health, home care, or hospice
14 agency; county coroner or medical examiner; Christian Science
15 practitioner; or health care provider subject to chapter 18.130 RCW.

16 (9) "Neglect" means (a) a pattern of conduct or inaction by a
17 person or entity with a duty of care that fails to provide the goods
18 and services that maintain physical or mental health of a vulnerable
19 adult, or that fails to avoid(~~(s)~~) or prevent(~~(s)~~) physical or mental
20 harm or pain to a vulnerable adult; or (b) an act or omission that
21 demonstrates a serious disregard of consequences of such a magnitude as
22 to constitute a clear and present danger to the vulnerable adult's
23 health, welfare, or safety.

24 (10) "Permissive reporter" means any person, employee of a
25 financial institution, attorney, or volunteer in a facility or program
26 providing services for vulnerable adults.

27 (11) "Protective services" means any services provided by the
28 department to a vulnerable adult with the consent of the vulnerable
29 adult, or the legal representative of the vulnerable adult, who has
30 been abandoned, abused, financially exploited, neglected, or in a state
31 of self-neglect. These services may include, but are not limited to
32 case management, social casework, home care, placement, arranging for
33 medical evaluations, psychological evaluations, day care, or referral
34 for legal assistance.

35 (12) "Self-neglect" means the failure of a vulnerable adult, not
36 living in a facility, to provide for himself or herself the goods and
37 services necessary for the vulnerable adult's physical or mental
38 health, and the absence of which impairs or threatens the vulnerable

1 adult's well-being. This definition may include a vulnerable adult who
2 is receiving services through home health, hospice, or a home care
3 agency, or an individual provider when the neglect is not a result of
4 inaction by that agency or individual provider.

5 (13) "Vulnerable adult" includes a person:

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

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

9 (c) Who has a developmental disability as defined under RCW
10 71A.10.020; or

11 (d) Admitted to any facility; or

12 (e) Receiving services from home health, hospice, or home care
13 agencies licensed or required to be licensed under chapter 70.127 RCW;
14 or

15 (f) Receiving services from an individual provider.

16 **Sec. 2.** RCW 74.34.035 and 1999 c 176 s 5 are each amended to read
17 as follows:

18 (1) When there is reasonable cause to believe that abandonment,
19 abuse, financial exploitation, or neglect of a vulnerable adult has
20 occurred, mandated reporters shall immediately report to the
21 department.

22 ~~((If))~~ (2) When there is reason to suspect that sexual ~~((or~~
23 ~~physical))~~ assault has occurred, mandated reporters shall immediately
24 report to the appropriate law enforcement agency and to the department.

25 ~~((+2))~~ (3) When there is reason to suspect that physical assault
26 has occurred or there is reasonable cause to believe that an act has
27 caused fear of imminent harm:

28 (a) Mandated reporters shall immediately report to the department;
29 and

30 (b) Mandated reporters shall immediately report to the appropriate
31 law enforcement agency, except as provided in subsection (4) of this
32 section.

33 (4) A mandated reporter is not required to report to a law
34 enforcement agency, unless requested by the injured vulnerable adult or
35 his or her legal representative or family member, an incident of
36 physical assault between vulnerable adults that causes minor bodily
37 injury and does not require more than basic first aid, unless:

1 (a) The injury appears on the back, face, head, neck, chest,
2 breasts, groin, inner thigh, buttock, genital, or anal area;

3 (b) There is a fracture;

4 (c) There is a pattern of physical assault between the same
5 vulnerable adults or involving the same vulnerable adults; or

6 (d) There is an attempt to choke a vulnerable adult.

7 (5) Permissive reporters may report to the department or a law
8 enforcement agency when there is reasonable cause to believe that a
9 vulnerable adult is being or has been abandoned, abused, financially
10 exploited, or neglected.

11 ~~((3))~~ (6) No facility, as defined by this chapter, agency
12 licensed or required to be licensed under chapter 70.127 RCW, or
13 facility or agency under contract with the department to provide care
14 for vulnerable adults may develop policies or procedures that interfere
15 with the reporting requirements of this chapter.

16 ~~((4))~~ (7) Each report, oral or written, must contain as much as
17 possible of the following information:

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

19 (b) The name and address of the vulnerable adult and the name of
20 the facility or agency providing care for the vulnerable adult;

21 (c) The name and address of the legal guardian or alternate
22 decision maker;

23 (d) The nature and extent of the abandonment, abuse, financial
24 exploitation, neglect, or self-neglect;

25 (e) Any history of previous abandonment, abuse, financial
26 exploitation, neglect, or self-neglect;

27 (f) The identity of the alleged perpetrator, if known; and

28 (g) Other information that may be helpful in establishing the
29 extent of abandonment, abuse, financial exploitation, neglect, or the
30 cause of death of the deceased vulnerable adult.

31 ~~((5))~~ (8) Unless there is a judicial proceeding or the person
32 consents, the identity of the person making the report under this
33 section is confidential.

34 NEW SECTION. Sec. 3. This act is necessary for the immediate
35 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 immediately.

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