
SUBSTITUTE SENATE BILL 6331

State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Brandland, Parlette and Mulliken)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to mandated reporters in boarding homes and nursing
2 homes; amending RCW 74.34.020, 74.34.035, and 9A.42.010; and declaring
3 an 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) "Facility designated reporter" means an employee of a facility,
4 as defined in subsection (5) of this section, designated by the
5 facility to report to the department incidents as defined in subsection
6 (8) of this section.

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

10 ~~((7))~~ (8) "Incident" means an occurrence of abuse; neglect;
11 abandonment; misappropriation of resident property; financial
12 exploitation; or a substantial injury of unknown source, or cause, or
13 circumstance, involving a resident in a facility.

14 (9) "Individual provider" means a person under contract with the
15 department to provide services in the home under chapter 74.09 or
16 74.39A RCW.

17 ~~((8))~~ (10) "Mandated reporter" is an employee of the department;
18 law enforcement officer; social worker; professional school personnel;
19 individual provider; an employee of a facility; an operator of a
20 facility; an employee of a social service, welfare, mental health,
21 adult day health, adult day care, home health, home care, or hospice
22 agency; county coroner or medical examiner; Christian Science
23 practitioner; or health care provider subject to chapter 18.130 RCW.

24 ~~((9))~~ (11) "Neglect" means (a) a pattern of conduct or inaction
25 by a person or entity with a duty of care that fails to provide the
26 goods and services that maintain physical or mental health of a
27 vulnerable adult, or that fails to avoid or prevent physical or mental
28 harm or pain to a vulnerable adult; or (b) an act or omission that
29 demonstrates a serious disregard of consequences of such a magnitude as
30 to constitute a clear and present danger to the vulnerable adult's
31 health, welfare, or safety.

32 ~~((10))~~ (12) "Permissive reporter" means any person, employee of
33 a financial institution, attorney, or volunteer in a facility or
34 program providing services for vulnerable adults.

35 ~~((11))~~ (13) "Protective services" means any services provided by
36 the department to a vulnerable adult with the consent of the vulnerable
37 adult, or the legal representative of the vulnerable adult, who has
38 been abandoned, abused, financially exploited, neglected, or in a state

1 of self-neglect. These services may include, but are not limited to
2 case management, social casework, home care, placement, arranging for
3 medical evaluations, psychological evaluations, day care, or referral
4 for legal assistance.

5 ~~((12))~~ (14) "Self-neglect" means the failure of a vulnerable
6 adult, not living in a facility, to provide for himself or herself the
7 goods and services necessary for the vulnerable adult's physical or
8 mental health, and the absence of which impairs or threatens the
9 vulnerable adult's well-being. This definition may include a
10 vulnerable adult who is receiving services through home health,
11 hospice, or a home care agency, or an individual provider when the
12 neglect is not a result of inaction by that agency or individual
13 provider.

14 ~~((13))~~ (15) "Substantial injury of unknown source" means injuries
15 greater than superficial that would require more than first aid and may
16 require close monitoring by nursing or medical staff; or those injuries
17 occurring in areas not generally vulnerable to trauma, such as injuries
18 to the back, face, head, neck, chest, breasts, groin, inner thigh,
19 buttock, genital, or anal area.

- 20 (16) "Vulnerable adult" includes a person:
- 21 (a) Sixty years of age or older who has the functional, mental, or
22 physical inability to care for himself or herself; or
 - 23 (b) Found incapacitated under chapter 11.88 RCW; or
 - 24 (c) Who has a developmental disability as defined under RCW
25 71A.10.020; or
 - 26 (d) Admitted to any facility; or
 - 27 (e) Receiving services from home health, hospice, or home care
28 agencies licensed or required to be licensed under chapter 70.127 RCW;
29 or
 - 30 (f) Receiving services from an individual provider.

31 **Sec. 2.** RCW 74.34.035 and 2003 c 230 s 2 are each amended to read
32 as follows:

33 (1) When there is reasonable cause to believe that abandonment,
34 abuse, financial exploitation, or neglect of a vulnerable adult has
35 occurred, mandated reporters shall immediately report to the
36 department. However, a mandated reporter who works in a facility shall
37 report consistent with subsections (2) through (5) of this section.

1 (2) When there is reason to suspect that sexual assault has
2 occurred, mandated reporters shall immediately report to the
3 appropriate law enforcement agency and to the department.

4 (3) When there is reason to suspect that physical assault has
5 occurred or there is reasonable cause to believe that an act has caused
6 fear of imminent harm:

7 (a) Mandated reporters shall immediately report to the department;
8 and

9 (b) Mandated reporters shall immediately report to the appropriate
10 law enforcement agency, except as provided in subsection ~~((+4+))~~ (8) of
11 this section.

12 (4) A mandated reporter who works in a facility shall make a report
13 to the department when the reporter:

14 (a) Observes an incident;

15 (b) Hears the vulnerable adult state that the incident happened;

16 (c) Hears about an incident from a permissive reporter who has
17 direct knowledge of the incident; or

18 (d) hears about an incident from a mandated reporter who has direct
19 knowledge of the incident but who has not reported as required.

20 (5) The facility shall designate staff, known as facility
21 designated reporters, to immediately report to the department any
22 incident, as defined in this chapter. The facility shall have a
23 facility designated reporter available twenty-four hours per day. The
24 facility designated reporter shall make reports on behalf of the
25 facility, however, if the facility designated reporter also has a
26 separate obligation under this chapter to make an individual mandated
27 report, one report satisfies both obligations.

28 (6) The reporting criteria, described in subsection (1) of this
29 section, shall apply when determining whether a report under
30 subsections (4)(b) and (5) of this section must be made to the
31 department.

32 (7) Nursing facilities shall also report consistent with federal
33 requirements.

34 (8) A mandated reporter is not required to report to a law
35 enforcement agency, unless requested by the injured vulnerable adult or
36 his or her legal representative or family member, an incident of
37 physical assault between vulnerable adults that causes minor bodily
38 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))~~ (9) Permissive reporters may report to the department or a
8 law enforcement agency when there is reasonable cause to believe that
9 a vulnerable adult is being or has been abandoned, abused, financially
10 exploited, or neglected.

11 ~~((+6))~~ (10) 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 ~~((+7))~~ (11) 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 ~~((+8))~~ (12) 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 **Sec. 3.** RCW 9A.42.010 and 1997 c 392 s 508 are each amended to
35 read as follows:

36 As used in this chapter:

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

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

7 (b) "Substantial bodily harm" means bodily injury which involves a
8 temporary but substantial disfigurement, or which causes a temporary
9 but substantial loss or impairment of the function of any bodily part
10 or organ, or which causes a fracture of any bodily part;

11 (c) "Great bodily harm" means bodily injury which creates a high
12 probability of death, or which causes serious permanent disfigurement,
13 or which causes a permanent or protracted loss or impairment of the
14 function of any bodily part or organ.

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

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

23 (5) "Employed" means hired by a dependent person, another person
24 acting on behalf of a dependent person, or by an organization or
25 governmental entity, to provide to a dependent person any of the basic
26 necessities of life. A person may be "employed" regardless of whether
27 the person is paid for the services or, if paid, regardless of who pays
28 for the person's services.

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

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

34 NEW SECTION. **Sec. 4.** 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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