

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 1904**

Chapter 230, Laws of 2003

58th Legislature  
2003 Regular Session

MANDATED REPORTERS

EFFECTIVE DATE: 5/12/03

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

FRANK CHOPP  
**Speaker of the House of Representatives**

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

BRAD OWEN

**President of the Senate**

Approved May 12, 2003.

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.

CYNTHIA ZEHNDER

**Chief Clerk**

FILED

May 12, 2003 - 4:08 p.m.

GARY LOCKE  
**Governor of the State of Washington**

Secretary of State  
State of Washington

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**ENGROSSED SUBSTITUTE HOUSE BILL 1904**

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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.

Passed by the House April 21, 2003.

Passed by the Senate April 11, 2003.

Approved by the Governor May 12, 2003.

Filed in Office of Secretary of State May 12, 2003.