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HOUSE BILL 2895

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State of Washington

59th Legislature

2006 Regular Session

By Representatives Lovick, Curtis, Ericks, O'Brien, Dunshee, Kessler, Blake, Clibborn, McCoy, Miloscia, Ahern, Roberts, McDermott, Hunt, McDonald, Williams, Haler, McCune, Kenney, Morrell, Wallace, Kilmer, Green, Springer, Ormsby and Woods

Read first time 01/16/2006. Referred to Committee on Children & Family Services.

1 AN ACT Relating to protecting vulnerable adults from exposure to  
2 methamphetamine manufacturing; and amending RCW 74.34.020.

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

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

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

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

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

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

10 (b) "Physical abuse" means the willful action of inflicting bodily  
11 injury or physical mistreatment. Physical abuse includes, but is not  
12 limited to, striking with or without an object, slapping, pinching,  
13 choking, kicking, shoving, prodding, exposure to manufacture of  
14 methamphetamine or exposure to chemicals used in the manufacture of  
15 methamphetamine, or the use of chemical restraints or physical  
16 restraints unless the restraints are consistent with licensing  
17 requirements, and includes restraints that are otherwise being used  
18 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 or prevent physical or mental harm or  
20 pain to a vulnerable adult; or (b) an act or omission that demonstrates  
21 a serious disregard of consequences of such a magnitude as to  
22 constitute a clear and present danger to the vulnerable adult's health,  
23 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.

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