

# SENATE BILL REPORT

## SB 5115

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As of January 24, 2023

**Title:** An act relating to clarifying what constitutes mental abuse of vulnerable adults.

**Brief Description:** Clarifying what constitutes mental abuse of vulnerable adults.

**Sponsors:** Senators Hunt and Wilson, C..

**Brief History:**

**Committee Activity:** Law & Justice: 1/24/23.

**Brief Summary of Bill**

- Modifies the definition of "mental abuse" to include an action by an agent under power of attorney to unreasonably confine a vulnerable adult to a care facility.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Tim Ford (786-7423)

**Background:** The Department of Social and Health Services (DSHS) investigates the abandonment, abuse, financial exploitation, neglect, or self-neglect of vulnerable adults. Statutes require DSHS to maintain a vulnerable adult registry containing persons subject to substantiated findings of abandonment, abuse, exploitation, or neglect of a vulnerable adult, and prohibit the hiring of persons who appear in the registry or are subject to other similar reports.

A vulnerable adult includes a person:

- 60 years of age or older and has the functional, mental, or physical inability to care for themselves;
- subject to a guardianship or conservatorship;
- with a developmental disability;

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- admitted to any facility;
- receiving services from a home health, hospice, or home care agency;
- receiving services from an individual provider; or
- self-directing their own care and receiving services from a personal aide.

"Mental abuse" means an intentional, willful, or reckless verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, yelling, or swearing.

**Summary of Bill:** The definition of "mental abuse" is modified to include an action by an agent under power of attorney to unreasonably confine a vulnerable adult to a care facility.

**Appropriation:** None.

**Fiscal Note:** Requested on January 20, 2023.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This bill should be passed to protect vulnerable adults. This bill addresses a common problem that has tragic consequences for the lives of vulnerable adults. The enduring myth that whatever an agent says goes is dangerous. Under current law you cannot abuse someone even if you are their agent under a power of attorney. Filing vulnerable adult protection orders and not changing the statute is not a workable solution. Lawsuits are a last resort. There are not enough attorneys in the state of Washington that handle elder law. Some may not be able to afford an attorney are not able to establish a fact pattern to receive a protection order, especially if the elder is receiving good physical care. Physical needs are not all that matter. Vulnerable adults deserve the freedom to spend quality time with their loved ones doing what they love. This bill should be amended to prohibit abuse by all decision makers, not just agents acting under power of attorney. This bill should be amended to ensure changes are also made in RCW 7.105. This bill should ensure it does not intentionally thwart a person's ability to authorize placement decisions through their power of attorney. Many people trust their power of attorney with the authority to make long term care decisions.

**Persons Testifying:** PRO: Senator Sam Hunt, Prime Sponsor; Ronda Larson Kramer; Amy Freeman, WA State Long Term Care Ombuds Program.

**Persons Signed In To Testify But Not Testifying:** No one.