

Washington State Department of Social and Health Services

Transforming
Lives

PROPOSED LEGISLATION

Key benefits:

- Provide clarity to the definition of “willful” and resolving the confusion resulting from the 01/17/17 Division III Court of Appeals decision in Velda Lee Crosswhite vs DSHS.

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Title and/or subject matter of bill

Modifying chapter RCW 74.34 to add a definition of ‘willful.’

Why is this legislation necessary?

- Adult Protective Services investigates allegations of vulnerable adult abuse, abandonment, neglect, self-neglect and financial exploitation and concludes a finding.
- A recent order from the Division III Court of Appeals invalidates the definition of ‘willful’ in WAC 388-71-0105. In WAC 388-71-0105, *willful* is defined as “the nonaccidental action or inaction by an alleged perpetrator that he/she knew or reasonably should have known could cause harm, injury or a negative outcome.”

What will the bill do?

- Add of a definition of ‘willful’ that would align with the federal nursing facility definition of ‘willful’ [42 C.F.R. § 488.301] that is used regarding the abuse of vulnerable adults.
- In 42 C.F.R. § 488.301, *willful* as used in this definition of abuse, means “that the individual must have acted deliberately, not that the individual must have intended to inflict injury or harm”.

How much will this cost?

Fiscal impact is uncertain.



Washington State
Department of Social
& Health Services
Transforming lives

DSHS VISION

People are healthy • People are safe • People are supported • Taxpayer resources are guarded

DSHS MISSION

To transform lives

DSHS VALUES

Honesty and Integrity • Pursuit of Excellence • Open Communication • Diversity and Inclusion • Commitment to Service

Date