

PROTECTION FROM ELDER ABUSE

Whom does the law protect from Elder Abuse?

The law protects frail elders and vulnerable adults. Frail elders are defined as people 60 or older who have a functional, mental, or physical inability to care for or protect themselves. Vulnerable adults are people over 18 who are developmentally disabled, are in a long-term care facility (such as a nursing home or mental hospital), receive home health or hospice services, or who have a legal guardian appointed by the courts. This publication will refer to both frail elders and vulnerable adults as "vulnerable adults." The laws protecting these adults can be found in the Revised Code of Washington, [RCW 74.34](#), available at your local library.

What types of abuse are included?

Abandonment

Abandonment means action or inaction by a person or agency with a duty to care for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain needed food, clothing, shelter, or health care.

Abuse

Abuse means a non-accidental act of physical or mental mistreatment or injury, or sexual mistreatment, which harms a vulnerable adult through another person's action or inaction.

Exploitation

Exploitation means the illegal or improper use of a vulnerable adult or that person's income or resources, including trust funds or bank accounts, for another person's profit or advantage.

Neglect

Neglect means a pattern of action or inaction by a person or agency with a duty to care for a vulnerable adult that results in the vulnerable adult being deprived of care necessary to maintain his or her physical or mental health.

Who has to report abuse?

Anyone who believes a vulnerable adult has been abused may report that information to Adult Protective Services (APS), located in your local Department of Social and Health Services (DSHS) office. Or, you may call the statewide hotline at 1-866-363-4276 (1-866-EndHarm). Some people are required to report suspected abuse of a vulnerable adult, including police officers; social workers; social service, welfare, mental, or health agency workers; long-term care facilities (including nursing homes, adult family homes, and others); doctors; nurses; psychologists; and pharmacists. These people must report to APS in writing, within 10 days, any time they have reasonable cause to believe that a vulnerable adult has suffered abuse, neglect, abandonment, or exploitation.

What information does APS want?

APS needs to know the name of the vulnerable adult; the nature and extent of the suspected abuse, neglect, exploitation, or abandonment; the name and address of the person making the report; and any other helpful information. Unless there is a court action or the reporting person consents, the identity of the reporting person is confidential. Also, a person making a report or testifying in good faith will not be liable for any damages resulting from the report or testimony.

What does APS have to do once abuse is reported?

APS must respond to every report. If APS finds that abuse has occurred, it must offer appropriate information and protective services to the vulnerable adult and inform the adult of his or her right to refuse the services. APS will coordinate a plan with other social services to provide for and protect the adult. However, the adult can refuse the services. If APS decides that the adult is not competent to consent to or refuse services, APS can start court proceedings to have a guardian appointed.

What about a court order protecting the adult?

There is a special protection order available for vulnerable adults who have suffered or are threatened with abuse or exploitation. The vulnerable adult, or her or his family and/or guardian may file an action for a protection order. The action is filed in the Superior Court of the county where the vulnerable adult lives. Your court clerk should have the necessary papers available. Ask the court clerk whether your county has a courthouse facilitator who can help fill out the forms. If you cannot afford to pay the filing fee, ask the clerk for papers to have the fee waived.

After the petition is filed, the vulnerable adult will have temporary protection for 14 days until there is a hearing. If the abuser cannot be served personally with notice of the hearing in time, the 14 days can be extended by the judge. The order issued at the hearing is good for up to one year, and can be extended after that for additional one-year periods as needed.

The protection order can do the following:

- restrain the abuser from abusing or exploiting the vulnerable adult
- keep the abuser out of the vulnerable adult's residence
- prohibit the abuser from contacting the vulnerable adult
- require an accounting by the abuser of the use of the vulnerable adult's income or other resources
- restrain any transfer of property for up to 90 days
- require the abuser to pay filing fee and court costs, including service fees and attorney's fees

What if the abuser has power of attorney for the vulnerable adult?

If the abuser has power of attorney for the vulnerable adult, that power should be revoked as soon as possible. To revoke a power of attorney, contact a lawyer or get the do-it-yourself packet [About Powers of Attorney](#). The packet includes forms and instructions for revoking a power of attorney, as well as making a new one if desired. If the abuser's power of attorney includes the power to sell real estate, be sure to have the revocation notarized and filed with any county where the vulnerable adult owns real estate. The revocation becomes effective when it is delivered to the person holding the power of attorney. A power of attorney should be revoked even if the court has awarded a protection order. Similarly, the vulnerable adult should attempt to take the abuser's name off of any jointly held accounts owned by the vulnerable adult. This can usually be done by closing the account and opening a new one in the vulnerable adult's name only.

What about suing the abuser for damages?

Getting a protection order does not prevent the vulnerable adult from suing the abuser for civil damages or from pursuing criminal charges against the abuser, or doing all of these. This includes abuse by a long-term care facility or home health/hospice provider. The vulnerable adult can seek damages for injuries, pain and suffering, loss of property, and costs and attorney's fees associated with the lawsuit.

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