

Protecting Elders and Vulnerable Adults from Abuse and Neglect

Whom does the law protect from elder or vulnerable adult abuse and/or neglect?

The Vulnerable Adult Protection Act is a law designed to protect persons defined as “vulnerable adults.” Vulnerable adults include persons who:

- Are sixty years of age or older who have the functional, mental, or physical inability to care for themselves; or
- Have a court appointed guardian; or
- Have a developmental disability; or
- Are residents of nursing homes, adult family homes, boarding homes, or any other facility; or
- Receive services from home health, hospice, or home care agencies; or
- Receive services from an individual care provider or a personal aide.

The Vulnerable Adult Protection Act can be found in the Revised Code of Washington, RCW 74.34, available at your local library or on the internet at: <http://apps.leg.wa.gov/RCW/default.aspx?cite=74.34>.

What is elder/vulnerable adult abuse and neglect?

Abuse

Abuse means willful or non-accidental action or inaction which harms a vulnerable adult. The harm can include physical or mental

injury, unreasonable confinement, intimidation, or punishment. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a vulnerable adult.

Neglect

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

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.

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.

What is self neglect?

"Self-neglect" means the failure of a vulnerable adult, not living in a care facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of which impairs or threatens the vulnerable adult's well-being.

Who can I call if I suspect that an elder or vulnerable adult is being abused or neglected?

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-End-Harm).

Who has to report abuse?

The law requires some people to report suspected abuse of a vulnerable adult. These people include: police officers; social workers; social service, welfare, mental, or health agency workers; employees of long term care facilities (including nursing homes, adult family homes, boarding homes, adult residential care facilities, and others); doctors; nurses; nurse's aides and personal care aides; psychologists; and pharmacists. By law, these people must immediately report to APS any time they have reasonable cause to believe that a vulnerable adult has suffered abuse, neglect, abandonment, or exploitation. In some cases they must also immediately report the incident to the police.

What information does APS want?

APS needs to know the vulnerable adult's name and address; 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 person who contacts APS is confidential. 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 or neglect of a vulnerable adult is reported?

APS must respond to every report. APS investigates allegations of abandonment, abuse, financial exploitation, neglect, or self-neglect. If APS finds that the reported problem has occurred, it must offer appropriate information and protective services to the vulnerable adult. APS may coordinate with other social services and law enforcement to provide for and protect the adult. APS must also inform the adult of his or her right to refuse the services. If APS decides that the adult is not competent to consent to or refuse services, APS may start court proceedings to have a guardian appointed.

What about a court order protecting the vulnerable adult?

The vulnerable adult, or any interested person on the adult's behalf, may file an action for a "Vulnerable Adult Protection Order." The action is filed in the Superior Court of the county where the vulnerable adult lives. The forms and instructions are available on the internet at:

<http://www.courts.wa.gov/forms/?fa=forms.contribute&formID=70>

If you do not have internet access, ask your court clerk where you can get copies of the forms and instruction. The forms and instructions for a vulnerable adult protection action are to be provided at no charge. You may also ask the court clerk whether your county has a courthouse facilitator who can help fill out the forms. There is no filing fee for a vulnerable adult protection action.

After the petition is filed, the vulnerable adult will have temporary protection for up to 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. At the hearing, the parties may testify and submit relevant evidence. The

judge will decide whether the order should be continued, changed, or dismissed. The order can be issued for up to 5 years.

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, property, or other resources
- restrain any transfer of property for up to 90 days
- require the abuser to pay the filing fee, court costs, service fees, and other costs incurred in bringing the action -- including a reasonable attorney's fee.

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 you can find the do-it-yourself packet [Questions](#)

and [Answers on Powers of Attorney](#) at www.washingtonlawhelp.org. The packet includes forms and instructions for revoking a power of attorney, as well as how to make a new power of attorney if desired. If the abuser's power of attorney included the power to sell real estate, be sure to have the revocation notarized and recorded at the county recording office in every county where the vulnerable adult owns real estate. The revocation typically 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 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?

In addition to getting a protection order, the vulnerable adult can sue the abuser for civil damages. The vulnerable adult can seek damages for injuries, pain and suffering, for the return of money or property, and for the loss of money or property. Law enforcement may also pursue criminal charges against the abuser.

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