

**YOU HAVE THE POWER**  
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# Senior Safety

A resource guide on preventing  
elder abuse and exploitation.

Developed in collaboration with:



**West End Home**  
FOUNDATION

Our Mission: To empower those victimized by  
violent crime through education, advocacy, and  
understanding.

You Have the Power... Know How to Use It, Inc.



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You Have the Power...Know How To Use It, Inc.

## Message from the Founder of You Have the Power

You Have the Power...Know How to Use it, Inc., was founded in Nashville TN in 1993. Our mission is to empower, support and advocate for those victimized by crime.

We present educational programs on issues such as domestic violence, human trafficking, bullying and elder abuse. Our library of original documentaries features the voices and experiences of crime survivors, and we frequently use these documentaries in our presentations. In addition, we distribute Resource Guides, such as *Senior Safety*, at no charge.

Elder abuse affects many senior citizens and may take the form of physical abuse, sexual abuse, financial abuse, or emotional abuse. To combat elder abuse, there must be a high level of community awareness to recognize possible signs of abuse, to report it and to understand how to access available resources.

We hope you find helpful information in *Senior Safety*. For more information on this topic or about our organization, please contact us at (615) 292-7027 or our website at [www.yhtp.org](http://www.yhtp.org).

Thank you,



Andrea Conte  
Founder, You Have the Power

## What is Elder Abuse?

Elder abuse is generally defined as mistreatment or neglect of a person 60 years or older. The abuse can be physical, psychological/emotional, neglect, financial, or sexual. A common form of abuse among the elderly is self-neglect, which occurs if the elder's personal behavior threatens his/her own health or safety. A comprehensive study of elder abuse by the Administration on Aging concluded that for every reported incident of elder abuse, neglect, or self-neglect, approximately five go unreported.

Elder abuse can occur in domestic (home) settings and in institutional (nursing home, assisted living, etc.) settings. Historically, more studies have been conducted in domestic rather than institutional settings, and as a result, much more is known about elder abuse in the home. Except as noted, the information in this resource book is based on studies and reports of elder abuse in domestic settings.

## Facts and Figures

- In any given year, about 10% of people over age 60 experience some kind of elder abuse. But this is probably a very low estimate since people in nursing homes or with diseases like dementia, Alzheimer's, and Parkinson's (who are at higher risk) are often not included in surveys.
- Only 1 in 24 cases of elder abuse is reported to adult protective services or law enforcement.
- Elder abuse triples the risk of premature death and causes unnecessary illness, injury, and suffering.
- The National Elder Mistreatment Study, the most comprehensive report on the subject, found that the vast majority of emotional, physical, and sexual abuse is committed by someone the victim knows, most often a partner, spouse, or acquaintance. Children and grandchildren are the most likely to commit crimes of neglect.
- The National Center of Elder Abuse reports that 50% of nursing home staff admit to engaging in physical violence, mental abuse, or neglect of older patients. Furthermore, nearly 1/4 of the complaints filed against nursing homes in 2012 involved physical or sexual abuse by another nursing home resident.
- In 2014, 5.8% of people age 65 and older had experienced identity theft in the past year.
- The number of Suspicious Activity Reports filed with Consumer Financial Protection Bureau and involving older adults quadrupled between 2013 and 2017. On average, a victim between the ages of 70 and 79 lost \$43,000. When the victim knew the suspect, that average loss rose to \$50,000--an indicator that financial abuse can be even worse if the victim knows and trusts the person stealing from them.
- According to the Senior Investor Protection Resource Center, one in five people over the age of 65 have been a victim of financial fraud. Older adults lose as much as \$2.9 billion annually to fraud and exploitation.
- Tennessee ranked third in the nation for elder fraud in a 2019 report by Comparitech, a consumer protection tech website. The report estimates that 21.1% of Tennesseans over the age of 65 were exposed to some kind of fraud during that timeframe.

## Why Does Elder Abuse Happen?

Some possible contributing factors are dependency, stress, history of family violence, substance abuse, and financial considerations. The most likely abusers of the elderly know and are in regular contact with the elder person. Abusers may be family or non-family members.

### **Stress from the burden of care**

As people live longer, they may become more dependent on family members. Some caregivers find themselves caught between generations, caring for an older, frail parent and trying to take care of their own families. A caregiver may experience extreme fatigue and frustration in an effort to meet constant care needs, or they may not have the skills to perform the necessary tasks. Family members thrust into the role of caregiver may be reluctant or poorly prepared to take on this responsibility.

Additional pressure occurs if the family member is also coping with personal problems, financial difficulties, unemployment, mental illness, or substance abuse. An older person's mental or physical impairments of the elder and a lack of family and community support may impose added burdens, and respite care to give caregivers a break from constant care needs is not always available.

### **Life crisis**

Self-neglect often occurs when someone's world falls apart. For example, severe depression may develop after the death of a spouse, close friend(s), or other family members, or some other life-changing event in the senior's life. As a result, a person may lose their appetite or feel it's not worth fixing a meal for just one person. They may lack the energy or will to socialize with others. They might lose interest in their health, grooming, and personal appearance.

## Why Does Elder Abuse Happen? (continued)

### **Attitudes about violence**

Resentment of past mistreatment along with unresolved emotions may prompt a “retaliation mindset” for the abuser, a need to “get even.” The caregiver accuses the older adult for deliberately being incontinent, overly demanding, ungrateful, etc. If family members have accepted violence as a way to solve problems, violence against the elder is seen as an extension of that behavior.

Living in a former domestic violence situation may result in a pattern of abuse that is learned, embraced, and perpetuated. In some cases, a pattern of spousal abuse continues into old age.

### **Impairment of dependent elders**

Research shows that older adults in poor health who need a great deal of care are more likely to be abused than older adults in good health. The older the person, the higher the risk of elder abuse. As the condition of an impaired person gets worse, the stress level for the caregiver escalates, which may precipitate or accelerate abuse. Also, adults suffering from mental or emotional impairment may show aggressive behavior, such as verbal or physical outbursts, which may cause a similar response from the caregiver.

### **Personal problems of abusers**

Adult children who abuse their parents frequently suffer from mental or emotional disorders, substance abuse, and/or financial difficulty. If an adult child depends on an older adult for emotional or financial support, abuse may develop as a result of the adult child’s inadequacies.

## Why Does Elder Abuse Happen? (continued)

### **Lack of awareness of services**

Caregivers are often unaware of counseling or treatment that can help them handle their emotions in a positive way, or how to access these resources. They might not know about services to relieve the pressure of caring for an older adult, such as in-home care, adult day care, respite care, or support groups. Not having these resources at hand, combined with other factors, might cause the caregiver to snap or lash out.

### **Fear of reporting the abuse**

Abusers may be related by blood or marriage to the older adult, live in the same residence, or may depend on the older adult for money or a place to live. Meanwhile, the older adult may love their abuser, fear retaliation, or fear the housing alternatives if abuse is reported.

Some older adults may believe the abuse is their own fault and hope the caregiver will eventually stop hurting them. An emotionally isolated adult without any outside contact may have no one to turn to, may believe no one cares, or may not know how to access community resources.

Furthermore, neighbors, friends, or relatives may not report abuse because they think problems should stay within the family.

## Why Does Elder Abuse Happen? (continued)

### **Training programs / staff in nursing homes**

Conditions within nursing homes and assisted living facilities may contribute to physical abuse: conflicts between staff and residents; staff burnout and/or an inability to handle stressful situations; inadequate supervision, high staff turnover, and low staff-to-resident ratios.

When selecting a nursing home, you may want to verify (1) the facility checks the background of prospective employees for any sex offense or other criminal convictions/behaviors; (2) staff receive regular training and in-service programs, including how to identify, respond and report cases of possible physical or sexual assault; and (3) the nursing home conducts programs to help reduce stress and burnout in employees.

In addition, the public has the right to see the last inspection report of a nursing home. Inspection reports and nursing home comparisons are also on the official Medicare website ([www.medicare.gov](http://www.medicare.gov)).

### **Access to Social Security checks**

Many older adults rely on their social security checks to make ends meet. These checks come on the same day each month, and a senior may be especially vulnerable to mailbox theft or assault as they go to and from the bank. To prevent crime, it is much safer to use direct deposit.

## Warning Signs of Possible Elder Abuse

Warning signs may be spotted by family, friends, neighbors, healthcare providers, or others in the community. Warning signs can vary widely, and more than one type of abuse may be happening.

**State law requires anyone who has reasonable cause to suspect an adult has suffered abuse, neglect, or exploitation to report it** to their local police department or to Adult Protective Services (1-888-277-8366).

**Physical abuse** is the use of force which may result in injury, physical pain, or impairment. Examples are choking, striking, hitting, beating, pushing, shoving, shaking, slapping, kicking, pinching, cutting, punching, burning, or unwarranted use of physical restraints or drugs.

### **Possible Signs of Physical Abuse**

- Broken or dislocated bones
- Internal injuries
- Cuts, lacerations, puncture wounds
- Broken teeth, broken dentures, poor dental hygiene
- Bruises, black eyes, rope marks, welts
- Whiplash injuries from excessive shaking
- Swelling, broken bones
- Any injury not properly treated or injuries in various stages of healing
- Poor skin condition or poor hygiene
- Absence of hair, hemorrhaging below scalp
- Dehydration, malnutrition
- Loss of weight
- Burns (cigarettes, caustic materials, hot water, appliances, restraints such as rope or chains)
- Soiled clothing or bed linens
- Broken eyeglasses or frames; other broken possessions
- Self-report of being hit, slapped, kicked, tied up, or mistreated
- Vague explanations of injuries from caregiver or from the person receiving care
- Caregiver's refusal to allow visitors to see the person, or speak privately with visitors

## Warning Signs of Possible Elder Abuse (continued)

- Unexplained visits to different emergency rooms (so that the pattern of abuse is undetected)
- Delays between the time of injury and when they are cared for

**Emotional or psychological abuse** is the willful infliction of emotional pain and distress, and includes verbal assaults, insults, threats, intimidation, humiliation, harassment, manipulation, stalking, or isolating someone from family, friends and social activities. This may also include treating an older person like an infant, ignoring them, or giving them the “silent treatment”.

### **Possible Signs of Psychological/Emotional Abuse**

- Helplessness
- Confusion, disorientation
- Fear
- Withdrawal
- Depression
- Anger
- Listlessness
- Agitation
- High blood pressure or other stress-related disorders
- Unexplained weight loss or weight gain
- Age-inappropriate behavior, such as biting, rocking or sucking behaviors
- Deliberate isolation of the person receiving care, giving caregiver total control
- Caregiver not letting the older adult speak to others unless caregiver is present
- Neighbors may hear loud or strange noises, may notice the elder is not seen outside the home
- Victim’s self-report of being verbally or emotionally mistreated

## Warning Signs of Possible Elder Abuse (continued)

**Sexual abuse** refers to nonconsensual sexual contact, including sexual contact with a person incapable of giving consent. Sexual abuse includes unwanted touching, rape, sodomy, forced nudity, and sexually explicit photographs. Older victims of sexual assault tend to be vulnerable because of physical or mental impairment or frailty. Sexual abuse of the elderly is believed to be highly underreported.

### Possible Signs of Sexual Abuse

- Bruises on the thighs or external genitals
- Bleeding, pain and irritation of the genital or anal area
- Swelling or bruising around breasts or genitals
- Sudden difficulties with walking or sitting
- Unexplained sexually transmitted disease
- Unexplained vaginal or rectal bleeding
- Torn, stained, or bloody underclothing
- Flirtatious behavior by non-spouse caregiver
- Engaging in unusual, improper or aggressive behavior
- Nude or inappropriate photographs of the senior
- Victim's self-report of unwanted sexual contact, sexual assault, or rape

## Warning Signs of Possible Elder Abuse (continued)

**Financial abuse** is the illegal or improper use of someone else's money, property, or assets. Examples include cashing checks without authorization or permission; forging a signature; misusing or stealing money or possessions; blocking access to money or property; extortion; forcing or deceiving someone into signing a document such as a contract or a will; taking property without consent; or improper use of a conservatorship or power of attorney.

Fraud is a common form of financial abuse. For example, telemarketers may try to take advantage of older people, believing they are lonely and more trusting and polite to strangers. Scam artists may call people at home to sell them unnecessary services or home repairs. The "Fraud" section of this publication offers detailed information about common types of fraud affecting older adults.

### Possible Signs of Financial Abuse

- Unusual number of bank withdrawals, ATM activity
- Inappropriate activity in bank accounts, sudden changes in banking practices
- Signatures on checks that do not resemble the elder's signature, or signed when the older person cannot write
- Inclusion of additional names on an elder's bank signature card
- Abrupt changes in a will or other financial documents
- Excessive concern by caregiver that too much money is being spent on the older person's care
- Sudden transfer of assets to another person
- Caregiver or relative without obvious financial means suddenly acquires expensive possessions
- Unpaid bills by person responsible for paying the elder's bills or sudden provision of services that are not necessary
- Missing personal belongings, e.g., art, china, silverware, jewelry, etc.
- Excessive number of mail order packages or contest material being delivered to the elder's home
- Victim's self-report of financial exploitation

## Warning Signs of Possible Elder Abuse (continued)

**Neglect** is the caregiver's failure to meet basic needs for food, safe housing, clothing, personal care, necessary medical care, or the caregiver's refusal or failure to pay for necessary services such as home care, prescriptions, rent, or utilities. Desertion or abandonment of an elder is also neglect.

### **Possible Signs of Caregiver Neglect**

- Unkempt appearance of elder (e.g., poor personal hygiene, odors)
- Rashes, sores, untreated bed sores, lice
- Loss of weight, especially if the older adult needs help feeding themselves
- Inadequate clothing, in general or for the time of year
- Untreated health problems
- Worsened chronic diseases despite a clear care plan
- Worsening dementia
- Malnourished appearance of elder, dehydration
- Unsafe living conditions, such as lack of heat or lack of ventilation/air conditioning in hot climates, improper wiring, no running water, slippery floors, poor lighting, unsafe furniture, unsafe wheelchairs or walkers
- Caregiver often appears frustrated, angry, or exhausted
- Deserting the person at a health care facility, such as a hospital or nursing home, or a public location, such as a church or shopping mall
- Victim's self-report of being neglected

**Self-neglect** is behavior that threatens the person's health or safety, such as a refusal or failure to provide themselves with adequate food, water, clothing, shelter, safety, personal hygiene, or medication. No one is outright abusing the person, but if someone else were doing it to them, it would count as abuse.

It is important to distinguish between the inability to manage and the choice to live a certain way. Each case must be evaluated on its own merits. Intervention can be a highly charged emotional decision by family or friends and can pose a challenge if legal action is indicated.

## Warning Signs of Possible Elder Abuse (continued)

### Possible Signs of Self-neglect

- Failure to pay rent, utility, other bills; unpaid bills may be a result of unopened mail rather than a lack of financial resources
- Lack of nutritious food in the home, change in eating habits, or sudden weight loss or gain
- Failure to purchase necessary medications or inadequate self-medication; prescription drugs may be in the home but are not being taken or not taken properly
- Unkempt appearance (rashes, sores, odors, dehydration, loss of weight, etc.); poor housekeeping habits in a normally meticulous individual
- Confusion, disorientation, memory failure, inattention, incoherence, inappropriate responses, etc.; memory lapses may possibly be triggered by poor nutrition, depression, over/under-medication, or by more serious problems such as stroke or Alzheimer's disease
- Abuse of alcohol or drugs
- Necessary medical aids such as dentures, glasses, hearing aid, cane, prosthesis, etc., are missing, broken, or unusable
- Failure to keep medical appointments for chronic conditions or serious illness
- Bruises or broken bones from recent falls
- Declining physical or psychological health
- Living in unsanitary, hazardous, or unsafe conditions; homelessness

## What Can I Do to Stop Elder Abuse?

### Contact law enforcement

Because elder abuse of an elder often occurs in private residence, it is rare to actually witness the abuse as it is happening. But if you see it or suspect it, you need to report it to the police department immediately. If the abuser is a family member, you may also call local law enforcement's Domestic Violence Unit, if this specialized unit is available in your area. Assault is a crime, even if the two parties know each other.

### Call Adult Protective Services (APS)

Adult Protective Services, a state agency of the Tennessee Department of Human Services, is mandated by law to accept and investigate reports of alleged abuse of persons 18 years old or older who may have physical or mental limitations, and who are unable to protect themselves from abuse, neglect or exploitation.

### Contact a Senior Citizens Center

Specifically designed to deal with issues affecting older adults, senior citizens centers are a valuable resource for the community. Many offer case management, legal system advocacy, homemaker services, counseling, or referral to other community services. Some centers may offer respite care for caregivers, adult day care, assistance with seeking redress for abuse, or helping the older adults achieve a level of safety in their home. To find a senior center in your area, call your nearest Area Agency on Aging, or see the "Who Can Help?" section in this book.

### Plan Ahead

It may go without saying, but it is worthwhile to say it anyway: preparing a will, advance health care directives, living trusts, or other such devices may be an excellent way to protect you and to ensure your wishes are carried out. Even the closest and most loved family members can come to verbal blows over your assets if you (or your intentions) are not there to act as referee. **Consult an attorney with experience in these areas if you want to create any legally binding document.**

### Adult Protective Services at 1-888-277-8366

According to the law, anyone—including neighbors, friends, relatives, doctors, dentists, caregivers, agency personnel, etc.—who has reasonable cause to suspect an adult has suffered abuse, neglect, or exploitation is required to report it. Reporting suspected abuse is a moral, as well as a legal responsibility. An abusive situation is likely to continue unless someone intervenes.

People who believe they are suffering as a result of neglect, abuse, or exploitation should also report. The identity of everyone who calls APS is kept confidential.

When APS receives an abuse report, they assess the situation and service needs using physical, psychological, psychiatric or social evaluations and consultations.

- A counselor visits the person to determine need for protective services. They may contact family, friends, or professionals.
- The counselor works with the person and others to develop a plan for safety and better care. They try to involve the person (if capable) in making decisions regarding care or services. When possible, APS tries to keep the person in their home or community.
- Protective services are provided when the investigation indicates such services are necessary.
- Some people may refuse help. Legally, APS cannot force services on an adult except in special circumstances as specified in the law. Involuntary services always require a court order. Legal action is always APS's last resort, used only exploring all other appropriate solutions.

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## **What Can I Do to Prevent Elder Abuse? (continued)**

### **Talk to older adults about potential scams and cons.**

Some scam artists deliberately target older people for a variety of reasons. But if the people around them warn them about common forms of fraud (see the “Fraud and Older Adults section of this publication) and solicitations and scams that are going on, they are less likely to fall for them.

### **Help older adults stay aware of and responsible for their finances.**

While many older adults entrust another family member to help manage their finances, they should ultimately be the one in control of them. By knowing where their money goes and what is being done with it, older adults are less likely to become victims of financial abuse.

### **Consider support groups for both older adults and their caregivers.**

Older adults may be interested in joining groups or attending events that educate them on fraud and abuse. See what kinds of groups are available in your community.

Meanwhile, caregivers may find support groups useful in connecting with other people dealing with the same problems and challenges, helping them de-stress and debrief... and avoid taking their frustrations out on the people in their care.

## Fraud and Older Adults

More than one-half of reported elder abuse cases include financial exploitation, and elder fraud is expected to grow over the next few decades.

Family members, caregivers, neighbors, or friends may be stealing money or valuables. Warning signs include

- additional names on bank signature cards
- signatures on checks that don't look like the person's signature,
- strange activity in bank accounts, such as an unusual number of withdrawals
- bills suddenly going unpaid.
- missing personal belongings such as art, china, silverware, jewelry, etc.

Fraud victims may feel embarrassed, ashamed, or afraid if they discover they were swindled. They may blame themselves or believe they will be considered incapable of handling their financial affairs if they reveal fraud has occurred. Older adults are also reluctant to report fraud by a caregiver if they love and/or depend on that caregiver. The veil of silence surrounding elder fraud can make it hard to spot. Public guardians, responsible family members, friends, and the community at large play a critical role in protecting older adults from exploitation.

## Fraud and Older Adults (continued)

In addition to people they know, older adults may fall prey to con artists looking for unwary, isolated, or mentally compromised older adults. Here are some common examples of fraud.

### Telemarketing fraud

While many phone sales pitches are made on behalf of legitimate organizations, telemarketing fraud is a multi-billion dollar business in the United States.

Imposter scams, where con artists pose as someone else, are an increasing concern. Scam artists may impersonate government agencies, law enforcement, banks, utility companies, etc. insisting on payment on nonexistent bills or fines. They may pose as charities, celebrities, or, in the case of the "grandparent scam", family members or friends in urgent need of money.

A con artist may pretend the call is for a charity. Calls about bogus charity donations are often about sympathetic or patriotic causes, such as those involving children or animals. Ask for written information before donating money to a charity you don't know. A legitimate charity will happily give you all the information you need and will give you time to make a decision. If a caller refuses to send written information, refuse to do business with them.

If you have the slightest doubt about a telephone offer, hang up or insist on having the information in writing. Always hang up if you are asked to pay for a "prize."

### Internet fraud

Internet scams are a growing threat to older adults. The most common type of scam involves "phishing"--sending a spam e-mail that looks real, like it came from a trusted source like a bank, a credit card company, a favorite charity. These e-mails ask recipients to verify their information... and in the process, hand over personal information like credit card and Social Security numbers.

## **Fraud and Older Adults (continued)**

Internet scammers may call or e-mail you asking you to access the computer remotely to fix a supposed problem. Never allow this unless you are working with a trusted technician you have personally contacted to fix a known problem with your computer.

Online con artists also take advantage of password security. It is important to create strong passwords using upper-case and lower-letters, numbers, and symbols to make it harder for scammers to figure out your password. Update passwords frequently and do not use the same password for multiple accounts.

Do not click on emails or links from unrecognized senders. Some scammers create email addresses that are similar to name brand companies. You may consider opting out of commercial email lists, or be cautious of commercial e-mails that may be targeting you.

When shopping online, consider using a credit card instead of a debit card. If your payment information is compromised, the scammer will not be able to drain the full bank account. Debit card fraud protections are customarily not as strong as those for credit cards. It is important to frequently check your bank account after an online purchase and report any strange activity.

### **Mail fraud**

Identity thieves may get their hands on crucial personal information by stealing mail out of the mailbox or rummaging through the trash. They may also send official-looking documents and use these to acquire information.

Scam artists may send a letter saying you have won a prize or contest and ask you to send certain information back. Frequently, this is a ploy to add your name to a list sold to telemarketers or junk-mail merchandisers.

## Fraud and Older Adults (continued)

### Other points to consider

- Telephone con artists will sound credible or believable, even when lying.
- Con artists may establish regular phone or e-mail contact in order to be perceived as a trusted friend and sympathetic listener.
- Promises of free gifts, worthless/overpriced vacations, or investment schemes may be offered as incentives, but only if the elder acts “right now” by giving a credit card or bank account number over the phone, or sending a check in the mail, or sending a money order.
- If someone is duped into a scam and realizes what has happened, a representative from a “recovery firm” may call, promising to get their money back. For example, the caller may claim to be a lawyer working on a suit to pay damages to sweepstakes fraud victims. For a retainer fee, the scam artist assures the victim will be eligible for a large settlement award. If someone pays the fee, they may lose even more money. The reality is that even law enforcement officials can't guarantee they can recover your money.
- Many burglars specifically target homes that are specifically occupied by older adults because of their perceived vulnerability. This makes basic home security procedures even more important.
  - Consider purchasing a dog, a home security system, an automatic timer for lights.
  - Make sure your home is well-tended (or at least doesn't look deserted) and well-lit at night.
  - Make friends with the neighbors, and maybe consider joining or establishing a neighborhood watch.
  - Thoroughly research contractors who will do work on your home... and don't accept help from people going door-to-door.
  - Don't inadvertently advertise your valuables. Keep expensive items away from street-facing windows. Cut up packaging from newly purchased items like TVs or cameras and shred documents with personal information. Consider using a safe, especially one that's bolted down and/or in an inconspicuous location.

## Fraud and Older Adults (continued)

### Some basic rules

- Take your time. Ask for written information about the product, service, investment opportunity, or charity... or do your own research online or by asking other people you know and trust. Be wary of being pressured into a decision, such as “the offer is only good today”, or “very few people know about this, but you need to act now.”
- Don't send cash, check, prepaid credit card, reloadable gift cards, or money order by courier, overnight delivery, or wire to anyone who insists on immediate payment.
- Avoid giving out your Social Security number, credit card or bank account information unless you know precisely necessary... and **never** do so over the phone or the Internet **unless** you initiate the call and know you are speaking to an authorized representative of a legitimate organization.
- Remember the old saying, “If it sounds too good to be true, it probably is.” Beware of offers like “You have won a free vacation” or investment schemes supposedly made available to only a few people.
- You can report suspected telephone fraud to the Tennessee Attorney General's office at (615) 741-3491.
- In Tennessee, you can register with the “Do Not Call” Registry at (877) 872-7030. If you are registered and a paid solicitor calls you, report it to the Attorney General's Office.
- You can contact the Tennessee Secretary of State's Division of Charitable Solicitations at (615) 741-2555 to verify the legitimacy of a charity. You can also check [tnsos.org/charitable/CharitableOrgReports.php](https://tnsos.org/charitable/CharitableOrgReports.php) to obtain financial reports on charities in the state of Tennessee.
- Additionally, the Tennessee Department of Commerce and Insurance's Division of Consumer Affairs ([www.tn.gov/commerce/consumer-affairs.html](http://www.tn.gov/commerce/consumer-affairs.html)) protects consumers and businesses from fraud. Check the site for updated consumer resources and news about trending con games. The Department itself ((615) 741-2241) can also confirm licensing and registration for contractors and other businesses.

## What Is a Conservatorship?

As a person gets older, their mental and physical health may decline to the point where they can no longer manage their personal health care needs or financial affairs. This can be devastating for the person as well as family members and friends. In this situation, particularly when no one holds a power of attorney, the adult may benefit from a conservatorship.

A **conservatorship** is created when the court appoints a responsible adult to manage another adult's financial affairs and/or personal needs. For example, a conservator may be appointed for someone who is in a coma, is seriously ill or injured, suffers from mental illness, or is in the advanced stages of dementia. A conservatorship is appropriate when an adult cannot manage their financial affairs and/or personal needs. Upon appointment by a judge, a conservator can legally make decisions on behalf of someone else regarding care and management.

Anyone—a family member, friend, neighbor, or health care provider—who has personal knowledge of the facts about the adult's situation can file a petition for conservatorship. Physicians, nurse practitioners, and others who see the adult on a regular basis can be particularly proactive in preventing exploitation by recommending a petition for conservatorship when they notice a significant decline in the person's ability to manage personal finances.

**The person who initiates the petition  
is not obligated to serve as the conservator.**

## What Is a Conservatorship?

### Filing a petition for a conservatorship

A conservatorship is a civil action, and filing a petition does not involve law enforcement. In Tennessee, the petition is normally filed in probate court or chancery court. It is not necessary for the petitioner to have an attorney, but consulting a lawyer who has experience with conservatorships can be a tremendous help in preparing the petition.

If the court grants the petition to create a conservatorship, they will assess the costs and attorney fees of the petitioner against the conservatee, or ward.

The regional offices of the Lawyer Referral Service in Tennessee can help you with selection of a lawyer:

Chattanooga Lawyers Information Provider Service (CLIPS):

(423) 756-3222 or [chattanoogalaw.org](http://chattanoogalaw.org)

Knoxville Bar Association: (865) 522-7501 or [knoxbar.org](http://knoxbar.org)

Nashville Bar Association: (615) 242-6546 or [nashvillebar.org](http://nashvillebar.org)

Memphis Bar Association: (901) 527-3573 or [memphisbar.org](http://memphisbar.org)

Lower-income families may want to consider the following referral services as well:

Legal Aid of East Tennessee: (865) 637-0484 or [laet.org](http://laet.org)

Legal Aid Society of Middle Tennessee and the Cumberland:

(615) 244-6610 or [las.org](http://las.org)

West Tennessee Legal Services: (800) 372-8346 or [wtls.org](http://wtls.org)

Memphis Area Legal Services: (901) 523-8822 or (866) 361-9001 or [www.malsi.org](http://www.malsi.org)

Tennessee Alliance for Legal Services: (888) 395-9297 or [www.tals.org](http://www.tals.org)

## What Is a Conservatorship? (continued)

### Determining need for a conservatorship

When the court receives a petition for conservatorship, the judge appoints a **guardian ad litem** to investigate whether the adult needs a conservator. The guardian ad litem is responsible for protecting the interests of the adult and serves as the court's eyes and ears. They will contact friends and relatives, review medical records, and make a report to the court regarding the adult's capability of managing their affairs. The guardian ad litem may also recommend who should be appointed as conservator.

A conservatorship is appropriate for adults in need of assistance, supervision or protection. The person may not necessarily be mentally incompetent. For example, the person may be competent, but have good and bad days, or may have memory lapses or occasionally become confused, or may be unduly influenced by others. The person may be in danger of being tricked out of their savings, or may need assistance, protection or supervision due to a physical or mental impairment.

If the court determines a conservator should be appointed, the judge makes the final decision on whom the conservator should be. Each case is unique, and the conservator may be a family member, an agency, public guardian, friend, or neighbor.

## What Is a Conservatorship? (continued)

### Responsibilities of the conservator

Responsibilities of the conservator include filing a **property management plan**: the conservator's plan for managing assets and paying financial obligations. The conservator must file an annual report of their ward income and disbursements from their accounts. In addition, the conservator typically must seek permission from the court regarding major decisions, such as selling the elder's real estate. The conservator should have an attorney counsel them throughout the life of the conservatorship.

Conservatorships are a powerful safeguard for an incapacitated adult's property and a means of caring for the person's finances until the Court orders otherwise. A conservatorship may be terminated if the adult dies or becomes well enough to handle his/her own finances.

## What Is a Conservatorship? (continued)

### How a conservatorship differs from a power of attorney

- Who selects the person who makes the decisions?

In a conservatorship proceeding, the court determines whether a conservator is needed and who is best suited to serve as conservator. With the designation of “power of attorney”, the adult decides who will be appointed as their **attorney-in-fact**, acting on their behalf.

- Is the need immediate or at some point in the future?

A conservator is appointed because the adult has an immediate need for care and an immediate need for someone to make decisions on their behalf. A power of attorney is typically drafted for use at some time in the future, and the adult must be competent to execute a power of attorney. Powers of attorney commonly provide for future events.

- Is the process supervised?

A conservator’s activities are supervised by the court. The conservator must file an inventory of assets and present a property management plan which details how the assets and income will be used. A detailed accounting must be filed on a yearly basis. The conservator must seek court approval for certain transactions, such as sale of real estate, expending substantial funds, or making certain investments.

A power of attorney grants only those powers stated in the agreement. The attorney-in-fact operates without court supervision and does not report to the court.

## What Is a Conservatorship? (continued)

- What is the risk associated with these procedures?

The conservatorship usually costs more because it requires a bond issued by a surety company that can pay the court if the conservator can't or won't meet their financial obligations. Also, the conservator usually needs to hire a lawyer and pay for routine court filings (which are considered a public record.)

On the other hand, the court supervises the conservator's activities and a series of safeguards help minimize the risk of a conservator who either breaches their duties intentionally or simply makes costly financial mistakes out of ignorance. Specifically, the surety company that issues the bond will have to refund any money misappropriated by the conservator.

The power of attorney costs less but carries higher risks. Selecting an attorney-in-fact is a much more informal process and more open to abuse. No investigation is made to determine if the proposed attorney-in-fact is fit for the task. And no one supervises the attorney-in-fact, so they could cause irreparable damage to the incapacitated person's estate before anyone notices there is a problem.

## The Elder Justice Act

The Elder Justice Act provides federal resources to prevent, detect, treat, understand, intervene in, and prosecute elder abuse, neglect and exploitation. The Elder Justice Act is a comprehensive elder abuse prevention law enacted as part of the Patient Protection and Affordable Care Act on March 23, 2010.

The Elder Justice Act applies to the following long-term care providers that receive at least \$10,000 in federal funds annually. These include nursing facilities, inpatient hospice units, and intermediate care facilities for people with mental disabilities.

These long term care providers must

- notify each covered individual annually of their reporting obligations
- post a notice in an accessible and appropriate location specifying employee rights, including the right to file a complaint under the statute with the state survey agency
- refrain from retaliation against anyone who lawfully reports a reasonable suspicion of crime
- not employ or contract with people or companies that have violated the Elder Justice Act reporting requirements in the past

The Act requires the reporting of any “reasonable suspicion” of crimes against a resident or person receiving care at the types of facilities listed above.

Failure to comply with reporting requirements could mean a civil monetary penalty of up to \$300,000 and exclusion from participation in federal health care programs.

## Resources for Older Adults

### National

AARP Fraud Watch Network (877) 908-3360

<https://www.aarp.org/money/scams-fraud>

Call the free helpline if you or a loved one have been affected by a scam. Use the website to look up and report scams operating in your area.

National Do Not Call Registry [www.donotcall.gov](http://www.donotcall.gov)

Register your home or mobile phone for free to reduce telemarketing calls. A service of the Federal Trade Commission.

Eldercare Locator (800) 677-1116

Information and referral service for support services for older adults. A public service of the U.S. Administration on Aging

Federal Trade Commission [www.ftc.gov](http://www.ftc.gov)

File consumer complaints, report identity theft, get free credit reports and consumer alerts, and find other free resources for consumers.

National Committee for Prevention of Elder Abuse

[www.preventelderabuse.org](http://www.preventelderabuse.org) (202) 682-4140

Referrals and advocacy/research work.

National Clearinghouse for Abuse in Later Life

[www.ncall.us](http://www.ncall.us) (608) 255-0539

National Center for Victims of Crime (202) 467-8700

[www.victimsofcrime.org](http://www.victimsofcrime.org)

A nonprofit organization that advocates for victims' rights, trains professionals who work with victims, and serves as a trusted source of information on victims' issues. Includes a hotline and online chatroom that provides confidential help for victims of crime.

## Resources for Older Adults (continued)

### Statewide/Regional

In addition to these numbers specific to older adult resources, you may also want to consult the fraud prevention numbers on page 24 of this publication and the free or low-cost legal referral services listed on page 26. The 2-1-1 community services helpline (available at <http://tn211.mycommunitypt.com> or calling "211") can connect you with help regarding housing/utilities, food, transportation, legal advice, medical assistance, employment, education, abuse situations, and other needs.

Additionally, YHTP's resource guide *When Violence Hits Home* includes a directory of domestic violence services that may be useful in elder abuse situations. You may also find our *Sexual Assault* resource guide on sexual assault helpful as well.

Adult Protective Services (888) 277-8366  
<https://www.tn.gov/humanservices/adults/adult-protective-services.html>

APS investigates reports of abuse, neglect (including self-neglect) or financial exploitation of adults who cannot protect themselves due to a physical or mental limitation. APS staff assess the need for protective services and provide services to reduce the identified risk to the adult.

Tennessee Area Agencies on Aging and Disability  
(866) 836-6678  
<https://www.tn.gov/aging/resource-maps/tennessee-area-agencies-on-aging-and-disability.html>

Supervised by the Tennessee Commission on Aging and Disability, these agencies plan and provide programs and services for older Tennesseans, as well as those with disabilities. There are nine of them across the state; call the number above for automatic connection with the one in your area.

## Terms You Need to Know

**Adult Protective Services:** A program within the Tennessee Department of Human Services to investigate allegations that an adult who, because of mental or physical dysfunction, is unable to protect themselves from abuse, neglect, or exploitation.

**Con Artist/Scam Artist:** A swindler who wins the confidence of a person and then cheats them by taking advantage of that confidence.

**Conservatorship:** A proceeding in which a court appoints a person, often a relative or friend, who attends to the financial and health care needs of an adult who is physically or mentally unable to handle their own affairs. The conservator operates under the supervision of the court.

**Contempt of Court:** A willful failure to obey a court order or the show of disrespect or unacceptable behavior in the presence of the court. The court has the power to punish a person found guilty of contempt.

**Continuance:** When a case is rescheduled to a future date.

**Docket:** A schedule of cases awaiting court action on a given day, week, or month.

**Durable Power of Attorney:** A legal document that gives a trusted person the right to handle your financial assets. The paper spells out exactly what the trusted person can do, such as write checks, sell property, etc. The document can give the trusted person these powers immediately or only when you become unable to manage your affairs.

**Durable Power of Attorney for Health Care:** A legal document giving a trusted person the right to make decisions about your medical care if you become unconscious or severely ill (physically or mentally) and unable to make these decisions for yourself.

**Evidence:** Any form of proof legally presented at a trial through witnesses, records, documents, etc.

## Terms You Need to Know

**Fraud:** Intentional deception or misrepresentation of a material fact, resulting in injury to another. May include concealment/not disclosing known facts, or misleading conduct.

**Guardian Ad Litem:** A person appointed by the court to represent the interests of a person presumed unable to represent themselves, such as a minor, a person not yet born, or a person judged incompetent.

**Holographic Will:** A will entirely written, dated, and signed by the testator (the person making and executing their own will).

**Jurisdiction:** The geographical area within which a court or criminal justice agency has authority. For example, Davidson County is the 20<sup>th</sup> Judicial District, and all judicial or criminal matters occurring in the county are under its jurisdiction.

**Living Trust:** A legal paper transferring ownership, while you are still living, of your financial assets out of your name and into a trust. “Living trust” is commonly used to refer to a “revocable trust”, meaning you can get ownership back if you change your mind. Though you don’t technically own the assets after you put them in a trust, you may still control them and get the benefit of them by naming yourself as the trustee and the beneficiary. After your death, the person you have named as the successor, or back-up, trustee carries out your instructions. You can still be taxed on these assets during life and at death because you continue to benefit from and control the assets in the trust.

**Living Will:** A legal paper that deals with your medical care, not your finances. You can use a living will as an advance directive to instruct your physicians and family to respect your right to control your medical care, even if you are then unable to communicate, for example, directing that you desire a natural death, not one prolonged by machines.

**Perjury:** The making of false statements under oath – a criminal offense.

## Terms You Need to Know (continued)

**Probate Court:** A court having jurisdiction of proceedings for the settlement of a deceased person's estate.

**Property Management Plan:** A plan for the management of assets and payment of financial obligations by an appointed conservator.

**Power of Attorney:** A written document in which one person appoints someone else as their agent or attorney-in-fact with the authority to perform certain specified actions on their behalf. Powers of attorney can be very broad or limited to certain acts or can be limited by time frame.

**Rape:** Unlawful sexual penetration, accompanied by circumstances such as force, coercion, lack of consent of the victim, fraud, mental incapacitation or physical helplessness on the part of the victim.

**Sexual Assault:** A category of crime including rape, in which a person forces another to commit a sex act.

**Subpoena:** A court order requiring a person to appear in court.

**Testimony:** Any statement made by a witness under oath in a legal proceeding.

**Theft of Property:** The taking of the property of another, usually not by force. Formerly referred to as larceny.

**Victim:** The person against whom a crime is committed.

**Victim/Witness Assistance Unit:** A specialized unit usually within the prosecutor's office which provides services to crime victims and witnesses.

**Warrant:** A judicial order authorizing a law enforcement official to conduct a search, seizure or arrest.

## Terms You Need to Know (continued) / Acknowledgements

**Will:** A document stating your instructions for transferring ownership of your financial assets after your death. These assets are transferred under the supervision of the probate court. Your will may also indicate the person you want to serve as guardian of any children who are still minors at the time of your death. You can also use a will to put assets into a trust after your death. After that, the assets are managed by the trustee as you direct in the will or trust.

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## Bibliography

AARP Fraud Watch Network. Accessed May 31, 2019. <https://www.aarp.org/money/scams-fraud/>

Becker, Jacqueline Hebert. "Considerations in Reporting Elder Abuse," *American Journal of Nursing* 97, no. 7 (1997): 22.

Capezuti, Elizabeth, Barbara L. Brush, and Willam T Lawson, III. "Reporting Elder Mistreatment," *Journal of Gerontological Nursing* 23, no. 7 (1997): 24-32.

"Crimes Against Older Adults". Office for Victims of Crime. Accessed May 31, 2019. [https://ovc.ncjrs.gov/ncvrw2018/info\\_flyers/fact\\_sheets/2018NCVRW\\_OlderAdults\\_508\\_QC.pdf](https://ovc.ncjrs.gov/ncvrw2018/info_flyers/fact_sheets/2018NCVRW_OlderAdults_508_QC.pdf)

DiGangi, Christine. "How To Keep Seniors Safe from Internet Scams," *McKnight's Senior Living* online, last modified December 15, 2016, <https://www.mcknightsseniorliving.com/home/columns/marketplace-columns/how-to-keep-seniors-safe-from-internet-scams/>

"The Elder Justice Act." Administration for Community Living. Accessed May 31, 2019. <https://acl.gov/about-acl/elder-justice-act>

Freedman, Donna. "10 States Where Elder Fraud Is Worst." Last updated June 12, 2019. <https://www.moneytalksnews.com/10-states-where-elder-fraud-is-worst/>

"A Guide for Preventing Elder Abuse, Assault, and Theft." SeniorLiving.org. Accessed May 31, 2019. <https://www.seniorliving.org/research/preventing-elder-abuse/>

Hackard, Michael. *The Wolf at the Door: Undue Influence and Elder Financial Abuse*. Mather, CA: Hackard Global Media, LLC, 2017.

Kaufman, Gerald, and L. Marlene Kaufman. *Necessary Conversations: Between Families and Their Aging Parents*. New York: Good Books, 2017.

## Bibliography

Martin, Ray. "Elder Fraud Is Growing Rapidly. Here's How to Detect and Stop It." *CBS News* online, last modified May 31, 2019, <https://www.cbsnews.com/news/elder-financial-abuse-is-rapidly-growing-how-to-detect-and-stop-it/>

Maryville University Online. "A Caregiver's Guide to Understanding, Recognizing, and Preventing Elder Abuse." Accessed June 5, 2019, <https://online.maryville.edu/blog/blog-caregivers-guide-to-understanding-recognizing-and-preventing-elder-abuse/>

Nursing Home Abuse Center. "Elder Abuse." Accessed June 5, 2019, <https://www.nursinghomeabusecenter.com/elder-abuse/>

Nursing Home Abuse Center. "Nursing Home Neglect." Accessed June 5, 2019, <https://www.nursinghomeabusecenter.com/nursing-home-neglect/>

"Older Victims." Office for Victims of Crime. Accessed May 31, 2019. <https://ovc.ncjrs.gov/topic.aspx?topicid=63#tabs1>

Ramnarace, Cynthia. "Congress Passes Elder Justice Act," *AARP Bulletin* online, last modified March 25, 2010. [https://www.aarp.org/politics-society/advocacy/info-03-2010/congress\\_passes\\_elder\\_justice\\_act.html](https://www.aarp.org/politics-society/advocacy/info-03-2010/congress_passes_elder_justice_act.html)

"The Telemarketing Sales Rule". Federal Trade Commission. Accessed May 31, 2019. <https://www.consumer.ftc.gov/articles/0198-telemarketing-sales-rule>

Yonover, Robert, and Ellie Crowe. *The Caregiver's Survival Guide: Caring for Yourself While Caring for a Loved One*. New York: Skyhorse Publishing, 2019.

Wright, Thomas Lee. *The Family Guide to Preventing Elder Abuse: How to Protect Your Parents-and Yourself*. New York: Skyhorse Publishing, 2017.



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