

# LEGAL RESOURCES AND REMEDIES MANUAL FOR ABUSE IN LATER LIFE



*This project is supported by Grant No. 2018-EW-AX-K013 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/ program/ exhibition are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Justice.*

# Alachua County Sheriff's Office Field Guide

This guide was produced as a result of the Elder Options' *End Abuse in Later Life Project*. This project is a collaborative effort between Elder Options, Alachua County Sheriff's Office, State Attorney's Office for the Eighth Judicial Circuit in Florida, and Peaceful Paths Domestic Abuse Network. It is intended to be a community resource guide, providing information about crimes related to elder abuse, neglect and/or exploitation, local resources, and civil legal remedies for victims of elder abuse. Elder abuse, neglect and exploitation are a growing problem in Florida and many crimes go unreported.

The *Community Resource Guide for Abuse in Later Life* was developed under a grant from the U.S. Department of Justice, Office on Violence Against Women for Elder Options' *End Abuse in Later Life Project*. This guide provides some basic information on elder abuse, elder abuse laws and definitions, and resources available for victims. For questions about this Project or Resource Guide, please contact Kimberly Henderson, Elder Abuse Project Coordinator at [hendersonk@agingresources.org](mailto:hendersonk@agingresources.org) or 352-672-3457.

## Contents

Signs of Elder Abuse	3
Criminal Offenses	5
Civil Offenses	6
Civil Legal Resources	7
Additional Resources	8
Key Terms	11
Common Acronyms	13

## Signs of Elder Abuse

### **Physical Abuse**

- Unexplained or sudden changes in behavior
- Afraid to speak in presence of caregiver, family member(s), or partner
- Isolated
- Signs of restraint
- Under or over medicated
- Presence of feces or urine
- Visible or unexplained bruises/injuries
- Bone fractures/breaks, sprains, dislocations, black eyes
- Broken eye glasses/frames or other assistive devices

### **Sexual Abuse**

- Infections, pain, bruises or bleeding in genital areas
- Unexplained or sudden changes in behavior
- Afraid to speak in presence of caregiver, family member(s), or partner

### **Psychological Abuse**

- Locks on outside of interior doors (vulnerable adult's room)
- Locks on refrigerator
- Damage to home caused by abuse
- Isolation of the older person from family, friends, or other support systems
- Unexplained or sudden changes in behavior
- Afraid to speak in presence of caregiver, family member(s), or partner

### **Isolation**

- Physically restraining and/or intentionally preventing the vulnerable adult from receiving visitors, mail, telephone calls or access to social media/Internet.
- Knowingly providing a false statement contrary to the expressed wishes of the vulnerable adult with the intent to prevent visitors and callers.

### **Abandonment**

- Lack of food
- Prescriptions not filled
- Desertion of a vulnerable adult at a hospital or other facility in an unsafe manner
- Withdrawal of necessary assistance to vulnerable adult

## **Neglect**

- Strong odors of urine or feces
- Lack of food
- Empty prescription bottles and no refills
- Clothing not appropriate for weather
- Improper heating or AC to combat weather conditions
- Dehydration and/or malnutrition
- Untreated bed sores and poor hygiene
- Untreated health problems

## **Exploitation**

- Caregiver prevents vulnerable adult from getting or keeping a job
- Important possessions, documents, or credit cards are missing
- Medications missing
- Caregiver makes vulnerable adult ask caregiver for vulnerable adult's money
- Sudden changes in bank account balances or banking practices
- Abrupt changes in a will or other financial documents
- Unpaid bills despite the availability of financial resources
- Vulnerable adult's signature being forged for financial transactions
- Checks written to "Cash"
- Sudden appearance of previously uninvolved relatives

## Criminal Offenses

While all crimes may apply in an elder abuse case, the following is a reminder of some of the more common criminal offenses encountered in investigations where an older adult or vulnerable adult has been victimized. Crimes involving an older adult may also require the involvement of other agencies including Adult Protective Services (APS). See Florida Statutes, Chapter 415, Adult Protective Services, as well as the Resources section of this manual.

### **Abuse, Neglect, and Exploitation of Elderly Persons and Disabled Adults, Chapter 825**

- 825.101 Definitions.
- 825.102 Abuse, aggravated abuse, and neglect of an elderly person or disabled adult; penalties.
- 825.1025 Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person.
- 825.103 Exploitation of an elderly person or disabled adult; penalties.

### **Sexual Battery, Chapter 794**

- 794.011 Sexual battery.
- 794.027 Duty to report sexual battery; penalties.
- 794.05 Unlawful sexual activity with certain minors.
- 794.052 Sexual battery; notification of victim's rights and services.

### **Marriage; Domestic Violence, Chapter 741**

- 741.28 Domestic violence; definitions
- 741.29 Domestic violence; investigation of incidents; notice to victims of legal rights and remedies; reporting.
- 741.31 Violation of an injunction for protection against domestic violence.
- 741.315 Recognition of foreign protection orders.

### **Assault; Battery; Culpable Negligence, Chapter 784**

- 784.011 Assault
- 784.021 Aggravated assault
- 784.03 Battery; felony battery.
- 784.041 Felony battery; domestic battery by strangulation.
- 784.045 Aggravated battery.
- 784.048 Stalking; definitions; penalties.
- 784.08 Assault or battery on persons 65 years of age or older; reclassification of offenses; minimum sentence.

### **Adult Protective Services, Chapter 415**

- 415.102 Definitions
- 415.1034 Mandatory reporting of abuse, neglect, or exploitation of vulnerable adults; mandatory reports of death.
- 415.111 Criminal penalties.

### **Fraudulent Practices, Chapter 817**

- 817.568 Criminal use of personal identification information.

## Civil Offenses

### **Breach of Fiduciary Duty under Power of Attorney, Chapter 709, Part II**

- 709.2114 Agent's duties.
- 709.2117 Agent's liability.

### **Civil Exploitation, Chapter 415**

- 415.1111 Civil Actions.

### **Civil Theft, Chapter 772**

- 772.11 Civil remedy for theft or exploitation.

### **Injunction for Protection, Chapter 825**

- 825.1035 Injunction for protection against exploitation of a vulnerable adult.
- 825.1036 Violation of an injunction for protection against exploitation of a vulnerable adult.

### **Speedy Trial, Chapter 415**

- 415.1115 Civil actions involving elderly parties; speedy trial.

## Civil Legal Resources

Individuals in need of legal advice and/or services pertaining to guardianships, powers of attorney, conservatorships, and injunctions for protection may contact the following local agencies for assistance:

### **Florida Legal Services – Immigrant Rights**

PO Box 533986

Orlando, FL 32853

407-801-4813

Office in Newberry, FL – contact [veronica.robledo@floridalegal.org](mailto:veronica.robledo@floridalegal.org)

Hours: M-F 9am – 5pm

<http://www.floridalegal.org/>

- Providing legal services advocates for vulnerable populations.

### **Intimate Partner Violence Assistance Clinic (IPVAC)**

University of Florida Levin College of Law

309 Village Drive

Gainesville, FL 32611

352-273-0805

Hours: M-F 8am – 5pm

<https://www.law.ufl.edu/areas-of-study/experiential-learning/clinics/civil/ipvac>

- Multidisciplinary clinic providing low income victims of domestic, dating and sexual violence with legal representation, mental health counseling and case management needs.

### **Peaceful Paths Injunction Office**

Alachua County Civil Courthouse: Clerk's Office

201 E University Avenue

Gainesville, FL 32601

352-377-5690, ext. 536

Hours: Please call for an appointment.

<https://www.peacefulpaths.org/injunctions>

- Injunction for Protection Project through Peaceful Paths Domestic Abuse Network providing legal assistance and representation to survivors of domestic violence when applying for an Injunction for Protection (Restraining Order).

### **Public Guardian: Eighth Judicial Circuit**

Heather McGinnis, Esq.

Phone: 386-438-8236

Hours: M-F 8am – 5pm

<http://elderaffairs.state.fl.us/doea/spgo.php>

- State funded guardianship services for persons who do not have adequate income or assets to afford a private guardian and there is no willing family or friend to serve.

### **Senior Legal Helpline**

1-888-895-7873

Hours: M-F 9am-5pm

[http://elderaffairs.state.fl.us/doea/legal\\_services.php](http://elderaffairs.state.fl.us/doea/legal_services.php)

- Helpline providing free legal advice and brief services by telephone appointment to eligible Florida residents age 60 and older, for civil (not criminal) legal problems.

### **Southern Legal Counsel, Inc.**

1229 NW 12<sup>th</sup> Avenue

Gainesville, FL 32601

352-271-8890

Hours: M-F 9am – 5pm

<https://www.southernlegal.org/www-southernlegal-org>

- Public service law firm assisting individuals and groups with public interest issues who otherwise would not have access to the justice system and whose cases may bring about systemic reform.

### **Three Rivers Legal Services**

1000 NE 16<sup>th</sup> Avenue, Bldg. I

Gainesville, FL 32601

352-372-0519

Hours: M-F 8:30am – 5pm

<https://www.trls.org/locations/>

- Non-profit law firm dedicated to the provision of quality legal assistance to the poor, abused, disabled and elderly, and to empowerment through preventive legal education.

## **Additional Resources**

### **LOCAL**

#### **Alachua County Crisis Center**

218 SE 24<sup>th</sup> Street

Gainesville, FL 32641

352-264-6789 24 Hour Helpline

Office Hours: M-F 8:30am – 5pm

<https://alachuacounty.us/Depts/CSS/CrisisCenter/Pages/CrisisCenter.aspx>

- Offering crisis and suicide intervention phone counseling to all residents of Alachua County.

#### **Alachua County Social Services**

218 SE 24<sup>th</sup> Street

Gainesville, FL 32641

352-264-6750 or 352-337-6283

Office Hours: M-F 8:30am - 5pm

<https://www.alachuacounty.us/Depts/CSS/SocialServices/Pages/SocialServices.aspx>

- Providing information and referrals, access to health services and short term financial assistance to low income residents of Alachua County

#### **Alachua County Victim Services and Rape Crisis Center**

218 SE 24<sup>th</sup> Street

Gainesville, FL 32641

352-264-6760 24 Hour Helpline

Office Hours: M-F 8:30am – 5pm

<http://www.alachuacounty.us/Depts/CSS/VictimServices/Pages/VictimServices.aspx>

- Providing services to survivors of interpersonal violence, sexual violence and personal injury crimes. This includes crisis intervention, criminal justice accompaniment, counseling, and assistance with victim compensation.

### **Alachua County Veteran Services**

218 SE 24<sup>th</sup> Street  
Gainesville, FL 32641  
(352) 264-6740

Hours: M-F 8:30am – 5pm

<http://www.alachuacounty.us/Depts/CSS/Veterans/Pages/VeteransServices.aspx>

- Providing services to veterans and their families to determine eligibility and access to veterans' benefit programs.

### **Catholic Charities**

1701 NE 9<sup>th</sup> Street  
Gainesville, FL 32609

<https://catholiccharitiesgainesville.org/>

(352) 372-0294

Hours: M-Th 9:30am – 4pm

- Providing emergency assistance with rent, utilities, & medications, food distribution, English language literacy instruction, and Bridges to Prosperity program that addresses overcoming poverty.

### **Center for Independent Living**

222 SW 36<sup>th</sup> Terrace  
Gainesville, FL 32607  
352-378-7474

Hours: M-F 9am – 5pm

<http://cilncf.org/>

- Providing advocacy, information & referral services, independent living skills, peer support and transition services to individuals living with a disability.

### **ElderCare of Alachua County**

5701 NW 34<sup>th</sup> Blvd  
Gainesville, FL 32653  
352-265-9040

Hours: M-F 8:30am – 5pm

<https://eldercare.ufhealth.org/>

- Providing Meals on Wheels, daycare for adults with Alzheimer's disease, home based services, community based services.

### **Elder Options**

100 SW 75<sup>th</sup> Street, Suite 305  
Gainesville, FL 32607  
Elder Helpline: 1-800-96 ELDER (1-800-963-5337)

Hours: M-F 8am – 5pm

<https://agingresources.org/>

- Providing options and benefits counseling through the Elder Helpline, SHINE program for health insurance assistance, SAVVY Caregiver Training, Care Transitions, and Healthy Aging Programs.

### **Gainesville Community Ministry**

238 SW 4<sup>th</sup> Ave.  
Gainesville, FL 32601  
352-372-8162

Hours: M-Th 9am – 2:45pm

<http://gcmhelp.org/home0.aspx>

- Providing emergency food pantry, clothing, rent & utility assistance, GED prep, job counseling and walk-in medical clinic on Tuesday evenings.

### **Peaceful Paths Domestic Abuse Network**

2100 NW 53<sup>rd</sup> Avenue

Gainesville, FL 32653

24 Hour Helpline: 352-377-8255

352-377-5690

Office Hours: M-F 9am – 5pm

<http://www.peacefulpaths.org/>

- Providing emergency shelter, 24 hour helpline, victim advocacy, crisis counseling, restraining orders, support groups and community awareness programs for survivors of domestic violence.

### **Pride Community Center**

3131 NW 13<sup>th</sup> Street

Gainesville, FL 3269

352-377-8915

Hours: M-F 3pm – 7pm; Sa 1pm – 4pm

<http://gainesvillepride.org/>

- Offering support, education, and events for LGBTQ+ individuals and the communities within North Central Florida.

### **St. Francis House**

413 South Main Street

Gainesville, FL 32601

352-378-9079

Hours: M-F 8am -5pm; Living Facilities operate 24/7

<http://www.stfranchousegmv.org>

- Providing emergency housing, transitional housing and support services for persons in need. Case management and referral services available.

### **United Way of North Central Florida**

6031 NW 1<sup>st</sup> Place

Gainesville, FL 32607

24 Hour Helpline: 211

352-331-2800

Hours: M-F 8:30am-5:00pm

<http://www.unitedwayncfl.org/>

- Offering programs that positively impact the education, health and financial stability for individuals within North Central Florida. The 2-1-1 24 Hour Helpline connects callers with local social service resources to meet their needs.

## **STATE**

### **Florida Department of Children and Families: Adult Protective Services**

24 Hour Hotline: 1-800-96-ABUSE (1-800-962-2873)

TTY: 1-800-955-8771

<http://www.myflfamilies.com>

## Florida Department of Elder Affairs

Elder Helpline: 1-800-96-ELDER (1-800-963-5337)

TDD: 1-800-453-5145

<http://elderaffairs.state.fl.us/>

## Florida Elder Law

<https://floridaelderlaw.org/>

Elder Law Risk Detector:

<https://probononet.neotalogic.com/a/doeafi> (web-based assessment tool)

## Florida Long Term Care Ombudsman Program

1-888-831-0404

<http://ombudsman.myflorida.com/>

## Key Terms

“**Abuse**” means any willful act or threatened act by a relative, caregiver, or household member which causes or is likely to cause significant impairment to a vulnerable adult’s physical, mental, or emotional health. Abuse includes acts and omissions. Fla. Stat. § 415.102(1)

“**Alleged perpetrator**” means a person who has been named by a reporter as the person responsible for abusing, neglecting, or exploiting a vulnerable adult. Fla. Stat. § 415.102(3)

“**Assault**” is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent. Fla. Stat. § 784.011(1)

“**Caregiver**” means a person who has been entrusted with or has assumed responsibility for the care or the property of an elderly person or disabled adult. “Caregiver” includes, but is not limited to, relatives, court-appointed or voluntary guardians, adult household members, neighbors, health care providers, and employees and volunteers of facilities as defined in subsection (7). Fla. Stat. § 825.101(2)

“**Domestic violence**” means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. Fla. Stat. § 741.28(2)

“**Elderly person**” means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunctioning, to the extent that the ability of the person to provide adequately for the person’s own care or protection is impaired. Fla. Stat. § 825.101(4)

“**Exploitation**” may include, but is not limited to: Breaches of fiduciary relationships, such as the misuse of a power of attorney or the abuse of guardianship duties, resulting in the unauthorized appropriation, sale, or transfer of property; Unauthorized taking of personal assets; Misappropriation, misuse, or transfer of moneys belonging to a vulnerable adult from a personal or joint account; or Intentional or negligent failure to effectively use a vulnerable adult’s income and assets for the necessities required for that person’s support and maintenance. Fla. Stat. § 415.102(8b)

**“Exploitation of an elderly person or disabled adult”** means:

(a) Knowingly obtaining or using, or endeavoring to obtain or use, an elderly person’s or disabled adult’s funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, by a person who: 1) stands in a position of trust and confidence with the elderly person or disabled adult; or 2) has a business relationship with the elderly person or disabled adult. Fla. Stat. § 825.103(1a)

**“Fiduciary relationship”** means a relationship based upon the trust and confidence of the vulnerable adult in the caregiver, relative, household member, or other person entrusted with the use or management of the property or assets of the vulnerable adult. The relationship exists where there is a special confidence reposed in one who in equity and good conscience is bound to act in good faith and with due regard to the interests of the vulnerable adult. For the purposes of this part, a fiduciary relationship may be formed by an informal agreement between the vulnerable adult and the other person and does not require a formal declaration or court order for its existence. A fiduciary relationship includes, but is not limited to, court-appointed or voluntary guardians, trustees, attorneys, or conservators of a vulnerable adult’s assets or property. Fla. Stat. § 415.102(11)

**“Lacks capacity to consent”** means an impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, short-term memory loss, or other cause, that causes an elderly person or disabled adult to lack sufficient understanding or capacity to make or communicate reasonable decisions concerning the elderly person’s or disabled adult’s person or property. Fla. Stat. § 825.101(8)

**“Neglect”** means the failure or omission on the part of the caregiver or vulnerable adult to provide the care, supervision, and services necessary to maintain the physical and mental health of the vulnerable adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, which a prudent person would consider essential for the well-being of a vulnerable adult. Fla. Stat. § 415.102(16)

**“Position of trust and confidence”** with respect to an elderly person or a disabled adult means the position of a person who: Is a parent, spouse, adult child, or other relative by blood or marriage of the elderly person or disabled adult; Is a joint tenant or tenant in common with the elderly person or disabled adult; Has a legal or fiduciary relationship with the elderly person or disabled adult, including, but not limited to, a court-appointed or voluntary guardian, trustee, attorney, or conservator; Is a caregiver of the elderly person or disabled adult; or Is any other person who has been entrusted with or has assumed responsibility for the use or management of the elderly person’s or disabled adult’s funds, assets, or property. Fla. Stat. § 825.101(10)

**“Repeat violence”** means two incidents of violence or stalking committed by the respondent, one of which must have been within 6 months of the filing of the petition, which are directed against the petitioner or the petitioner’s immediate family member. Fla. Stat. § 784.046(1a)

**“Sexual battery”** means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose. Fla. Stat. § 794.011(h)

**“Vulnerable Adult”** means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging. Fla. Stat. § 415.102 (28)

## Common Acronyms

<b>AAA</b>	Area Agency on Aging
<b>ADL</b>	Activities of Daily Living
<b>ADV</b>	Advocate
<b>ALF</b>	Assisted Living Facility
<b>AHCA</b>	Agency for Healthcare Administration
<b>AOA</b>	Administration on Aging
<b>APS</b>	Adult Protective Services
<b>CIT</b>	Crisis Intervention Team
<b>CCR</b>	Coordinated Community Response
<b>DOH</b>	Department of Health
<b>DOJ</b>	U.S. Department of Justice
<b>DV</b>	Domestic Violence
<b>EA</b>	Elder Abuse
<b>GAO</b>	U. S. Government Accountability Office
<b>GSA</b>	U.S. General Services Administration
<b>HHA</b>	Home Health Agency
<b>HIPPA</b>	Health Insurance Portability and Accountability Act
<b>IPV</b>	Intimate Partner Violence
<b>LGBTQ</b>	Lesbian, Gay, Bisexual, Transgender, Queer
<b>LTC</b>	Long Term Care
<b>MDT</b>	Multidisciplinary Team
<b>MOU</b>	Memorandum of Understanding
<b>NCALL</b>	National Clearinghouse on Abuse in Later Life
<b>OAA</b>	Older American's Act
<b>OJP</b>	Office of Justice Programs
<b>OVC</b>	Office for Victims of Crime
<b>OVW</b>	Office on Violence Against Women
<b>SA</b>	Sexual Abuse/Sexual Assault
<b>SANE</b>	Sexual Assault Nurse Examiner
<b>SART</b>	Sexual Assault Response Team
<b>SSA</b>	Social Security Administration
<b>SSI</b>	Social Security Income
<b>TA</b>	Technical Assistance
<b>VA</b>	Veteran's Administration
<b>VAWA</b>	Violence Against Women Act
<b>VOCA</b>	Victims of Crime Act
<b>VOC REHAB</b>	Vocational Rehabilitation
<b>VS</b>	Victim Services