

# *SENIOR SAFETY*

## ***A Resource Guide on Preventing Elder Abuse***

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

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

Updated September 2017

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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.yhpt.org](http://www.yhpt.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<sup>1</sup>.

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.

The National Elder Abuse Incidence Study: Final Report, National Center on Elder Abuse at the American Public Human Services Association in collaboration with Westat, Inc. September 1998.

## Warning Signs of Possible Elder Abuse

*Warning signs may be observed during routine visits to health care providers, for example, or by family, friends, neighbors, and others in the community. Warning signs can vary widely, and more than one type of abuse may be occurring. According to the law, any person who has reasonable cause to suspect an adult has suffered abuse, neglect, or exploitation is **required** to report it. Suspected abuse must be reported to your 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**

- 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, restraints such as rope or chains)
- Soiled clothing, soiled bed linens
- Broken eyeglasses, broken frames
- An elder's report of being hit, slapped, kicked, tied up, or mistreated
- Vague explanations of injuries from caregiver or from the elder
- Caregiver's refusal to allow visitors to see an elder, or refusal to allow the elder to speak privately with visitors

## **Warning Signs of Possible Elder Abuse (cont.)**

**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 an elder from family, friends and social activities. This may also include treating an older person like an infant, ignoring or giving the elder the “silent treatment”.

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

- Helplessness
- Confusion, disorientation
- Fear
- Withdrawal
- Depression
- Anger
- Deliberate isolation of the elder, giving caregiver total control
- Elder’s discomfort talking about the situation or caregiver not allowing the elder to speak to others unless caregiver is present
- Listlessness
- Agitation
- Neighbors may hear loud or strange noises, may notice the elder is not seen outside the home
- Elder’s report of being verbally or emotionally mistreated

## **Warning Signs of Possible Elder Abuse (cont.)**

**Neglect** is the caregiver's failure to meet the elder's basic need 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 Neglect by Caregiver**

- Unkempt appearance of elder (e.g., Poor personal hygiene, odors)
- Rashes, sores, untreated bed sores, lice on elder
- Inadequate clothing
- Untreated health problems
- 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
- Desertion of an elder at a health care facility, such as a hospital or nursing home, or a public location, such as a church or shopping mall
- An elder's report of being neglected

## **Warning Signs of Possible Elder Abuse (cont.)**

**Financial abuse** is the illegal or improper use of an elder's funds, 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; extorting money from the elder; forcing or deceiving an older person 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, fraudulent telemarketers may try to take advantage of older people, believing they are lonely and more trusting and polite to strangers. Older women living alone are special targets. Scam artists may call on elders at home to sell them unnecessary services or home repairs.

### **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, contest material being delivered to the elder's home
- An elder's report of financial exploitation

## **Warning Signs of Possible Elder Abuse (cont.)**

**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. Elderly 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**

- Swelling or bruising around breasts or genitals
- Unexplained sexually transmitted disease
- Unexplained vaginal or rectal bleeding
- Torn, stained, or bloody underclothing
- Flirtatious behavior by non-spouse caregiver
- Report by elder of unwanted sexual contact, sexual assault, or rape

## Warning Signs of Possible Elder Abuse (cont.)

**Self-neglect** is behavior that threatens the elder's health or safety, such as an elder's refusal or failure to provide himself/herself adequate food, water, clothing, shelter, safety, personal hygiene, or medication. With self-neglect, there is no second party abusing the elder.

It is important to distinguish between *inability* to manage and *choice* of a particular lifestyle. 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.

### **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; homeless

## 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, the increase in longevity may result in longer dependence on family members. Some caregivers find themselves caught between generations, caring for an elderly, frail parent and trying to rear their own families. A caregiver may experience extreme fatigue and frustration in an effort to meet constant care needs, or 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. Mental or physical impairments of the elder and a lack of family and community support 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 a senior'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 senior may lose his/her appetite or feel it's not worth fixing a meal for just one person, may lack the energy or will to socialize with others, and may lose interest in their health, grooming, and personal appearance.

## Why Does Elder Abuse Happen? (cont.)

- **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 blames the elder 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 elders in poor health who require a great deal of care are more likely to be abused than elders in good health. The older the person, the higher the risk of elder abuse. As the condition of an impaired elder worsens, the stress level for the caregiver escalates, which may precipitate or accelerate abuse. Elders suffering from mental or emotional impairment may show aggressive behavior, such as verbal or physical outbursts, which may spur a like response from the caregiver.

- **Personal problems of abusers**

Adult children who abuse their parents frequently suffer from mental or emotional disorders, substance abuse (drugs and/or alcohol), and financial difficulty. If an adult child is dependent on an elder for emotional or financial support, the abuse of the elder can become an inappropriate response to the adult child’s inadequacies.

- **Lack of awareness of services**

Abusers may not know about the counseling or treatment resources to help them handle their emotions in a positive way, or how to access these resources. Abusers may not be aware of services to relieve the pressure of caring for a dependent elder, such as in-home care, adult day care, respite care, or support groups.

## Why Does Elder Abuse Happen (cont.)

- **Fear of reporting the abuse**

Abusers may be related by blood or marriage to the elder, live in the same residence, or may depend on the elder for money or a place to live. Elders may love the abuser, fear retaliation, or fear the housing alternatives if abuse is reported. Some elders may believe the abuse is their own fault and hope the caregiver will eventually stop hurting them. An emotionally isolated elder who is denied any outside contact may have no one to turn to, may believe no one cares, or may not know how to access community resources. Neighbors, friends, or relatives may not report abuse because they think problems should stay within the family.

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

Some studies of abuse in nursing homes show staff and residents conflict. The level of burnout was related to physical abuse, indicating a need for nursing home staff training to handle stressful situations, and that inadequate supervision, high staff turnover, and low staff to resident ratios may contribute to abuse<sup>2</sup>.

In light of these findings, 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 web site [www.medicare.gov](http://www.medicare.gov).

- **Direct Deposit of Social Security Checks**

Many seniors 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 for a senior to use direct deposit.

Research Digest. A Brief Look at: Resident Abuse in Nursing Homes. National Center on Elder Abuse Exchange, Vol.4, Number 2, Fall, 1997. University of Delaware, Newark, DE. References cited: Pillemer, K & Moore, D.W. (1990). Highlights from a study of abuse of patients in nursing homes. *Journal of Elder Abuse & Neglect*, 2(1/2), 5-30. Reference cited: U.S. DHHS, Office of the Inspector General. *Resident abuse in nursing homes: Understanding and preventing Abuse*. Dallas, TX. Payne, B.K. & Cikovic, R. (1995). An empirical examination of the characteristics, consequences and causes of elder abuse in nursing homes. *Journal of Elder Abuse & Neglect*, 7(4), 61-74.

## What Can I Do to Help Stop Elder Abuse?

- **Law Enforcement**

Because physical abuse of an elder often occurs in the privacy of a residence, it is rare to actually witness the abuse as it is happening. But, in the event you do witness any physical abuse being inflicted on an elder, report it to the Police Department immediately. Likewise, if abuse is suspected or if the elder has revealed it is occurring, it should be reported to local law enforcement. 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.

- **Senior Citizens Centers**

Specifically designed to deal with issues affecting elders, Senior Citizens Centers are a valuable resource for the community, and many offer case management, legal system advocacy, homemaker services, counseling support, or referral to other community services. Some Senior Citizens Centers may also offer respite care for caregivers, adult day care, assistance with seeking redress for abuse, or helping the elder achieve a level of safety in their home. To find a Senior Center in your area, call your nearest Area Agency on Aging. 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.

- **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.

***Consult an attorney who has experience in these areas if you wish to implement any legally binding document.***

## **What Can I Do to Help Stop Elder Abuse? (cont.)**

**According to the law, any person – 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.**

Individuals who believe they are suffering as a result of neglect, abuse, or exploitation should also report. The identity of a person who reports elder abuse is kept confidential. Reporting suspected abuse is a moral, as well as a legal responsibility. An abusive situation is likely to continue unless someone intervenes.

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

When abuse is reported, APS assesses the situation and service needs using physical, psychological, psychiatric or social evaluations and consultations:

- ◇ A counselor visits the elder to determine need for protective services.
- ◇ Family, friends, or professionals may be contacted.
- ◇ The counselor works with the elder and others to develop a plan.
- ◇ If capable, the elder is encouraged to make decisions regarding care or services, and if possible, the elder remains in his/her home or community.
- ◇ Protective services are provided when the investigation indicates such services are necessary.
- ◇ Some people may refuse help. Legally, services cannot be forced on an adult, except in special circumstances as specified in the law. Involuntary services always require a court order. Legal action is used only after all other appropriate solutions have been explored.

## **Is Fraud a Special Concern for the Elderly?**

According to a 1999 Senate Hearing to examine elder fraud, 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 from the elder. Signs of wrongdoing might include additional names on an elder's bank signature card, signatures on checks that do not resemble the elder's signature, inappropriate activity in bank accounts, or an unusual number of withdrawals. Bills may suddenly go unpaid. Personal belongings such as art, china, silverware, or jewelry may be missing. Strangers may defraud people with deceptive telemarketing calls or selling them unnecessary household repairs.

Fraud victims may feel embarrassed, ashamed, or fearful 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. Elders are also reluctant to report fraud by a caregiver if the victim is dependent on that caregiver. Because of the veil of silence which surrounds it, elder fraud is difficult to uncover. Public guardians, responsible family members, friends, and the community at large play a critical role in protecting the elderly from exploitation.

## **Is Fraud a Special Concern for the Elderly? (cont.)**

### **Telemarketing Fraud**

Who among us – old or young – has not been called by a telemarketer? While many phone sales pitches are made on behalf of legitimate organizations, fraudulent sales calls unfortunately are a common occurrence. Telemarketing fraud is a multi-billion dollar business in the United States, and persons over the age of 60 may be targeted by people selling bogus products or services. Special targets are older women living alone.

### **Internet Scams**

Although telephone scams are more commonly reported, the threat of Internet scams is growing. It is important to never give personal information to someone who makes contact first. A scammer may call or email and prompt you to allow them to remotely access the computer. This allows the scammer to log into your computer and access the information saved on the computer. It is important to not give anyone permission or access to allow this. Scammers also take advantage of password security. It is important to create strong passwords using upper case, lower case, and numbers to heighten the difficulty of being scammed. 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 emails that may be targeting you.

When shopping online, consider using a credit card instead of a debit card. If 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.

## Is Fraud a Special Concern for the Elderly? (cont.)

### Some Points to Consider:

1. Telephone con artists will sound credible or believable, even when lying.
2. Telephone con artists may regularly phone an elder, becoming a trusted and accepted “friend” and sympathetic listener.
3. 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 writing a check for a courier to pick up. A free vacation may never happen or a “low cost” vacation may cost more than it is worth. Get-rich-quick schemes may promise huge returns and end up being worthless.
4. 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”.
5. Be wary of offers too good to be true, such as ‘You have won a free vacation’ or ‘You have won a vacation at practically no cost, but you need to buy a certain product or service to be eligible or to take part in the sweepstakes.’ Tell them to send it to you in writing, that you’ll have your lawyer look at it and get back to them.
6. An elder victim may be invited to take part in an investment scheme, perhaps as one of a select few chosen for this “honor”. An offer you can’t refuse? Of course you can!
7. A scam artist may ask for your credit card or bank account number over the phone, or may instruct you to write a check or money order to be picked up by a courier. Never give your social security number, credit card or bank account information over the phone unless you initiate the call and know you are speaking to an authorized representative of a legitimate organization!

## **Is Fraud a Special Concern for the Elderly? (cont.)**

8. 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”.
9. 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, help for widows and orphans, etc. 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. You may also call the Tennessee Division of Charitable Solicitations at (615) 741-2555 to verify the legitimacy of the charity. Or, check the web site [www.state.tn.us/sos](http://www.state.tn.us/sos) and click on “Registered Charities”, then click the appropriate letter A-Z to obtain a list of charities. There is also an “Exempt Charities” page, listing churches, schools, etc. who are legitimate charities in the State of Tennessee.
10. If an elder is duped into a scam and realizes what has happened, a representative from a “recovery firm” may call, promising to get the elder’s 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 elder will be eligible for a large settlement award. If the elder pays the fee, he/she may well be bilked out of several more thousand dollars. Do not be taken in by this ploy! Even law enforcement officials can’t guarantee they can recover your money.
11. “Sucker lists” are bought and sold by unscrupulous promoters who know consumers who were deceived once are vulnerable to additional scams.
12. 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.

## Is Fraud a Special Concern for the Elderly? (cont.)

### Some “Rules of the Road”

1. **Take your time.** Ask for written information about the product, service, investment opportunity, or charity.
2. **Don't send** cash, check, pre-paid credit card, or money order by courier, overnight delivery, or wire to anyone who insists on immediate payment.
3. **Don't give** your social security number to strangers.
4. **Keep personal information** about bank accounts and credit cards to yourself, unless you know with whom you are dealing.
5. **Report** telephone fraud to the Tennessee Attorney General's office at (615) 741-3491.
6. In Tennessee, you may **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 at (615) 741-3491. The solicitor has broken the law and is subject to a fine.

## **What Is a Conservatorship and When Is it Necessary?**

As a person ages, mental and physical health may decline to the point where an adult is no longer able to manage 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 individuals who are in a coma, have serious illness or injuries, suffer from mental illness, are in advanced stages of Alzheimer's disease or have other debilitating illness. A conservatorship is appropriate when an adult cannot manage his/her financial affairs and/or personal needs. Upon appointment by the judge, a conservator can legally make decisions on behalf of the elder regarding care and management.

### **Filing a petition for a conservatorship**

Anyone - such as a family member, friend, neighbor, church member, or health care provider - who has personal knowledge of the facts about the adult's plight may file a petition with the Court for conservatorship. Physicians, nurse practitioners, and others who see the adult on a regular basis can particularly be proactive in preventing exploitation by recommending a petition for conservatorship when a significant decline in the person's ability to manage personal finances has been observed.

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

## **What Is a Conservatorship and When Is it Necessary? (cont.)**

### **Filing a Petition for a Conservatorship**

A conservatorship is a civil action, and filing a petition does not involve the Police Department or the District Attorney. 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.

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

Chattanooga (423) 756-3222

Knoxville (865) 522-7501

Nashville (615) 242-6546

If the Court grants the petition to create a conservatorship, the Court will assess the costs and attorney fees of the petitioner against the conservatee (ward).

## **What Is a Conservatorship and When Is It Necessary? (cont.)**

### **Determining Need for a Conservatorship**

When the Court receives a petition, 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 eyes and ears of the Court. The guardian ad litem will contact friends and relatives, review medical records, and make a report to the Court regarding the elder’s capability of managing his/her 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 his/her 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 is the final decision-maker 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 and When Is it Necessary? (cont.)**

### **Responsibilities of the Conservator**

Responsibilities of the conservator include filing a Property Management Plan, which is the conservator's plan for management of assets and payment of financial obligations. The conservator must file an annual report of the elder's income and disbursements made. In addition, the conservator typically must seek permission from the court regarding major decisions, such as selling the elder's real estate. The person who is appointed conservator should have an attorney counsel him/her 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 and When Is It Necessary? (cont.)**

### **How a Conservatorship Differs from a Power of Attorney**

- Who selects the conservator and attorney-in-fact?

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 to act on his/her 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 his/her 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.

**How a Conservatorship Differs from a Power of Attorney**

- What is the risk associated with these procedures?

The conservatorship usually costs more because a bond is often required, representation by counsel is usually necessary, and routine court filings generate court costs. Also, the filings 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 his/her duties intentionally or simply makes costly financial mistakes out of ignorance. Specifically, the surety company that issues the bond will be obligated to refund monies misappropriated by the conservator.

The power of attorney has the least cost but the highest risk for several reasons: (1) no investigation is made to determine if the proposed attorney-in-fact is fit for the task; (2) with no supervision, damage can be done to the incapacitated person's estate before anyone notices there is a problem; (3) while a person who executes a power of attorney should be competent to do so, the process is much more informal and more open to abuse, such as procurement of the power of attorney by undue influence or lack of capacity.

## What Is The Elder Justice Act

The Elder Justice Act is designed to provide federal resources to prevent, detect, treat, understand, intervene in and, where appropriate, prosecute elder abuse, neglect and exploitation. The Elder Justice Act is a comprehensive elder abuse prevention law which was enacted as part of the Patient Protection and Affordable Care Act on March 23, 2010. The Elder Justice Act apply to the following long term care providers that received at least \$10,000 in federal funds annually:

- Nursing facilities
- Skilled nursing facilities
- Inpatient hospice units
- Intermediate care facilities for mentally disabled
- Assisted living facilities are not included under this statute

The act describes the responsibilities of the long term care providers. The overall responsibilities fall into the following four categories:

1. Notify covered individuals - annually notify each covered individual of their reporting obligations
2. Post notice - in an accessible and appropriate location, a notice for employees specifying their rights, including the right to file a complaint under the statute with the state survey agency
3. Refrain from retaliation—providers may not retaliate against an individual who lawfully reports a reasonable suspicion of crime
4. Employment—providers may not employ or contract with an individual that has violated the Elder Justice Act reporting requirements

What must be reported? Any “reasonable suspicion” of crimes against a resident or person receiving care at the types of facilities listed above. “Reasonable suspicion” is not defined within the act. According to the statutes of the act, “crime” is defined by the laws of the applicable city, county, state, township or village where the long term care facility is located. Failure to comply with reporting requirements could mean a civil monetary penalty of up to \$300,000 and exclusion from participation in any federal health care program.

The Elder Justice Act imposes additional mandatory individual reporting requirements; broadens the scope of who is required to report; and requires affirmative obligations on facilities to provide annual training to covered individuals, to post a conspicuous notice, as well as develop internal policies.

## Who Can Help: Resource Phone Numbers

### National / Regional

AARP (888) 687-2277

Assisted Living Federation of America (703) 894-1805  
[www.alfa.org](http://www.alfa.org)  
(Offers consumer directory and resources)

National Do Not Call Registry (888) 382-1222 TTY: (866) 290-4326  
[www.donotcall.gov](http://www.donotcall.gov)  
(To help reduce telemarketing calls. For questions or complaints, please write to DNC Program Manager, Federal Trade Commission, 600 Pennsylvania Ave NW, Washington DC 20580 or [dncconsumerinquiry2@ftc.gov](mailto:dncconsumerinquiry2@ftc.gov)).

Eldercare Locator (800) 677-1116  
(Information and referral service for support services for seniors)

Federal Trade Commission (877) 382-4357  
(To report a suspected telephone scam)

National Committee for Prevention of Elder Abuse (202) 682-4140  
[www.preventelderabuse.org](http://www.preventelderabuse.org)  
(Referrals and advocacy/research work)

National Clearinghouse for Abuse in Later Life (608) 255-0539  
[www.ncall.us](http://www.ncall.us)

National Center for Victims of Crime (202) 467-8700  
[www.victimsofcrime.org](http://www.victimsofcrime.org)  
(Victim service and referral line)

## Who Can Help: Resource Phone Numbers

### Statewide Services in Tennessee

Adult Protective Services Toll-free: (888) 277-8366

Area Agencies on Aging

(Provide referrals and information in your region)

Aging Commission of the Mid-South, Memphis area (901) 222-4111

East TN Area Agency on Aging, Knoxville area (865) 691-2551

First TN Area Agency on Aging, Johnson City area (423) 928-0224

Greater Nashville Regional Council Area Agency on Aging,

Nashville area (615) 255-1010

Northwest Area Agency on Aging, Martin area (731) 587-4213

South Central TN Development District Area Agency on Aging,

Columbia (931) 379-2640

Southeast TN Development District Area Agency on Aging,

Chattanooga area (423) 266-5781

Upper Cumberland Development District Area Agency on Aging,

Cookeville (931) 432-4111

Southwest TN Development District Area Agency on Aging,

Jackson area (731) 668-6444

Attorney General of Tennessee (615) 741-3491

Senior Solutions Toll-free (888) 769-7724

Tennessee Division of Consumer Affairs (800) 342-8385

Tennessee Charitable Solicitations (615) 741-2555

(To verify legitimacy of a charitable organization: [www.state.tn.us/sos](http://www.state.tn.us/sos), click on page for Registered or Exempt Charities, or call the number above.)

Tennessee "Do Not Call" Registry (877) 872-7030

(To register to prevent paid solicitors from calling you)

Tennessee Home Improvement Commission (615) 741-5630

(To check out a contractor you are considering hiring-contractors must be licensed in TN)

## Who Can Help: Resource Phone Numbers

### Legal Services

- Memphis Area Legal Services, Senior Helpline (901) 523-8822  
(Counties served: *Shelby, Fayette, Tipton, Lauderdale*) West
- Tennessee Legal Services (731) 423-0616  
(Counties served: *Madison, Decatur, Gibson, Hardeman, Haywood, Henderson, Crockett, Dyer, Lake, Obion, Benton, Carroll, Henry, Weakley, Chester, McNairy, Hardin*)
- Legal Aid Society for Middle Tennessee and the Cumberlandands (800) 238-1443  
(Counties served: *Cheatham, Dickson, Houston, Humphreys, Montgomery, Robertson, Stewart, Giles, Hickman, Maury, Marshall, Lawrence, Lewis, Perry, Wayne, Macon, Smith, Sumner, Trousdale, Wilson, Cannon, Rutherford, Davidson, Williamson, Anderson, Campbell, Claiborne, Morgan, Roane, Scott, Union, Bedford, Coffee, Franklin, Grundy, Lincoln, Moore, Warren*)
- Legal Aid of East Tennessee (865) 637-0484  
(Counties served: *Marion, Hamilton, Bradley, Bledsoe, Polk, Sequatchie, Rhea, Meigs, McMinn, Loudon, Monroe, Knox, Blount, Sevier, Jefferson, Cocke, Grainger, Hamblen, Greene, Washington, Unicoi, Hancock, Hawkins, Sullivan, Carter, Johnson*)

### Domestic Violence Services

#### ***East Tennessee***

Abuse Alternatives, Bristol (800) 987-6499  
Avalon Center, Crossville (800) 641-3434  
CEASE of Claiborne, Tazewell (800) 303-2220  
CEASE of Hamblen, Morristown (423) 581-2220  
CHIPS, Erwin (423) 743-0022  
Domestic Violence Crisis Center, Lenoir City (865) 988-7867  
Family Crisis Center, Knoxville (865) 637-8000  
Harbor Safe House, Cleveland (423) 476-3886  
Partnership for Children, Families, and Adults, Chattanooga (423)755-2700  
Gracemoor, Sparta (931) 837-7233  
Haven House, Alcoa (865) 982-1087  
House of Hope, Jacksboro (888) 844-4673  
Johnson County Safe Haven, Mountain City (423) 727-1914

## **Who Can Help: Resource Phone Numbers**

Safe House, Kingsport (844) 578-7233  
Safe Passage, Johnson City (423) 926-7233  
SafeSpace, Sevierville (800) 244-5968  
Salvation Army Women's Center, Knoxville (865) 525-9401  
Serenity Shelter, Knoxville (865) 971-4673  
The HOPE Center, Athens (423) 745-5289  
The Family Mission, Jamestown (888) 880-3020  
YWCA, Oak Ridge (865) 482-0005  
YWCA, Knoxville (865) 521-6336, (865) 523-6126

### ***Middle Tennessee***

Domestic Violence Hotline, National (800) 799-7233  
Domestic Violence Intervention Center, Nashville (615) 255-0711  
Domestic Violence Program, Murfreesboro (615) 896-2012  
Families in Crisis, McMinnville (931) 473-6543, (800) 675-0766  
FiftyForward, Davidson and Williamson Counties (615) 743-3400  
Genesis House, Cookeville (931) 526-5197, (800) 707-5197  
Haven of Hope, Manchester (800) 435-7739, (931) 728-1133  
HomeSafe Robertson, Springfield (615) 382-0829  
HomeSafe Sumner, Gallatin (615) 452-4315  
HomeSafe Wilson, Lebanon (615) 444-8955  
Hope House, Columbia (931) 381-8580  
Morning Star Sanctuary, Madison (615) 860-0003  
Mary Parrish Center, Nashville (615) 256-5959  
The Shelter, Inc., Lawrenceburg (931) 762-1115  
Ujima House, Nashville (615) 227-0902  
Urban Ministries Safehouse, Clarksville (931) 552-6900  
YWCA Domestic Violence Crisis Helpline, Nashville (800) 334-4628

### ***West Tennessee***

CAAP-Domestic Violence Programs, Memphis (901) 272-2221  
Damascus Road, Paris (731) 336-8724  
Northwest Tennessee Economic Development Council, Dresden (731) 364-3228  
The Journey Center, Somerville (901) 466-0015  
Women are Safe, Centerville (800) 470-1117  
WRAP, Jackson (800) 273-8712  
YWCA, Memphis (901) 725-4277

## **Who Can Help: Resource Phone Numbers**

### **Sexual Assault Services**

#### ***East Tennessee***

Avalon Center, Crossville (800) 641-3434

CEASE of Hamblen, Morristown (423) 581-2220

Harbor Safe House, Cleveland (423) 476-3886

Partnership for Children, Families, and Adults, Chattanooga (423)755-2700

Safe Haven Crisis and Recovery Center, Knoxville (865) 522-7273

Sexual Assault Response Center, Johnson City (423) 928-4710

The HOPE Center, Athens (423) 745-5289

#### ***Middle Tennessee***

Rape Recovery and Prevention Center, Murfreesboro (615) 896-2012

Genesis House, Cookeville (800) 707-5197

Rape Recovery & Prevention Center, Murfreesboro and Nashville,  
(615) 494-9881

#### ***West Tennessee***

Shelby County Rape Crisis Center, Memphis (901) 222-3950

Pathways, Martin (800) 372-0693

WRAP, Jackson (800) 273-8712

## Who Can Help: Resource Phone Numbers

### Emergency Services

Clarksville Crisis 211 Center, Clarksville (931) 648-1000  
Dickson Area Crisis Line, Dickson (615) 740-8329  
Domestic Violence Program Inc., Rutherford County (615) 896-2012  
Metro Police Department, Nashville (615) 256-5959  
Morning Star Sanctuary, Nashville (615) 860-0003  
Sexual Assault Center, Nashville (800) 879-1999  
Urban Ministries Safehouse, Montgomery County (931) 552-6900  
YWCA Domestic Violence Crisis Helpline, Nashville (800) 334-4628  
Dickson County Help Center, Dickson (615) 441-0076  
Highland Rim Economic Corporation, Waverly (931) 296-4098  
Clarksville-Montgomery County Community Action Agency, Clarksville (931) 802-6338  
Mid-Cumberland Community Action Agency, Springfield (615) 384-1086  
Mid-Cumberland Community Action Agency, Murfreesboro (615) 893-8938  
Rutherford County Emergency Food Bank, Rutherford County (615) 895-1148  
Highland Rim Economic Corporation, Dover (931) 232-5184  
Gallatin C.A.R.E.S., Gallatin (615) 452-5732  
Goodlettsville Help Centers, Goodlettsville (615) 859-4706  
Mid-Cumberland Community Action Agency, Gallatin (615) 452-7570  
Community Help Center of Trousdale County, Hartsville (615) 374-2904  
Charis Ministries, Nashville 615-373-1261  
Graceworks Ministries Inc., Franklin (615) 794-9055  
Wilson County Community Help Center, Lebanon (615) 449-1856  
Family Violence Helpline, Knoxville (865) 521-6336  
YWCA Victim Advocacy Program, Knoxville (865) 523-6126  
Samaritan Place, Knoxville (865) 684-1880  
Corryton Hospitality Pantry, Corryton (865) 687-8438  
Contact Care Line, Oak Ridge (865) 584-4424  
East Tennessee Human Resources Agency, East TN (865) 691-2551



## 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 himself/herself from abuse, neglect, or exploitation.

**CONSERVATORSHIP:** A proceeding whereby 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 his/her 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 too disabled 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 are unconscious, incompetent, too ill or unable to make these decisions for yourself.

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

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

## Terms You Need to Know (cont.)

**GUARDIAN AD LITEM:** A person appointed by the court to represent the interests of a person presumed unable to represent himself/herself, such as a minor, a person not yet born, or a person judged incompetent.

**HOLOGRAPHIC WILL:** a will entirely written, dated, and signed in the testator's own hand. The testator is the person making and executing his 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. These assets are taxable to you 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 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 or tubes.

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

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

**PROPERTY MANAGEMENT PLAN:** Plan the management of assets and payment of financial obligations by an appointed conservator.

## Terms You Need to Know (cont.)

**POWER OF ATTORNEY:** A written document by which one person appoints another as his/her agent or attorney-in-fact with the authority to perform certain specified actions on his/her 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.

**SCAM ARTIST/CON ARTIST:** A swindler who wins the confidence of a person and then cheats him/her by taking advantage of the confidence the victim has placed in the swindler.

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

**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.

**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 whom 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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Office of the District Attorney, 11<sup>th</sup> Judicial District

Office of the District Attorney, 16<sup>th</sup> Judicial District

Office of the District Attorney, 19<sup>th</sup> Judicial District

Office of the District Attorney, 20<sup>th</sup> Judicial District

Office of the District Attorney, 26<sup>th</sup> Judicial District

Office of the District Attorney, 29<sup>th</sup> Judicial District

Opportunity Now Summer Interns

Shelby County Victim Assistance Center

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Tennessee Department of Human Services

Tennessee District Attorneys General Conference

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