

Summary of Alabama Elder Abuse Laws

Adult Protective Services Act of 1976

Ala. Code § 38-9-1

- Intended to provide care and protection for vulnerable adults (“protected persons”) over 18 whose health or safety is in danger.
- The Ala. Dept. of Human Resources (DHR) investigates reports of abuse, neglect, exploitation, sexual abuse, and emotional abuse of elderly or disabled adults.
- DHR may petition for emergency protective services or placement, a court order to protect assets, and other protective orders as necessary; refer for prosecution.

Elder Abuse Prevention Act

Ala. Code § 38-9D-1 (effective August 1, 2012)

- Created the Alabama Interagency Council for the Prevention of Elder Abuse.
- 27 agencies, organizations, stakeholders.
- Lead agency is the Ala. Dept. of Senior Services.
- Community Outreach & Education; Professional Training & Development; Legislative & Advocacy.

Protecting Alabama’s Elders Act

Ala. Code § 13A-6-190 (effective August 1, 2013)

- Applies to individuals 60 years of age or older.
- Gives law enforcement and prosecutors additional avenues to prosecute elder abuse (physical or emotional), neglect, and financial exploitation.
- “Abuse” is the infliction of physical pain or injury.
- “Emotional Abuse” is the intentional or reckless infliction of emotional or mental anguish.
- “Neglect” is the failure of a caregiver to provide food, shelter, clothing, medical services, medication, or health care for an elderly person. A “caregiver” is an individual who has the responsibility for the care of an elderly person. To be considered criminal, neglect must cause physical injury to an elderly person.
- “Financial Exploitation” is the use of deception, intimidation, undue influence, force, or threat of force to obtain an elderly person’s money or property. Also, a guardian, conservator, or agent under power of attorney who breaches their duty to an elderly person and makes an unauthorized transfer of that person’s money or property can be subject to criminal penalties.
- The most severe penalties are Abuse and Neglect in the 1st Degree (Class A Felony – 10 years to life) and Financial Exploitation in the 1st Degree (Class B Felony – 2 to 20 years).

Protection of Vulnerable Adults from Financial Exploitation Act

Ala. Code § 8-6-170 (effective July 1, 2016)

- Applies to individuals 65 years of age or older and “protected persons.”
- Mandates reporting to the Alabama Securities Commission and the Ala. Department of Human Resources by “qualified individuals” (agents, investment adviser representatives, and persons who serve in a supervisory, compliance, legal, or member capacity of a broker-dealer or investment adviser) who reasonably believe that financial exploitation of an adult may have occurred, been attempted, or is being attempted.
- Qualified individuals who suspect financial exploitation may delay disbursing funds from an adult’s account and are immune from administrative and civil liability for actions taken consistent with the Act.

Elder Abuse Protection Order and Enforcement Act

Ala. Code § 38-9F-1 (effective August 1, 2017)

- Applies to individuals 60 years of age or older who are in need of protection from elder abuse (physical or emotional) or financial exploitation.
- Provides an early intervention -- a civil court order -- to stop elder abuse and continued financial exploitation.
- A victim of elder abuse or financial exploitation can petition for their own relief. If the person lacks the physical or mental capacity to seek protection for themselves, a legal fiduciary can petition on their behalf.
- A court may order a range of protections (emergency or after a hearing) including a no-contact order, stay-away order, removal of the defendant from the victim’s residence, return of the victim’s property, and restitution. A defendant can be criminally prosecuted for violation of the court order.

Elderly and Vulnerable Adult Financial Protection Act

Ala. Code § 8-6-190 (effective January 1, 2022)

- Authorizes financial institutions to refuse or delay execution of certain financial transactions involving an account of an elderly (65 or older) or “vulnerable” adult when financial exploitation may have occurred, may have been attempted, or is being attempted.
- Allows an adult to submit a list of persons who may be contacted when the institution has reasonable cause to suspect that financial exploitation may have occurred or been attempted.