



## TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES ADULT PROTECTIVE SERVICES

Adult Protective Services (APS) protects persons age 65 or older and adults with disabilities from abuse, neglect or financial exploitation by investigating and providing or arranging for services necessary to alleviate or prevent further maltreatment.

### **Abuse, Neglect and Exploitation as defined in the Texas Administrative Code (TAC)**

**Physical Abuse is** "any knowing, reckless, or intentional act or failure to act, including unreasonable confinement, corporal punishment, inappropriate or excessive force, intimidation, which caused or may have caused physical injury, death or emotional harm." (40TAC 705.1003)

**Sexual Abuse is** defined as "nonconsensual sexual activity which may include but is not limited to any activity that would be a sexually-oriented offense per Texas Penal Code, Chapters 21,22, or 43." (40 TAC 705.1005)

**Emotional abuse is** defined as "any act or use of verbal or other communication to threaten violence that makes a reasonable person fearful of imminent physical injury." (40 TAC 705.1007)

**Neglect is** "the failure to provide for one's self the protection, food, shelter, or care necessary to avoid emotional harm or physical injury; or a negligent act or omission that caused or may have caused emotional harm, physical injury, or death." (40 TAC 705.1009)

**Financial Exploitation is** "the illegal or improper act or process of an alleged perpetrator using, or attempting to use, the resources of the alleged victim, including the alleged victim's social security number or other identifying information, for the monetary, or personal benefit, profit, or gain without the informed consent of the alleged victim. (40 TAC 705.1011)

### **How to Report Abuse**

If you feel your situation is an emergency, please contact 911 or your local emergency hotline. To report elder abuse or neglect, call 1-800-252-5400. This number is accessible from across the United States. In addition to the Hotline, you may report through our secure web site: <https://www.txabusehotline.org> The website should not be used in life threatening or emergency situations. Please call 911.

The law requires any person who believes that an elderly or adult with disabilities is being abused, neglected, or financial exploited to report the circumstance to the Texas Department of Family and Protective Services (DFPS) Statewide Intake (SWI). A person making a report is immune from civil or criminal liability, and the name of the person making the report is kept confidential. Any person suspecting abuse and not reporting it can be held liable for a Class A misdemeanor. SWI will accept anonymous reports; however it is beneficial to the victim if the investigating worker is able to obtain as much needed information as possible. Time frames for investigating reports are based on severity of the allegations.

### **Who is eligible for Adult Protective Services?**

#### **People reported to be abused, neglected, or financial exploited who are:**

- Age 65 or older; or
- Age 18 to 64 who have a substantial impairment

**Substantial impairment is** when a disability grossly and chronically diminishes an adult's physical or mental ability to live independently or provide self-care as determined through observation, diagnosis, evaluation, or assessment.

### **Helpful Information for Reporting**

- Name, DOB, and current address of the alleged victim
- A brief description of the situation
- Details about the alleged perpetrator
- Current injuries and medical conditions
- Names and phone numbers of relatives, neighbors and friends that might have knowledge of the situation
- Reporter should provide all appropriate contact information

### **Allegations that APS Investigates**

- Physical Abuse
- Emotional/Verbal Abuse
- Sexual Abuse
- Physical Neglect
- Mental Health Neglect
- Medical Neglect
- Financial Exploitation

### **Investigative Process after Making a Report**

- Statewide Intake will route the report to the local APS Office
- The investigation is initiated within 24 hours
- The APS Specialist will conduct interviews with the alleged victim, collaterals and/or alleged perpetrators
- Assessment tools are completed and appropriate referrals are made
- When the investigation findings are found to be Invalid and/or the alleged victim refuses services, the case is closed.
- If maltreatment is confirmed, APS will work on a service plan to remedy the abuse, neglect and financial exploitation.

### **Handy References to Chapter 48 of the Human Resources Code**

**Sec. 48.054. Immunity.** (a) A person filing a report under this chapter or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony or participation, unless the person acted in bad faith or with a malicious purpose.

**Sec. 48.154. Access to Records or Documents.** (a) The department or another state agency, as appropriate, shall have access to any records or documents, including client-identifying information, financial records, or medical and psychological records, necessary to the performance of the department's or state agency's duties under this chapter. The duties include but are not limited to the investigation of abuse, neglect, or exploitation or the provisions of services to an elderly or disabled person. A person, agency, or institution that has a record or document that the department or state agency needs to perform its duties under this chapter shall, without unnecessary delay, make the record or document available to the department or state agency that requested the record or document.

(b) The department is exempt from the payment of a fee otherwise required or authorized by law to obtain a financial record from a person, agency, or institution or a medical record, including a mental health record from a hospital or health care provider if the request for a record is made in the course of an investigation by the department.

**Sec. 48.208 Capacity to Consent** (a) A person lacks the capacity to consent to receive protective services if, because of a mental or physical impairment, the person is incapable of understanding the nature of the services offered and agreeing to receive or rejecting protective services.

### **APS Clients' Rights**

Chapter 48 Title 2, Texas Human Resources Code (HRC) grants specific rights to APS clients. APS clients have a right to:

- Refuse protective services unless abuse or neglect presents a threat to life and there is a lack of the capacity to consent to protective services;
- Participate in and to be consulted about all decisions concerning their welfare, if able to do so;
- Select the least restrictive of the alternatives available for meeting their needs;
- Refuse medical treatment, even if determined to lack the capacity to consent to protective services, if the medical services conflict with their religious beliefs and practices; and
- Have court-appointed attorneys' ad litem to represent their interests at any Emergency Order for Protective Services proceedings.

**Report Suspected Abuse, Neglect, or Exploitation**

**1-800-252-5400**

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

**Protecting Vulnerable Adults is Everyone's Business**

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

## Possible Indicators of Abuse, Neglect, or Financial Exploitation

The following descriptions are not necessarily proof of abuse, neglect or financial exploitation. But they may be clues that a problem exists, and that a report needs to be made to law enforcement or Adult Protective Services.

Abuse, Neglect and Exploitation Indicators	Physical Signs
<p><b>Physical Abuse</b></p> <ul style="list-style-type: none"> <li>• Cuts,</li> <li>• Punctures</li> <li>• Burns</li> <li>• Bruises</li> <li>• Welts</li> </ul> <p><b>Sexual Abuse</b></p> <ul style="list-style-type: none"> <li>• Sexually transmitted disease</li> <li>• Unexplained pregnancy</li> <li>• Unexplained rectal bleeding</li> </ul> <p><b>Verbal/Emotional Abuse:</b></p> <ul style="list-style-type: none"> <li>• Fear of perpetrator</li> <li>• Low self-esteem</li> <li>• Depression</li> <li>• Caretaker cursing yelling screaming</li> </ul> <p><b>Neglect</b></p> <ul style="list-style-type: none"> <li>• Malnourishment</li> <li>• Dehydration</li> <li>• Over/under medication</li> <li>• Lack of utilities</li> <li>• Poor personal hygiene</li> <li>• Disorientation</li> <li>• Refusing to take medications or disregarding medical restrictions.</li> <li>• Unmet medical/dental needs</li> </ul> <p><b>Financial Exploitation</b></p> <ul style="list-style-type: none"> <li>• Unusual activity in bank account</li> <li>• Caretakers name added to bank account</li> <li>• Unpaid bills</li> <li>• Alleged Victim unaware of monthly income</li> <li>• The improper use of conservatorship, guardianship, or power of attorney</li> <li>• Providing unnecessary services</li> <li>• Sudden changes to a will or other financial documents.</li> </ul>	<p><b>Physical Abuse</b></p> <ul style="list-style-type: none"> <li>• Injury that has not been cared for properly</li> <li>• Injury that is inconsistent with explanation for its cause</li> <li>• Pain from touching</li> <li>• Forced isolation</li> </ul> <p><b>Sexual Abuse</b></p> <ul style="list-style-type: none"> <li>• Inner arm/thigh bruising</li> <li>• Difficulty in walking or sitting</li> <li>• Pain or itching in genital area</li> <li>• Pregnancy</li> </ul> <p><b>Neglect</b></p> <ul style="list-style-type: none"> <li>• Dehydration or malnutrition without illness-related cause</li> <li>• Inappropriate administration of medication</li> <li>• Frequent use of hospital or health care/doctor shopping</li> <li>• Poor coloration</li> <li>• Sunken eyes or cheeks</li> <li>• Soiled clothing or bed</li> <li>• Lack of personal effects, pleasant living environment, personal items.</li> </ul> <p><b>Financial Exploitation</b></p> <ul style="list-style-type: none"> <li>• Caretaker refuses to spend money on alleged victim</li> <li>• Alleged victim unaware of reason for appointment with banker or attorney</li> <li>• A recent will when alleged victim seems incapable of writing a will</li> <li>• Providing substandard care.</li> </ul>
Behavioral Signs Alleged Victims may display	Caretaker Signs
<ul style="list-style-type: none"> <li>• Fear</li> <li>• Anxiety, agitation</li> <li>• Anger</li> <li>• Isolation, withdrawal</li> <li>• Depression</li> <li>• Non-responsiveness , resignation, ambivalence</li> <li>• Contradictory statements, implausible stories</li> <li>• Hesitation to talk openly</li> <li>• Confusion, disorientation</li> <li>• Avoidance of a previously trusted and well-liked person</li> </ul>	<ul style="list-style-type: none"> <li>• Prevents alleged victim from speaking or seeing visitors</li> <li>• Anger, indifference, aggressive behavior toward alleged victim</li> <li>• History of substance abuse, mental illness, criminal behavior, or family violence</li> <li>• Lack of affection toward elder</li> <li>• Flirtation or coyness as possible indicator of inappropriate sexual relationship</li> <li>• Conflicting accounts of incidents</li> <li>• Withholds affection</li> <li>• Talks of alleged victim as a burden.</li> </ul>