

What you need to know ...

If a victim of Elder Abuse

**In Georgia, Elder Abuse is a
Crime.**

So you think you have been a victim of Elder Abuse?

- ➔ **Have you given money or a credit card number to an unfamiliar company or charity?**
- ➔ **Have you been forced to do something against your will, or handled in a physically aggressive manor that you felt was inappropriate?**
- ➔ **Have you been touched sexually or forced to perform some sexual act in which you did not give consent?**
- ➔ **Has someone insulted, threatened, humiliated, intimidated, or harassed you?**
- ➔ **Has someone refused to provide the necessities for you to survive?**

If you are 60 years old or older and your answer is yes to any of these questions, you may have been a victim of elder abuse!

What is **Elder Abuse**?

“Elder Abuse” refers to several different kinds of abuse committed against an older person. Depending on the particular law, an “elder person” is either a person who is 60 years and older or 65 years and older. The different types of abuse include:

Physical Abuse – Hitting, slugging, pinching, slapping or other acts resulting in injuries, bruises, burns, broken bones, or pain.

Financial or Material Exploitation (Abuse)- Taking or using your money or property without consent for another person’s gain.

Examples include:

- Taking your social security check, bankcard or charge card, or food stamps without your permission or for a purpose you did not authorize.
- Scam telemarketers calling you on the telephone to get your money in a scam or coerce you into buying a bad home repair product.
- A family member, guardian, or agent who is using your money for their own needs rather than your needs.

Neglect – The failure of a person, such as a caregiver or guardian, to make sure your basic needs are taken care of to the point that you are harmed. Your basic needs include:

- Clean clothes and a clean bed
- Adequate food
- Medical care

- A safe place to live
- Visits by family, friends, or caregiver

Sexual Abuse - non-consensual sexual contact of any kind, or sexual contact with any person that is incapable of giving consent.

Psychological or Emotional Abuse - the infliction of anguish, pain or distress through verbal or non-verbal acts. This includes:

- Verbal assaults, insults, humiliation, intimidation, threats and harassment
- Being treated like an infant
- Being isolated from friends, family, and regular activities
- The silent treatment and enforced social isolation

What are the Common Characteristics of Elder Abuse Victims?

Men and women whether married, widowed, or single, are victims of elder abuse. The following characteristics are often

shared by elder abuse victims:

- **Dependence** – often an older person who is abused depends on the abuser for care.
- **Poor Health** – often victims are in poor physical or mental health, but healthy people can be victims too.
- **Substance Abuse** – older persons who use alcohol or drugs are more likely to be abused or refuse to care for themselves resulting in self-neglect.
- **Living Arrangements** – older persons who live with someone else are at greater risk for physical abuse, family violence, or neglect. Older persons who live alone are at greater risk for self-neglect.
- **Mood** – older persons who are depressed or have lost the will to change their situation may be more likely to be a victim of abuse. These moods may also suggest that abuse is occurring.

What are the Common Characteristics of the Perpetrator?

Strangers are not the common abusers. The people we trust and love the most like our family, friends, neighbors, and caregivers often commit elder Abuse.



WHY?

There are many different reasons why a person would abuse an older adult. Some include:

- The abuser's use of drugs or alcohol may make the person abusive or may keep the person from making good decisions. Sometimes the person takes money from you to purchase more drugs or alcohol.
- The abuser may lack caregiving experience or be overwhelmed with the caregiving responsibilities on top of other commitments.
- There may be a history of abuse in the family
- The abuser has a mental illness or emotional illness that causes him or her to be abusive or to make improper or hasty care decisions.



Common Concerns of Elder Abuse Victims

- I don't want to get my family in trouble.
- It is my fault that my son or daughter behaves like this.
- I can't testify against her; she is the only person that will check on me.
- I don't want to go to a nursing home.
- I don't want my friends and family to know what happened.
- I can't testify in court – I get so afraid to speak in public.
- I can't hear what you are saying and won't be able to hear what the judge says.
- I have no way of getting there. My granddaughter was my only source of transportation.
- Can't we just drop it? I don't want to bother anyone else. Just let me be.
- My husband and I have been married for fifty years. I cannot leave

now.



Stopping the Abuse at Home

Adult Protective Services

For more information, Contact your County's Department of Family and Children Services Office.

Adult Protective Services (APS) is a part of the Georgia Department of Human resources and investigates reports of elder abuse. The APS caseworker works with the older victim to arrange for support services so the older person will not remain in an abusive situation.

If you want assistance, the APS caseworker can help you. For, example the caseworker can help in the following ways:

- Assist you in managing your own affairs and arranging for a safe place to live.
- Help you apply for public assistance, such as Medicaid, which may allow you to receive some medical and personal assistance services at home.
- Refer you to other services for legal advice or for assistance with understanding your health insurance bills.
- Find other people to provide the needed services, if the abuser is the

caregiver, so the abuse ends.



Obtaining Help in a Nursing Home or Personal Care Home

**Long Term Care Ombudsman
Program**

For More Information,

Call (404) 463-8383 or 1-888-454-5826

The word “ombudsman” is a Swedish word that means “citizen’s representative.” The Long Term Care Ombudsman seeks to improve the quality of life for you and other residents in long term care facilities.

By living in a long term care facility – a nursing home or personal care home—you have certain rights. The Ombudsman helps you to advocate for your rights to be honored. The Ombudsman is an advocate for you, not the facility and not for your family.

If you are not being treated well in the nursing home or personal care home in which you live, you can talk to the Ombudsman. Law requires the Ombudsman to keep all complaints confidential unless you authorize him or her to use your name.

If you are worried that the facility staff may retaliate against you for

speaking against them, let the Ombudsman know. It is against the law for the facility to do so.

Other Organizations Who Can Help...

Assistance with Support Services (food, transportation, health care)

Area Agency on Aging

Every community is served by an Area Agency on Aging (AAA). Services available include the Meals on Wheels program, nutrition program, and other senior programs. The AAA is a good place to start when trying to learn what is available in the community. To find out the name and telephone number of the AAA serving your area, either check your local telephone directory or call the Division of Aging Services Information Specialist at **(404) 657-5319**.

Senior Centers

Many communities have a senior center serving as the local gathering place for senior activities. Some of the centers serve as nutrition sites providing a hot meal for a reduced price or at no charge. If you sometimes feel lonely, the senior center may be a good place to go and make some new friends. Many of the centers have vans and may be able to pick you up and bring you to the center. To locate a senior center in your area, call the Area Agency on Aging.

Senior Adult Victims' Advocate (SAVA) Program

The program provides services for adults age 60 and over, who are victims of abuse, neglect, or exploitation by serving as a liason between victims, social service agencies and the court system. The program works with the victims to help them determine strategies to reduce existing problems, eliminate current abuse and prevent further victimization. To contact a SAVA volunteer, call **(404) 657- 5250 or 1-888-772-0152.**

Financial and Medical Assistance

If you are struggling with having enough money to cover your medical expenses, paying for food, rent, and other necessities, you may qualify for some public assistance.

Contact your county Department of Family and Children's Services Office for information about the following services: Medicaid, food stamps, Temporary Assistance for Needy Families, and assistance with paying your Medicare premiums.

If you qualify for Medicaid, you may be able to receive some assistance at home through the Community Care Services Program (CCSP). If you do not qualify for CCSP, you may be eligible for other services and programs provided to you at home for a fee.

Assistance with Health Insurance

Understanding health insurance bills and the health care system today is quite a challenge. The GeorgiaCares program is staffed with volunteers who will help you with your health insurance questions. Contact your local Area Agency on Aging to find out how to reach the GeorgiaCares program in your area or call **1-800-669-8387**.



There are Special Laws to Address Elder Abuse!

As we age, we sometimes experience difficulty with those activities we normally do such as managing our checkbooks, paying bills, driving, climbing the stairs, or repairing a leaking roof. Some of us are lonely because our spouse or a good friend has died. During these times, we need to rely on others for help. Unfortunately, some of the people we rely on may take advantage of us. Georgia has passed laws to make sure that people know that it is not “okay” to mistreat its older citizens.

It is against Georgia law to abuse, neglect or exploit an elder person or person with disabilities.

Victim Rights

Crime Victims' Bill of Rights

In 1995, the Georgia Legislature passed the Crime Victims' Bill of Rights, to provide victims with some basic rights:

- Notice that the accused has been released from custody, whenever possible.

- Notice of the judicial proceedings at which the judge will consider releasing the accused from custody.
- Advance notice of any scheduled court proceedings and notice of any changes to that schedule.

To receive notice, the Victim must provide, in writing, his or her phone number and address to the following people:

- Investigating law enforcement agency
- Prosecuting Attorney
- As directed by the Prosecuting Attorney, the Sheriff, if the accused is in the Sheriff's custody, or the Department of Corrections or other facility; and
- State Board of Pardons and Parole

Victim Compensation

As the victim of a criminal act, you are eligible for victim compensation. Victim compensation is administered by the State of Georgia. If you are interested in this compensation, you must request the compensation within 12 months (360 days) from the date the crime took place. To apply for victim compensation, contact the Victim Witness Advocate through your local county district attorney's office.

**No matter what you have done in your life,
you do not deserve to be abused.**

You can stop the abuse. . .

And there are people and laws that can help.



What if you do not want to press charges?

Because a crime is an offense committed against the State of Georgia, the Prosecutor is the person who decides whether or not to press charges.

Of course, it works better for everyone if you are willing to participate and help the Prosecutor prepare the case. Because the abuser is often someone you love and care about, it may be hard to do so.

The Prosecutor also has the power to order you to testify if you are unwilling to do so on your own through the use of a document called a subpoena.

It is not unusual to be afraid about what will happen to you, but you can talk to someone with the Victim Witness Assistance Program or SAVA. It is important for you to ask for help during this difficult time. You can reach the Victim Witness Assistance Program through the county district attorney's office and you can reach the SAVA program by calling **(404) 657-5250 or 1-888-772-0152.**

Stop the Abuse



Your fears are real but there are some ways to stop the abuse.

Victim Witness Assistance Program Help to get through the Court Process

Most courts have a person called a Victim Witness Advocate or Coordinator. This person helps victims and witnesses while they are part of a criminal trial.

The Victim Witness Advocate (VW Advocate) can help you understand what will happen next in the case and explain the legal terms that you do not understand. The VW Advocate can also tell you about support groups, safe housing, or other services, to assist you in getting out of a dangerous situation.

If you need help getting to the courthouse, let the VW Advocate know. Together, you should be able to find a solution. If your vision or hearing is not as they once were, ask the VW Advocate to provide information in large print, on audiotape, or in another format, so you can understand the information.

Most of the people going in and out of the courts every day may be younger than you, so the Court may not think about the steps to the

witness box being a challenge or that sitting for long hours without a break is nearly impossible. Let the VW Advocate know how to accommodate you to make it easier for you to testify. You may also request to be seated in a separate waiting area away from the accused or other witnesses.

The Prosecutor and VW Advocate want you to be comfortable and at ease because you are an important witness in the case. You should also let the VW Advocate and Prosecutor know if you are fearful of what will happen if the case is tried. Although the decision is the Prosecutor's to make, he or she takes into consideration your feelings and concerns.

Regardless of the reason why someone hurts you, it is wrong and it is against the law. The abuser has committed a crime.



The Court System

The abuser may have violated more than one law and could be facing legal actions in two different types of courts, criminal court and civil court.

Criminal Court:

Although you were individually harmed, a crime is an act committed against the State of Georgia. The Prosecutor has the power to charge the abuser with the crimes.

Some examples of crimes include:

- Battery - hitting another person
- Theft - taking someone's property without that person's consent.

- False Imprisonment – holding someone against his or her will or not letting him or her leave.

Civil Court:

Civil laws allow a person on his own or with the help of an attorney to sue another person to recover money for harm caused or to obtain an order from the court to stop a certain behavior. A Prosecutor is not involved in civil cases.

An action to obtain a Protective Order to keep the abuser away from you is a civil action. Civil actions also include a suit to recover money damages for physical injuries or to recover money stolen by a telemarketer.

Probate Court - a type of civil court that hears various types of legal cases including:

- **Guardianship:** An action to determine whether an adult needs the court to appoint another person as a “guardian” to take care of the adult physically or financially because the adult is unable to do so.
- **Adult Protective Services Order:** The Disabled Adult and Elder Persons Protection Act allows the Department of Human Resources ,through your county Adult Protective Services (APS) office, to ask the Court for permission to help you with services. The court can also order other people to stop interfering with efforts to provide help.

Legal Help



Elderly Legal Assistance Program-

The Older Americans Act provides funding for legal assistance for people 60 years of age and older. Contact your Area Agency on Aging to find out the name and phone number of the Elderly Legal Assistance Program in your county or call the Division of Aging Services at **(404) 657-5319**.

Legal Services for Low-Income- Each community has a legal services provider offering free legal assistance to low income Georgians. Contact the Georgia Bar Association to find out the name and phone number for the legal services program for your county at **1-800-334-6865**.

Senior Legal Hotline - This program provides free legal assistance over the telephone for Georgians 60 years of age and older. Older Georgians can call a toll free number: **1-888-257-9519** or locally at **(404) 657-9915**.

Volunteer Attorney - Contact the Georgia Bar Association at **1-800-334-6865**, to find out if you qualify to receive services free of charge called pro bono services. They may also be able to refer you to some other programs that can assist you.

Guide to Legal Terms and the

Criminal Process



Each court system is different so be sure to ask the Prosecutor, Victim Witness Advocate, SAVV, or other personnel to explain any terms you do not understand.

Arrest: An arrest occurs when a law enforcement officer takes a person into custody. Typically, the law enforcement officer will have a warrant for that person's arrest, but there are times when an officer may arrest a person without a warrant because there is sufficient probable cause to believe a crime has been committed or is about to be committed.

The law allows an officer to arrest a person without a warrant if the officer believes that someone has physically abused a vulnerable adult. The law also allows an officer to arrest a person involved in a family violence incident regardless of whether or not the victim wants to press charges.

First Appearance or Preliminary Hearing: The law requires that the accused be brought before the Court and told why he or she has been arrested and be advised of his or her rights. Unless the Court fears the accused will leave the state and not return for the trial, bail is set. As the victim, you do not have to be present during this part of the process.

Bail: Before a person is released back into the community after arrest,

the Court often sets an amount of money (bail) that the accused must arrange to be paid to ensure that the accused returns for trial.

Conditional Bond: In some cases, particularly family violence cases, the Court may place conditions on the bail, such as a requirement that the accused stay away from the victim or provide financial support to the victim. If the accused violates the condition, then after notice and a hearing, the Court can revoke the bond and place the defendant in jail until the trial.

Arraignment: The next step is for the accused to appear before the Court and plead “guilty” or “not guilty” to the charges. It is not necessary for you to be present. If the accused pleads “guilty” the Court may go ahead and hand down the sentence. If the accused pleads “not guilty” the Court will set a trial date.

Commitment Hearing: If there is a question as to whether there is enough evidence to proceed with a trial, a commitment hearing may be held. If the Court finds enough evidence exists, then the case is “bound over” for trial. The accused becomes known as the Defendant.

Grand Jury Hearing: If the case is sent to Superior Court, a Grand Jury will review the evidence to make sure that enough evidence exists to formally charge or “indict” the Defendant. The Grand Jury listens to testimony of the victim and witnesses, and hears information from the police. The Defendant and the Defense Attorney are rarely present when you or other witnesses testify.

Pre-Trial Motions: Sometimes prior to trial, the Defendant or Prosecutor files documents with the Court, called pre-trial motions, asking the Court to answer particular questions or to grant an order that certain evidence be allowed or kept out. The Court hears these motions prior to the trial according to when it fits into the Court's schedule. Usually, you do not have to be a part of this process.

Plea Bargaining or Pre-Trial Conferences: Prior to the trial the Prosecutor and Defense Attorney have discussions to share facts, positions, issues of laws, and attitudes regarding the case. They may agree upon a sentence, which will be imposed if the defendant enters a guilty plea. If the plea is reached, it must be submitted to the Judge for approval or rejection.

Guilty Plea: If the Defendant has decided to plead guilty, he or she appears before the Judge and "enters" a plea of guilty or *nolo contendere* (no contest). If the Prosecutor and Defense Attorney have worked out an agreed upon sentence, this is a negotiated guilty plea. The Court can accept or reject the proposed sentence and will determine the sentence. As a victim, you do not have to attend the plea hearing, but may do so if you wish.

Trial: If the accused pleads not guilty, the case will go to trial unless the Prosecutor dismisses the charges. The accused has a right to a jury trial under Georgia law but may waive that right agreeing to have the Judge hear and decide the case. If a trial is held, victims and witnesses

are subpoenaed to testify.

During the trial, victims and witnesses are asked to remain outside the courtroom until it is their turn to testify.

Mistrial: All of the jurors must agree that the defendant is guilty to obtain a conviction. If the jury is unable to reach agreement, the Judge will declare a mistrial. When a mistrial occurs, the case may be retried with a new jury.

Pre-Sentence Investigation or Hearing: If the jury returns a guilty verdict, the Court may sentence the defendant immediately or order a pre-sentence investigation to gather more information on what type of sentence is best. A probation officer conducts this type of investigation. For serious crimes, such as murder, the Court may hold a pre-sentencing hearing to accept additional evidence.

Sentencing Process: If the accused pleads guilty or is found guilty at a trial, the Court will impose a sentence. A criminal sentence may consist of several components including paying a fine, community service, time in confinement, which could be house arrest, or time in jail or probation.

Incarceration: This term means to put the person in jail or prison.

Probation: The Court may allow a portion or the entire sentence to be served on probation. The defendant would be allowed to serve the sentence outside of jail or prison under the “general terms of probation.” These terms may include providing financial support to the victim,

obeying the law, maintaining employment, staying away from the victim, etc.

If the defendant violates one of the terms and conditions of probation, the probation office can bring an action to revoke the probation and require the defendant to serve the balance of the sentence in jail or prison. The Judge makes the decision of whether or not to revoke the probation partially or fully.

Special Conditions on Probation: The Court may also order special conditions of probation to fit the facts of a specific case. For example, the Court may order a curfew, counseling, or repayment to the victim.

Restitution: Restitution means to pay back the costs incurred because of the defendant's acts. If the Court finds that the defendant has some money or ability to make money, the Court can order the defendant to make restitution to the victim while on probation. Restitution may cover clearly identifiable losses such as:

- medical expenses and
- property damage and loss.

Restitution does not include money for loss of time from work, pain and suffering, legal expenses, counseling fees, or damages for which the defendant has not been found guilty. If the defendant disagrees with the amount of restitution ordered by the Court, the defendant is entitled to a hearing to determine the amount of restitution to be paid back to the victim.

Community Service: The Court may order that the Defendant complete a number of hours of community service as a part of his or her sentence.

Misdemeanor: A term used to describe less serious crimes for which a person may serve time in jail for no more than 1 year.

Felony: A term used to describe more serious crimes, such as armed robbery or fraud, for which a person serves time in jail for not less than 1 year.

Important Phone Numbers

Local Area Agency on Aging:

Local police: _____

Local APS contact: _____

Emergency Contact (Name): _____ **Phone**

#: _____

Senior Legal Hotline: 1-888-257-9519 (in Atlanta: 404-657-9915)

Senior Adult Victims' Advocate (Elder Abuse Helpline):
1-888-774-0152 (in Atlanta: 404-657-5250)

Family Violence Programs/Shelters:
1-800-33-HAVEN (1-800-334-2836)

Other: _____

This publication was originally prepared by the
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The Council is a non-profit organization that advocates on behalf of older persons who are victims or at risk of becoming victims of elder abuse and neglect.

The Council also educates citizens and professionals about elder abuse and neglect.

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