



**FLORIDA SENIOR LEGAL HELPLINE
1-888/895-7873**

**ABUSE, NEGLECT, AND EXPLOITATION:
WHAT TO KNOW, WHO TO TELL, WHAT YOU CAN DO!**

Florida has enacted a number of laws which make abuse, neglect and exploitation of vulnerable adults a crime, and which give law enforcement, prosecutors, and civil attorneys tools to help victims fight back. What do these crimes look like? Consider some of these scenarios:

My elderly mother is living with my brother. The rest of the family is very concerned because my brother, who is my mother's agent under her Power of Attorney, won't let us speak to or visit her.

*Isolating an elderly person can cause emotional distress. It can also facilitate abuse, neglect and undue influence. Most importantly, Florida law now provides that intentionally isolating an elderly person from or restricting access by family without lawful authority in a way which is likely to cause harm or conceal criminal activity constitutes **abuse**.*

My father gave a Durable Power of Attorney to a person who recently befriended him so his new friend could help him with his financial affairs. However, my father says he's running out of money and cannot pay all his bills. The bank confirms that withdrawals were made by my father's agent using the Power of Attorney.

*Although most Powers of Attorney authorize the agent to do banking transactions and a bank will honor a validly executed document, an agent is only authorized to act **in a manner which benefits the principal**. Withdrawing money for the agent's personal use, or in a way which deprives your father of the use of his funds, can constitute **exploitation**. The presence of a valid Power of Attorney or other legal document does **not** protect the agent from criminal prosecution.*

But the agent/friend told us that my father said he could have the money, that it was a gift in return for the kindness the agent/friend has shown.

Florida law makes it clear that calling a transfer of funds or property a "gift" or a "loan" is not a defense to the crime of exploitation in most circumstances. (An exception is provided for loans with a documented repayment schedule and with no payments more than 65 days in arrears).

My mother added my sister to her account as a joint owner so my sister could help her with paying bills. Although my sister is paying Mom's bills, it also appears that she is withdrawing funds for her own personal use. Is that ok because she is a joint owner?

*Being a joint owner entitles your sister to access the funds. But if the money held in the account has been deposited by your mother or for her benefit (e.g., mother's Social Security) and is intended to be for your mother's sole use, then your sister's withdrawal of those funds for her own personal use may constitute **exploitation**.*

My elderly friend told me he gave his caregiver his credit card to use to pick up his groceries and medications. Now he is getting billed for items and services he never purchased. Is it a problem that he gave the caregiver permission to use the card?

Your friend gave his caregiver permission to use the card for a particular and limited purpose. When the caregiver exceeded the scope of that authority by charging items which were not purchased for the friend's benefit, the caregiver may have committed several crimes, including the crimes of fraud and exploitation.

My elderly neighbor is hard of hearing and no longer drives; she is completely dependent upon her caregiver. But she recognizes us and makes appropriate conversation when we speak with her. Can she still be a vulnerable adult even if she seems “with it”?

Florida law provides that taking advantage of a person who lacks the capacity to consent is a crime. HOWEVER, Florida law also provides that a person can be a victim of abuse, neglect or exploitation if they unable to care for themselves or rely on the assistance of others for daily living, even when the person is not cognitively impaired. Your neighbor's hearing loss and her reliance on a caregiver is likely enough to demonstrate she is a “vulnerable adult” under Florida law.

My elderly parent tells me that her caregiver took her to an attorney so she could sign documents which would make it easier for the caregiver to help her. When I asked which documents she signed, she wasn't sure. Should I be concerned?

*Under Florida law, it is a crime to obtain authority under a guardianship or Power of Attorney by misrepresentation or fraud. Further, new laws also provide that changing an established testamentary plan (like changing beneficiaries in a will, for example) in order to obtain an elderly person's funds or property can be a form of **exploitation**.*

HOW TO REPORT ABUSE, NEGLECT, EXPLOITATION

The scenarios above are just a few examples of the many ways abuse, neglect and exploitation may occur. If you suspect that an elderly person is being victimized, you must report the abuse, neglect or exploitation to Florida's Central Abuse Hotline. Be sure to explain how you know the victim, what makes that person vulnerable, the basis for your suspicions/concerns, and the relationship between the victim and the alleged perpetrator. **NOTE:** The identity of the reporter is confidential and will not be divulged to the victim or the alleged perpetrator.

Central Abuse Hotline – Phone: 1-800-962-2873 (1-800-96-ABUSE); TTY: 1-800-955-8771; or Report Online at <https://reportabuse.dcf.state.fl.us/Adult/AdultForm.aspx>

ARE THERE OTHER STEPS I CAN TAKE?

There are several legal tools that may be available to help an elderly person who is in an abusive or exploitative situation. For example, Florida law authorizes the use of exploitation injunctions to stop certain forms of financial loss or harm. For more information about these and other remedies, please contact The Florida Senior Legal Helpline, 1-888-895-7873.



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