

# Elder Abuse and Neglect Benchcard

## USEFUL DEFINITIONS

(except as noted, citations are to the Adult Protective Services Act, f/k/a Elder Abuse and Neglect Act, 320 ILCS 20/1, et seq.)

**abandon:** desert or knowingly forsake an elderly person under circumstances in which a reasonable person would continue to provide care and custody. Criminal Code of 2012, 720 ILCS 5/12-4.4a(e)

**abuse, generally:** "any physical, mental or sexual injury to an eligible adult (age 60 and over), including exploitation of such adult's financial resources." 320 ILCS 20/2(a).

**abuse, mental:** "includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact." 77 Ill. Adm. Code § 300.330 (2014)

**abuse, physical:** "knowing or reckless use of physical force, confinement or restraint; knowing, repeated and unnecessary sleep deprivation; or knowing or reckless conduct which creates an immediate risk of physical harm." Illinois Domestic Violence Act of 1986, 750 ILCS 60/130(14)

**abuse, sexual:** "sexual conduct by the use of force or threat of force; or victim is unable to understand the nature of the act or is unable to give knowing consent." Criminal Code of 2012, 720 ILCS 5/11-1.50(a)

**eligible adult:** a person aged 60 or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual or who neglects himself or herself. 320 ILCS 20/2(e).

**exploitation, financial:** use of an eligible adult's resources by another to the disadvantage of that adult or the profit or advantage of a person other than that adult. 320 ILCS 20/2(f-1); using a position of trust or confidence with the elderly person and knowingly and by deception or intimidation obtaining control over the property of an elderly person or illegally uses the assets or resources of an elderly person. Criminal Code of 2012, 720 ILCS 5/17-56(a).

**mandated reporter:** numerous categories of persons engaged in carrying out their professional duties, as required by the Adult Protective Services Act, 320 ILCS 20/2(f-5).

**neglect:** another individual's failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or health care. 320 ILCS 20/2(g).

**self-neglect:** result of an eligible adult's inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health. 320 ILCS 20/2(i-5).

**willful deprivation:** willfully denying a person who because of age requires medication, medical care, shelter, accessible shelter or services, food, therapeutic device, or other physical assistance, and thereby exposing that person to the risk of physical, mental or emotional harm. Criminal Code of 2012, 720 ILCS 5/12-4.4a(e); Illinois Domestic Violence Act of 1986, 750 ILCS 60/103(15).

## IMPORTANT CONCEPTS

There are different legal thresholds of mental capacity for different documents, decisions, and causes of action.

**Capacity:** having "sufficient mind and memory to comprehend the nature and effect of his act." *McGlaughlin v. Pickeral*, 381 Ill. 574 (1943).

**Undue Influence:** "[A]ny improper...urgency or persuasion whereby the will of a person is overpowered and he is induced to do or forebear an act which he would not do or would do if left to act freely." *Estate of Hoover*, 155 Ill. 2d 402 (1993).

## RELEVANT STATUTES

Adult Protective Services Act, f/k/a Elder Abuse and Neglect Act, 320 ILCS 20/1, et seq.

Abuse or criminal neglect of a long term care facility resident; criminal abuse or neglect of an elderly person.  
720 ILCS 5/12-4.4a.

Financial exploitation of an elderly person, 720 ILCS 5/17-56

Illinois Domestic Violence Act of 1986, 750 ILCS 60/101, et seq..

## Signs of Elder Abuse or Neglect

### Physical Abuse

Bruises, scars, cuts, broken bones, or wounds  
Unexplained injuries  
Complaints of discomfort

### Neglect by Caregivers or Self-Neglect

Fear or reluctance to admit visitors to the home  
Lack of cleanliness  
Unkempt appearance  
Smells of urine or feces  
Abandonment of elder  
Not getting prescribed medications  
Sudden inexplicable weight loss  
Unsuitable clothing for weather conditions

### Emotional Abuse

Change in personality  
Display of agitation or hesitancy  
Display of disorientation or confusion  
Apathy or depression  
Despondency  
Fear or reluctance to talk openly

### Financial Exploitation

Change in spending patterns  
Failure or inability to manage finances  
Receiving past due notices  
Bounced checks  
Statements or bills no longer coming to the home  
Large decrease in funds in short time  
Missing checks

## Reporting Elder Abuse

### TO MAKE A REPORT, CALL:

City of Chicago Senior Services	311 (Chicago)
Ill. Dept. on Aging	800-252-8966
24-Hour Adult Protective Services	866-800-1409 888-206-1327 (TTY)

### RESOURCES:

AgeOptions (Cook County)	800-699-9043
Area Agency on Aging (Cook County)	708-383-0258
Senior Services	312-744-4016
Area Agency on Aging (Chicago)	
Cook County Elder Justice Center	312-603-9233

Additional information, resources, and

communications options for the

organizations listed to the left are

available on the Elder Law and

Miscellaneous Division's section of the

court's Web site:

<http://www.cookcountycourt.org/>

## Case Management Tools

Ensure courtroom accessibility and accommodations for physical and/or cognitive impairments.

Understand gradations of diminished capacity and calendar cases to accommodate medical needs and fluctuations in capacity and mental alertness.

Expedite cases in which elder abuse is an underlying factor, including avoiding unnecessary continuances and delays.

While preserving the defendant's right of confrontation, consider procedures that memorialize elder victim or witness testimony, such as videotaped evidence depositions.