

# Legal Services: Access to Justice

Laura Brown

Tennessee Alliance for Legal Services

# Tennessee Alliance for Legal Services

- Founded in 1977
- Statewide
- Supports the expansion of access to justice in Tennessee
- Operates 844HELP4TN and Tennessee Free Legal Answers



# Elder Abuse... is it a problem?

The National Center on Elder Abuse reports that **only 1 in 14 cases** of elder abuse ever come to the attention of authorities.





# Elder Abuse... is it a problem?

"There are over 5 million elder abuse victims in the United States. That is more than the combined total of child abuse victims and domestic violence victims."

This statement opens the 2016 episode of [Nashville Public Television's Aging Matters](#), and it is a sobering and thought provoking one.



# Civil Legal Service Providers

- Increasingly see issues arise around elder abuse in many different forms across the state



# Elder Abuse Initiatives in Tennessee

- Several agencies and programs in Tennessee that assist with abuse, neglect, and exploitation.
  - Adult Protective Services
  - Tennessee Commission on Aging and Disability
  - Tennessee Department of Financial Institutions
  - Law Enforcement
  - AARP

# Elder Abuse Task Force

- On May 3, 2021, the Tennessee General Assembly passed legislation recreating the Elder Abuse Task Force (Chapter 464 of the Public Acts of 2021). Governor Lee signed the bill on May 18, 2021. This Act established the Task Force, attaching it administratively to the Tennessee Commission on Aging and Disability (TCAD), and required the Task Force to do the following:
  - Assess the current status of elders and other vulnerable adults covered by the Tennessee Adult Protection Act related to financial exploitation;
  - Examine the existing barriers, services, and resources addressing the needs of these elder persons and vulnerable adults; and
  - Develop recommendations to address problems associated with the financial exploitation of these elder persons and vulnerable adults

# Recommendations from the Elder Abuse Task Force

- Strengthen Adult Protective Services Investigative Authority
- Create a Sole Source for Reporting and Data Collection
- Legislative Solution for Unlicensed Residential Facilities
  - Governor Bill Lee signed legislation that will establish the Tennessee Unlicensed Facility Registry within the Tennessee Commission on Aging and Disability (TCAD).
  - [HB630/SB439](#) creates a searchable registry and moves the criminal penalty for operating a facility without a license after being placed on the registry from a class B misdemeanor to a class D felony.



# Tennessee Elder Abuse Legislation

- Public Chapter 961 (2014) elevates from a Class E felony to a Class D felony the penalty for knowingly abusing, neglecting, or exploiting an adult who is unable to manage his or her resources or carry out the activities of daily living due to mental or physical dysfunctions or advanced age. This law also establishes the Elder Abuse Task Force.
- Public Chapter 1006 (2016) requires the District Attorney General of each judicial district to establish a Vulnerable Adult Protective Investigative Team (VAPIT). Each VAPIT shall coordinate the investigation of suspected cases of abuse, neglect, or exploitation of elderly or vulnerable persons. VAPITs meet at least quarterly but may meet as often as needed, and District Attorneys are required to report annually to the General Assembly summarizing the work of each VAPIT.

# Tennessee Elder Abuse Legislation

- Public Chapter 264 (2017) creates the Elderly and Vulnerable Adult Financial Exploitation Prevention Act that gives financial institutions, including banks and credit unions, money transmitters, mortgage loan companies, and others, the authority to delay or refuse to conduct transactions that permit the disbursement of funds when financial exploitation of elderly or vulnerable adults is suspected. This law is commonly known as the “Pause Law.” The law provides immunity for the financial services provider from all criminal, civil, and administrative liability for taking any such action. It also permits financial institutions to establish a list of persons the customer would like to have contacted if the bank suspects the customer is a victim of exploitation or theft. The Act also requires financial institutions to respond, within 14 business days, to an administrative subpoena issued by Adult Protective Services (APS) for access to or copies of records relevant to suspected actual or attempted financial exploitation.

# Tennessee Elder Abuse Legislation

- Public Chapter 424 (2017) enacted the Senior Financial Protection and Securities Modernization Act that authorizes broker-dealers and investment advisors to voluntarily report to the Commissioner of Commerce and Insurance suspected instances or attempts of financial exploitation of an elderly or vulnerable person and gives civil and administrative immunity for making such reports.
- Public Chapter 466 (2017) enacted the Elderly and Vulnerable Adult Protection Act that defines and creates the new offense of financial exploitation of elderly or vulnerable adults, including the use of deception, intimidation, undue influence, force, or threat of force to obtain or exert unauthorized control over an elderly or vulnerable adult's property. Prior to this change, financial exploitation of the elderly in Tennessee was previously treated as theft under Tennessee law, making it more complicated to prosecute. With the enactment of Public Chapter 466, the Tennessee General Assembly made financial exploitation of the elderly a stand-alone offense and established an enhanced sentencing factor when the victim is elderly or vulnerable. The Act provides that, under certain conditions, a person charged with financial exploitation of an elderly or vulnerable adult may have their assets frozen (up to 100% of the alleged value in question). The Act also requires those convicted to be included on the State Abuse Registry.

# Tennessee Elder Abuse Legislation

- Public Chapter 1050 (2018) added increased penalties for aggravated elder abuse. The Act requires Adult Protective Services (APS) to provide complete, unredacted copies of investigative files (excluding the identity of the referral source) to District Attorneys General for the prosecution for neglect or financial exploitation of an elderly or vulnerable person. Public Chapter 1050 further requires APS to disclose to the District Attorney General the identity of the individual who made the original allegation after an indictment has been returned.



Some ways to help prevent abuse that are sometimes overlooked

- Observe
- Report to APS and Law Enforcement
- Other ways that we sometimes overlook
  - Planning documents
  - Free, Civil Legal Aid
  - 1-844-HELP4TN



## Planning

Legal Documents that everyone should have in place:

- Will
- Power of Attorney
- Advance Care Plan
  
- Competency issues and concerns

# What happens when no documents in place?

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- Conservatorships in many cases



# Free, Civil Legal Aid Resources in Tennessee



TITLE IIIB PROGRAM



LEGAL AID  
ORGANIZATIONS



TENNESSEE ALLIANCE  
FOR LEGAL SERVICES



# Free, Civil Legal Helpline

1-844-HELP4TN

Operated by Tennessee Alliance for Legal Services

Provide free civil, legal advice to over 5,000 Tennesseans every year

Provide free civil, legal advice to over 2,000 Tennesseans age 60+ every year

Questions?



# Contact Information

Laura Brown

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[Lbrown@tals.org](mailto:Lbrown@tals.org)