Mandatory Reporting Requirements: The Elderly North Carolina

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Question	Answer
Who is required to report?	• Any person. • Any financial institution, or officer or employee thereof (with respect to financial exploitation).
When is a report required and where does it go?	**When is a report required?** • Reasonable cause to believe that a disabled adult is in need of protective services. • Reasonable cause to believe that a disabled adult or older adult is the victim or target of financial exploitation (with respect to financial exploitation). **Where does it go?** • The director of the county department of social services in the county in which the person resides or is present (available at: https://www.ncdhhs.gov/divisions/social-services/local-dss-directory). • In the case of financial exploitation, in addition to the director as described above, the appropriate local law enforcement agency or persons on the list provided pursuant to. [G.S. 108A-114]() (i.e. a list of persons that the disabled adult or older adult customer would like the financial institution to contact in case of suspected financial exploitation of the disabled adult or older adult customer).
What definitions are important to know?	• **"Abuse"** means the willful infliction of physical pain, injury or mental anguish, unreasonable confinement, or the willful deprivation by a caretaker of services which are necessary to maintain mental and physical health. • **"Caretaker"** means an individual who has the responsibility for the care of the disabled adult as a result of family relationship or who has assumed the responsibility for the care of the disabled adult voluntarily or by contract. • "**Customer**" means a person who is a present or former holder of an account with a financial institution. • "**Director**" shall mean the director of the county department of social services in the county in which the person resides or is present, or his representative as authorized in [G.S. 108A-14](). • **"Disabled adult"** means any person 18 years of age or older, or any lawfully emancipated minor, who is present in North Carolina and who is physically or mentally incapacitated due to an intellectual disability, cerebral palsy, epilepsy, or autism; organic brain damage caused by advanced age or other physical degeneration in connection therewith; or due to conditions incurred at any age which are the result of accident, organic brain damage, mental or physical illness, or continued consumption or absorption of substances. • A "**disabled adult**" is **"in need of protective services"** if that person, due to physical or mental incapacity, is unable to perform or obtain for himself "essential services" and if that person is without able,

responsible, and willing persons to perform or obtain for his "essential services."

- "**Emergency**" refers to a situation where (i) the disabled adult is in substantial danger of death or irreparable harm if protective services are not provided immediately, (ii) the disabled adult is unable to consent to services, (iii) no responsible, able, or willing caretaker is available to consent to emergency services, and (iv) there is insufficient time to utilize procedure provided in G.S. 108A-105.
- "**Emergency services**" refer to those services necessary to maintain the person's vital functions and without which there is reasonable belief that the person would suffer irreparable harm or death. This may include taking physical custody of the disabled person.
- **"Essential services"** means those social, medical, psychiatric, psychological or legal services necessary to safeguard the disabled adult's rights and resources and to maintain the physical or mental well-being of the individual. These services shall include, but not be limited to, the provision of medical care for physical and mental health needs, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from physical mistreatment, and protection from exploitation. The words "essential services" shall not include taking the person into physical custody without his consent except as provided for in G.S. 108A-106 and in Chapter 122C of the General Statutes.
- **"Exploitation"** means the illegal or improper use of a disabled adult or his resources for another's profit or advantage.
- "**Indigent**" means a person who is financially unable to secure legal representation and to provide all other necessary expenses of representation in certain actions or proceedings.
- **"Financial exploitation"** means the illegal or improper use of a disabled adult's or older adult's financial resources for another's profit or pecuniary advantage.
- "**Financial institution**" means a banking corporation, trust company, savings and loan association, credit union, or other entity principally engaged in lending money or receiving or soliciting money on deposit.
- "**Lacks the capacity to consent**" shall mean lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person, including but not limited to provisions for health or mental health care, food, clothing, or shelter, because of physical or mental incapacity. This may be reasonably determined by the director or he may seek a physician's or psychologist's assistance in making this determination.
- **"Neglect"** means a disabled adult who is either living alone and not able to provide for himself or herself the services which are necessary to maintain the person's mental or physical health or is not receiving services from the person's caretaker. A person is not receiving services from his caretaker if, among other things and not by way of limitation, the person is a resident of a State-owned facility and the person is, in the opinion of the professional staff of that State-owned facility, mentally incompetent to give consent to medical treatment, the person has no legal guardian, and the person needs medical treatment.
- **"Older adult"** means an individual 65 years of age or older.
- **"Protective services"** means services provided by the State or other government or private organizations or individuals which are necessary to protect the disabled adult from abuse, neglect or exploitation. They shall consist of evaluation of the need for service and mobilization of essential services on behalf of the disabled adult.

What timing and procedural requirements apply to reports?	• Timing not specified for reporting a disabled adult is in need of protective services. Reports may be made orally or in writing. • With respect to financial exploitation, timing not specified. Reports may be made orally or in writing.
What information must a report include?	With respect to reporting that a disabled adult is in need of protective services: • The name and address of the disabled adult; • The name and address of the disabled adult's caretaker; • The age of the disabled adult; • The nature and extent of the disabled adult's injury or condition resulting from abuse or neglect; and • Any other "pertinent information." With respect to financial exploitation: • The name and address of the disabled or older adult; • The nature of suspected financial exploitation; and • Any other "pertinent information."
Anything else I should know?	• Anyone who makes a report pursuant to the mandatory reporting statute concerning disabled adults, who testifies in any judicial proceeding arising from the report, or who participates in a required evaluation shall be immune from any civil or criminal liability on account of such report or testimony or participation, unless such person acted in bad faith or with a malicious purpose. • Upon finding evidence indicating that a person has abused, neglected, or exploited a disabled adult, the director shall notify the district attorney. • No financial institution, or officer or employee thereof, who acts in good faith in making a report of financial exploitation, may be held liable in any action for doing so.
Statutory citation(s):	N.C. Gen. Stat. §§ 108A-101, 108A-102 and 108A-109 (Protection of the Abused, Neglected or Exploited Disabled Adult Act); §§ 108A-113 and 108A-115 (Protection of Disabled and Older Adults from Financial Exploitation).