

Mandatory Reporting Requirements: The Elderly Delaware

Last Updated: April 2023

Question	Answer
Who is required to report?	<ul style="list-style-type: none"> • Any person.
When is a report required and where does it go?	<p>When is a report required?</p> <ul style="list-style-type: none"> • Reasonable cause to believe that an adult person is impaired or incapacitated and is in need of protective services. • For employees of financial institutions with direct contact with an elderly person: reasonable cause to believe that such elderly person who is an account holder may be subject to past, current or attempted financial exploitation. Such employee shall follow any internal written policy, program, plan or procedure adopted by the financial institution for the purpose of establishing protocols for the reporting of past, current or attempted financial exploitation, which shall require written reporting to the Department, in the format published by the Department, by the earlier of the date on which the financial institution completes its investigation or 5 business days after the bank identifies a suspicious transaction pursuant to the policies, programs, plans or procedures adopted by the financial. Such policies, programs, plans or procedures may, in addition, allow reporting to agencies such as the Delaware Department of Justice or the Federal Trade Commission. In addition, said institution shall be empowered to place a hold on a proposed transaction for a period of 10 business days following the filing of the report. The proposed transaction can be held another 30 business days at the request of an investigating federal or state agency or if the financial institution has not heard from either the Department or the Delaware Department of Justice, or the financial institution may seek injunctive relief from a court of competent jurisdiction. <p>Where does it go?</p> <ul style="list-style-type: none"> • Reports regarding an incident in which a vulnerable adult who does not live in a licensed long term care facility is believed to be abandoned, abused, exploited, neglected or have neglected his or her own care needs should be made to Adult Protective Services by calling the Aging and Disability Resource Center at 1-800-223-9074. • Financial institutions may report suspected financial exploitation using the Report of Suspected Financial Exploitation form available at: https://dhss.delaware.gov/dhss/dsaapd/files/financial_exploitation_report.docx • To report a case of suspected abuse, neglect or exploitation of a resident of a long term care facility (for example, a nursing home or assisted living facility), contact the Division of Health Care Quality at

	<p>1-877-453-0012.</p> <ul style="list-style-type: none"> • Reports of suspected abuse, neglect or exploitation of a resident of a long-term care facility can also be made via an online complaint form here. (https://dhss.delaware.gov/dhss/dhcq/mailform.html) • Alternative contact information for each county can be located at http://www.dhss.delaware.gov/dhss/dltcrp/contact.html.
<p>What definitions are important to know?</p>	<ul style="list-style-type: none"> • “Abuse” means: <ul style="list-style-type: none"> • (a) physical abuse by unnecessarily inflicting pain or injury on an adult who is impaired; or • (b) a pattern of emotional abuse, which includes, but is not limited to, ridiculing or demeaning an adult who is impaired, making derogatory remarks to an adult who is impaired, or cursing or threatening to inflict physical or emotional harm on an adult who is impaired. • “Adult who is impaired” means any person 18 years of age or over who, because of physical or mental disability, is substantially impaired in the ability to provide adequately for the person’s own care and custody. • “Alleged victim” means any adult who is impaired, incapacitated, elderly or vulnerable that may have been abused, neglected or exploited based on a report to Adult Protective Services. • “Caregiver” means any adult who has assumed the permanent or temporary care, custody or responsibility for the supervision of an adult who is impaired. • “Department” means the Department of Health and Social Services of the State. • “Elderly person” means any person who is 62 years of age or older. • “Exploitation” means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another. • “Mistreatment” means the failure to provide appropriate physical or emotional care to an adult who is impaired, including the inappropriate use of medications, isolation or physical or chemical restraints on or of an adult who is impaired. • “Neglect” means: <ul style="list-style-type: none"> • Lack of attention by a caregiver to physical needs of an adult who is impaired including but not limited to toileting, bathing, meals and safety; • Failure by a caregiver to carry out a treatment plan prescribed by a health care professional for an adult who is impaired; or • Intentional and permanent abandonment or desertion in any place of an adult who is impaired by a caregiver who does not make reasonable efforts to ensure that essential services will be provided for said adult who is impaired. • “Person who is incapacitated” means a person for whom a guardian of person or property, or both, is appointed. • “Vulnerable Adult” means a person 18 years of age or older who, by reason of isolation, sickness, debilitation, mental illness or physical, mental or cognitive disability, is easily susceptible to abuse, neglect, mistreatment, intimidation, manipulation, coercion or exploitation. Without limitation, the term “vulnerable adult” includes any adult for whom a guardian or the person or property has been appointed.

<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> • Not specified in statute. • The Adult Protective Service (APS) website states that reports should be made to Adult Protective Services within 24 hours by calling the Aging and Disability Resource Center at 1-800-223-9074. See https://dhss.delaware.gov/dhss/dsaapd/aps.html. • Financial institutions can report suspected financial exploitation using this Form (https://dhss.delaware.gov/dhss/dsaapd/files/financial_exploitation_report.docx) which should be emailed to DelawareADRC@state.de.us and IPU.seniorprotection@state.de.us with the subject line ATTENTION: Suspected Financial Exploitation.
<p>What information must a report include?</p>	<ul style="list-style-type: none"> • Not specified in statute.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • Any person or entity participating in good faith in reporting or holding or not holding a transaction pursuant to this chapter shall have immunity from any liability, civil, administrative, or criminal that might otherwise exist as a result of reporting or holding or not holding the transaction. • Protective services include, but are not limited to: <ul style="list-style-type: none"> • Preliminary investigation and evaluation of reports of adults needing protective services, including a comprehensive social evaluation. • Medical and psychiatric evaluation, if necessary. • Social casework for the purpose of planning and providing services needed by the adult alleged victim. • Maintenance of the person in the person's own home through provision of personal care, attendant and adult day services. • Assistance in obtaining out-of-home services such as respite care, emergency housing and placement in a long-term care facility. • Referral for legal assistance, information on establishing power of attorney or representative payee arrangements and on guardianship of person or property; referral to the Office of Public Guardian; referral for medical assistance. • Transportation to and from service providers, if necessary. • Any person or entity participating in good faith in reporting or holding or not holding a transaction pursuant to the reporting requirements shall have immunity from any liability, civil, administrative, or criminal that might otherwise exist as a result of reporting or holding or not holding the transaction. • Unless a hold is requested by the Department or the Delaware Department of Justice, a financial institution is not required to hold a transaction when provided with information alleging that financial exploitation may have occurred, may have been attempted, or is being attempted, but may use its discretion to determine whether or not to refuse to hold a transaction based on the information available to the financial institution. • A financial institution may provide access to or copies of records that are relevant to suspected financial exploitation or attempted financial exploitation of an elderly person or vulnerable adult to the Department, law enforcement, or the prosecuting attorney's office, either as part of a referral to the Department, law enforcement, or the prosecuting attorney's office, or upon request of the Department, law enforcement, or

	<p>the prosecuting attorney's office pursuant to an investigation. The records may include historical records as well as records relating to the most recent transaction or transactions that may comprise financial exploitation, not to exceed 30 calendar days prior to the first transaction that was reported or 30 calendar days after the last transaction that was reported.</p> <ul style="list-style-type: none">• Any person who commits, or attempts to commit, any of the crimes or offenses set forth in Del. Code Ann, tit. 11, § 1105(f) against a person who is a vulnerable adult is guilty of a crime against a vulnerable adult.• A crime against a vulnerable adult shall be punished as follows: (1) if the underlying offense is an unclassified misdemeanor, or a class B misdemeanor, the crime against a vulnerable adult shall be a class A misdemeanor; (2) if the underlying offense is a class A misdemeanor, the crime against a vulnerable adult shall be a class G felony; (3) if the underlying offense is a class D, E, F, or G felony, the crime against a vulnerable adult shall be 1 class higher than the underlying offense.
Statutory citation(s):	Del. Code Ann. tit. 11, §§ 222, 1105; tit. 31 §§ 3902, 3904, 3910.