

# Mandatory Reporting Requirements: The Elderly Texas

*Last Updated: April 2023*

Question	Answer
Who is required to report?	<ul style="list-style-type: none"> <li>• Any person who believes that an adult who is elderly or disabled is in a state of abuse, neglect, or financial exploitation is required to immediately report to the Texas Department of Family and Protective Services.</li> <li>• Any professional who suspects that an adult aged 65 or older, or a person with disabilities, is being abused, neglected, or financially exploited has a legal obligation to report it.</li> <li>• Employees of financial institutions and financial institutions.</li> <li>• Securities professionals or persons serving in a legal capacity for a dealer or investment adviser, dealers and investment advisers.</li> </ul>
When is a report required and where does it go?	<p><b>When is a report required?</b></p> <ul style="list-style-type: none"> <li>• If any person has cause to believe that an elderly or disabled person or a person receiving services from a Provider is in the state of abuse, neglect or exploitation.</li> <li>• If an employee of a financial institution has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the financial institution has occurred, is occurring, or has been attempted.</li> <li>• If a financial institution is notified of suspected financial exploitation or has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the financial institution has occurred, is occurring, or has been attempted.</li> <li>• If a securities professional or a person serving in a legal capacity for a dealer or investment adviser has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the dealer or investment adviser has occurred, is occurring, or has been attempted.</li> <li>• If a dealer or investment adviser is notified of suspected financial exploitation or has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the dealer or investment adviser has occurred, is occurring or has been attempted.</li> </ul> <p><b>Where does it go?</b></p> <ul style="list-style-type: none"> <li>• The Texas Department of Family and Protective Services by telephone at 1-800-252-5400 or online at: <a href="https://www.txabusehotline.org">https://www.txabusehotline.org</a>, or in the case of any abuse, neglect or exploitation in a facility operated, licensed, certified or registered by a state agency other than the Texas Department of Mental Health and Mental Retardation, the person must report to the state agency that operates, licenses, certifies or registers the facility for investigation by that agency.</li> <li>• If you are deaf, deaf-blind, hard of hearing, or speech-disabled, you can call by using the relay service of your choice or by using Relay Texas at 7-1-1. Tell the relay operator to call the Texas Abuse Hotline at (800) 252-5400.</li> </ul>

	<ul style="list-style-type: none"> <li>• If the victim is in a nursing home or assisted living facility, or is in his or her home and relies on a home health provider, call the Texas Department of State Health Services at (1-800-458-9858).</li> <li>• Employees of financial institutions shall notify the financial institution of the suspected financial exploitation.</li> <li>• Financial institutions shall assess the suspected financial exploitation and submit a report to the Texas Department of Family and Protective Services.</li> <li>• Securities professionals or persons serving in a legal capacity for a dealer or investment adviser shall notify the dealer or investment adviser of the suspected financial exploitation.</li> <li>• Dealers or investment advisers shall assess the suspected financial exploitation and submit a report to the securities commissioner and the Texas Department of Family and Protective Services.</li> </ul>
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<p>What definitions are important to know?</p>	<ul style="list-style-type: none"> <li>• <b>“Abuse”</b> means: <ul style="list-style-type: none"> <li>• The negligent or willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical or emotional harm or pain to an elderly or disabled person by the person’s caretaker, family member, or other individual who has an ongoing relationship with the person; or</li> <li>• sexual abuse of an elderly or disabled person, including any involuntary or nonconsensual sexual conduct that would constitute indecent exposure or an assaultive offense, committed by the person’s caretaker, family member, or other individual who has an ongoing relationship with the person.</li> </ul> </li> <li>• <b>“Elderly person”</b> means a person 65 years of age or older.</li> <li>• <b>“Exploitation”</b> means the illegal or improper act or process of a caretaker, family member, or other individual who has an ongoing relationship with an elderly or disabled person that involves using, or attempting to use, the resources of the elderly or disabled person, including the person’s social security number or other identifying information, for monetary or personal benefit, profit, or gain without the informed consent of the elderly or disabled person. <ul style="list-style-type: none"> <li>• In the context of financial exploitation, <b>“Exploitation”</b> means the act of forcing, compelling, or exerting undue influence over a person causing the person to act in a way that is inconsistent with the person’s relevant past behavior or causing the person to perform services for the benefit of another person.</li> </ul> </li> <li>• <b>“Financial exploitation”</b> means: (A) the wrongful or unauthorized taking, withholding, appropriation, or use of the money, assets, or other property or the identifying information of a person; or (B) an act or omission by a person, including through the use of a power of attorney on behalf of, or as the conservator or guardian of, another person, to: (i) obtain control, through deception, intimidation, fraud, or undue influence, over the other person’s money, assets, or other property to deprive the other person of the ownership, use, benefit, or possession of the property; or (ii) convert the money, assets, or other property of the other person to deprive the other person of the ownership, use, benefit, or possession of the property.</li> <li>• <b>“Financial institution”</b> means a state or national bank, state or federal savings and loan association, state or federal savings bank, or state or federal credit union doing business in Texas.</li> <li>• <b>“Neglect”</b> means the failure to provide for one’s self the goods or services, including medical services, which are necessary to avoid physical or emotional harm or pain or the failure of a caretaker to provide such goods or services.</li> </ul>
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	<ul style="list-style-type: none"> <li>• <b>“Person with a disability” or “Disabled person”</b> means a person with a mental, physical, intellectual or developmental disability that substantially impairs the person’s ability to provide adequately for the person’s care or protection and who (1) is 18 years of age or older or (2) is a person under 18 who has had the disabilities of minority removed.</li> <li>• <b>“Provider”</b> means: <ul style="list-style-type: none"> <li>• a facility;</li> <li>• a community center, local mental health authority, and local intellectual and developmental disability authority;</li> <li>• a person who contracts with a health and human services agency or managed care organization to provide home and community-based services;</li> <li>• a person who contracts with a Medicaid managed care organization to provide behavioral health services;</li> <li>• a managed care organization;</li> <li>• an officer, employee, agent, contractor, or subcontractor of the foregoing; and</li> <li>• an employee, fiscal agent, case manager, or service coordinator of an individual employer participating in the consumer-directed service option.</li> </ul> </li> <li>• <b>“Securities professional”</b> means an agent, an investment adviser representative, or a person who serves in a supervisory or compliance capacity for a dealer or investment adviser.</li> <li>• <b>“Vulnerable Adult”</b> means: (A) an elderly person or (B) a person with a disability.</li> </ul>
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> <li>• Reports are to be made immediately and can be made orally or in writing.</li> <li>• Financial institutions must submit their reports not later than the earlier of: (1) the date the financial institution completes the financial institution’s assessment of the suspected financial exploitation; or (2) the fifth business day after the date the financial institution is notified of the suspected financial exploitation or otherwise has cause to believe that the suspected financial exploitation has occurred, is occurring, or has been attempted.</li> <li>• Dealers and investment advisers must submit their reports not later than the earlier of: (1) the date the dealer or investment adviser completes the dealer’s or investment adviser’s assessment of the suspected financial exploitation; or (2) the fifth business day after the date the dealer or investment adviser is notified of the suspected financial exploitation or otherwise has cause to believe that the suspected financial exploitation has occurred, is occurring, or has been attempted.</li> </ul>
<p>What information must a report include?</p>	<ul style="list-style-type: none"> <li>• The name, age and address of the elderly or disabled person;</li> <li>• The name and address of any person responsible for the elderly or disabled person’s care;</li> <li>• The nature and extent of the elderly or disabled person’s condition;</li> <li>• The basis of the reporter’s knowledge; and</li> <li>• Any other relevant information.</li> </ul>
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> <li>• Knowingly failing to report is a Class A misdemeanor if the person has cause to believe that an elderly or disabled person has been abused, neglected or exploited or is in the state of abuse, neglect or exploitation. A Class A misdemeanor is punishable by a fine not to exceed \$4,000, confinement in jail for a term not to exceed 1 year, or both. The offense becomes a state jail felony, punishable by a fine not to exceed \$10,000, confinement in jail for a term of not more than two years or less than 180 days, or both,</li> </ul>

if it is shown on the trial of the offense that the disabled person was a person with an intellectual disability who resided in a state supported living center, the ICF-IID component of the Rio Grande State Center, or a facility licensed under Chapter 252, Health and Safety Code, and the actor knew that the disabled person had suffered serious bodily injury as a result of the abuse, neglect, or exploitation.

- It is a Class A misdemeanor to knowingly or intentionally report information that the person knows is false or lacks factual foundation.
- A person filing a report or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose. A person, including an authorized department volunteer, medical personnel, or law enforcement officer, who at the request of the Department of Family and Protective Services participates in an investigation or in an action that results from that investigation is immune from civil or criminal liability for any act or omission relating to that participation if the person acted in good faith and, if applicable, in the course and scope of the person's assigned responsibilities or duties. A person who reports the person's own abuse, neglect, or exploitation of another person or who acts in bad faith or with malicious purpose in reporting alleged abuse, neglect, or exploitation is not immune from civil or criminal liability. An employer whose employee acts under the mandatory reporting laws is immune from civil or criminal liability on account of an employee's report, testimony, or participation in any judicial proceedings arising from a petition, report, or investigation, but this does not apply to an employer who is the subject of an investigation.
  - In raising statutory immunity as an affirmative defense, defendant had the burden of showing that he was not acting "in bad faith or with a malicious purpose"—i.e., in good faith—when he made his report of elder abuse. (*Scarborough v. Purser*, No. 03-13-00025-CV, 2016 WL 7583546, at \*7 (Tex. App. Dec. 30, 2016), review denied (July 14, 2017))
- The requirement to report applies without exception to a person whose knowledge concerning possible abuse, neglect, or exploitation is obtained during the scope of the person's employment or whose professional communications are generally confidential, including an attorney, clergy member, medical practitioner, mental health professional, social worker, employee, or member of a licensing board or certification board.
- Special rules apply to assisted living facilities and similar institutions. Any person, including an owner or employee of a facility, who has cause to believe that the physical or mental health or welfare of a resident has been or may be adversely affected by abuse, neglect or exploitation caused by another person shall report. Each facility shall require each employee, as a condition of employment, to sign a statement that the employee realizes that the employee may be criminally liable for failure to report abuse. A person shall make an oral report immediately on learning of the abuse, neglect, or exploitation and shall make a written report to the department not later than the fifth day after the oral report is made.
- A financial institution that submits a report to the Texas Department of Family and Protective Services of suspected financial exploitation of a vulnerable adult under Tex. Fin. § 281.002(b) is not required to make an additional report of suspected abuse, neglect or exploitation under Tex. Hum. Res. Code § 48.501 for the same conduct constituting the reported suspected financial exploitation.
- If a financial institution submits a report of suspected financial exploitation of a vulnerable adult to the

Texas Department of Family and Protective Services, the financial institution may at the time the financial institution submits the report also notify a third party reasonably associated with the vulnerable adult of the suspected financial exploitation, unless the financial institution suspects the third party of financial exploitation of the vulnerable adult.

- An employee of a financial institution who makes a notification, a financial institution that submits a report or makes a notification to a third party, or an employee who or financial institution that testifies or otherwise participates in a judicial proceeding arising from a notification or report is immune from any civil or criminal liability arising from the notification, report, testimony, or participation in the judicial proceeding, unless the employee or financial institution acted in bad faith or with a malicious purpose.
- A financial institution, a dealer, or an investment adviser that in good faith and with the exercise of reasonable care places or does not place a hold on any transaction in cases of suspected financial exploitation of vulnerable adults is immune from any civil or criminal liability or disciplinary action resulting from that action or failure to act.
- A dealer or investment adviser who submits a report to the Texas Department of Family and Protective Services of suspected financial exploitation of a vulnerable adult under V.T.C.A., Government Code § 4004.351(b) is not required to make an additional report of suspected abuse, neglect, or exploitation under Tex. Hum. Res. Code § 48.501 for the same conduct constituting the reported suspected financial exploitation.
- If a dealer or investment adviser submits reports of suspected financial exploitation of a vulnerable adult to the securities commissioner and the Texas Department of Family and Protective Services, the dealer or investment adviser may at the time the dealer or investment adviser submits the reports also notify a third party reasonably associated with the vulnerable adult of the suspected financial exploitation, unless the dealer or investment adviser suspects the third party of financial exploitation of the vulnerable adult.
- A securities professional or person serving in a legal capacity for a dealer or investment adviser who makes a notification, a dealer or investment adviser that submits a report or makes a notification to a third party, or a securities professional or person serving in a legal capacity who or dealer or investment adviser that testifies or otherwise participates in a judicial proceeding arising from a notification or report is immune from any civil or criminal liability arising from the notification, report, testimony, or participation in the judicial proceeding, unless the securities professional, person serving in a legal capacity for the dealer or investment adviser, or dealer or investment adviser acted in bad faith or with a malicious purpose.

Statutory citation(s):

Tex. Hum. Res. Code §§ 48.002, 48.051, 48.052, 48.053, 48.054, 48.251; Tex. Health and Safety Code § 260A.002; Tex. Penal Code §§ 12.21, 12.35; V.T.C.A., Finance Code §§ 277.001, 281.001, 281.002, 281.003, 281.005; V.T.C.A., Government Code §§ 4004.351, 4004.352, 4004.354, 4004.356.