

ELDER  
AND  
ADULTS WITH DISABILITIES

ABUSE  
AND  
FINANCIAL EXPLOITATION

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SOUTH DAKOTA ASSOCIATION  
OF HEALTHCARE  
ORGANIZATIONS

APRIL 24, 2019

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PRESENTED BY:  
Office of South Dakota  
Attorney General Jason Ravnsborg  
And  
The Division of Criminal Investigation



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### What counts as abuse?

IT TAKES MANY FORMS SUCH AS:

- 1. PHYSICAL,
- 2. EMOTIONAL OR PSYCHOLOGICAL, AND
- 3. FINANCIAL




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### Physical Abuse

The legislature amended SDCL 22-46-1 to define Physical Abuse as:

Physical harm, bodily injury, attempt to cause physical harm or injury, or fear of imminent physical harm or bodily injury.

(Class 6 Felony)




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### Emotional or Psychological Abuse

The legislature created a new crime under SDCL 22-46-1 called Emotional or Psychological Abuse. (Class 1 Misdemeanor)

It requires a caretaker's willful, malicious, and **repeated** infliction of one of the following four:




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Emotional or Psychological Abuse  
cont.

1. A SEXUAL ACT OR THE SIMULATION OF A SEXUAL ACT  
DIRECTED AT AND WITHOUT THE CONSENT OF THE ELDER  
OR ADULT WITH A DISABILITY  
THAT INVOLVES NUDITY OR IS OBSCENE;



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Emotional or Psychological Abuse  
cont.

2. UNREASONABLE CONFINEMENT;



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Emotional or Psychological Abuse  
cont.

3. HARM, DAMAGE, OR DESTRUCTION OF THE  
PROPERTY OF AN ELDER OR ADULT WITH A DISABILITY,  
INCLUDING HARM TO OR DESTRUCTION OF PETS;



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### Emotional or Psychological Abuse cont.

4. RIDICULING OR DEMEANING CONDUCT, DEROGATORY  
REMARKS, VERBAL HARASSMENT, OR THREATS TO INFLICT  
PHYSICAL OR EMOTIONAL AND PSYCHOLOGICAL ABUSE,  
DIRECTED AT AN ELDER OR ADULT WITH A DISABILITY



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### Financial Exploitation

Any person who, having assumed the duty voluntarily,  
by written contract, by receipt for payment of care,  
or by order of the court to provide support for an elder  
or adult with a disability, and is entrusted with the  
property of the elder, with intent to defraud, uses the  
property not in the lawful execution of that trust is  
guilty of theft by exploitation.



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### Financial Exploitation cont.

We may also prosecute under:

- SDCL 22-30A-17 – Theft, or
- SDCL 22-30A-10 – Embezzlement of Property  
Received in Trust.



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### Civil Remedies

An entirely new Chapter was added to the SDCL in 2016 to address abuse of vulnerable adults.

SDCL 21-65



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### Civil Remedies

A vulnerable adult or substitute petitioner may seek relief from the Circuit Court in the form of a protection order.



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### Civil Remedies

- Vulnerable Adult – a person 65 years of age or older, unable to protect self, or adult with a disability
- Substitute Petitioner – family or house hold member, guardian, conservator, attorney in fact, guardian ad litem, or other interest person



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### Civil Remedies

Forms to be used for a Vulnerable Adult Protection order can be found at:

<http://ujs.sd.gov/Forms/vulnerableadultpo.aspx>



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### Difficult Cases

- Perpetrator often a family member
- Underreporting as victims feel shame
- Concern that exposure will lead to loss of independence
- Sometimes accompanied by threats from perpetrator
- Long lasting for everyone involved



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IF YOU SUSPECT ELDER ABUSE OR FINANCIAL EXPLOITATION

**REPORT IT!**



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### Who do You Call to Report Abuse?

- Call the local Police or Sheriff – Law enforcement officers must evaluate the case!
- Call the Department of Human Services Division of Long Term Services and Supports - Dakota at Home (dakotaathome.org)
- Call the State's Attorney for your county




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### What Will They Do About The Abuse?

Law Enforcement officers, the Department of Human Services, and local State's Attorneys

**MUST**

report allegations of Elder Abuse to the Office of the Attorney General.




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### What Will They Do About The Abuse?

In accordance with SDCL 22-46-5, the South Dakota Attorney General's Office is the repository for reports of abuse, neglect, or exploitation of the elderly or adults with disabilities.

It is our mission to assist local and federal law enforcement agencies, County State Attorneys and the South Dakota Department of Human Services with tracking, investigating and prosecuting of qualifying cases.




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### Who do You Call to Report Abuse?

SDCL 22-46-7 Report of abuse, neglect, or exploitation

- A report of abuse, neglect, or exploitation under this chapter may be made orally or in writing to the state's attorney of the county in which the elder or disabled adult resides or is present, to the Department of Human Services, or to the law enforcement officer.
- The state's attorney or law enforcement officer, upon receiving a report, shall immediately notify the Department of Human Services.




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### Who do You Call to Report Abuse?

South Dakota Department of Human Services (DHS)  
Long Term Services and Supports (LTSS)



[dakotaathome.org](http://dakotaathome.org)

1-833-663-9673




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### Who do You Call to Report Abuse?

#### OMBUDSMAN PROGRAM

Long-Term Care Ombudsman promote a person-centered approach putting the individual at the heart of all care decisions and gives them a voice.

Area Ombudsmen receive, investigate and seek to resolve complaints from, or on behalf of, residents of long-term care and residential facilities.



Phone: 1.866.854.5465

Email: [LTCO@state.sd.us](mailto:LTCO@state.sd.us)

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### Who do You Call to Report Abuse?

#### FACILITIES COVERED BY THE OMBUDSMAN PROGRAM

- Nursing Facilities
- Assisted Living Facilities
- Licensed Adult Foster Care Homes
- Private Pay Board and Care Homes
- Homes Registered through the Department of Health
- Pierce Unit at the Human Services Center




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### Who do You Call to Report Abuse?

#### South Dakota Department of Health

Complaint Coordinator  
 Office of Health Care Facilities Licensure & Certification  
 615 E. 4th St.  
 Pierre, SD 57501  
 Phone: 605-367-7499 or 605-367-4640  
 Fax: 1-866-539-3886  
 Email: DOHOLCcomplaint@state.sd.us




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### Everyone's Opportunity

- Abusers look at the elderly and disabled as victims of opportunity because very few people will ever know of the abuse
- This creates an opportunity for people who recognize Elder Abuse and Financial Exploitation to STOP THE ABUSE!
- Make the report and help protect the Elderly and Disabled




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Elder and Adults with Disabilities  
Abuse and Financial Exploitation  
Investigation Unit

Brett Spencer  
Special Agent  
South Dakota Attorney General  
Division of Criminal Investigation



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