

Mandatory Reporting Requirements: The Elderly Iowa

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Question	Answer
Who is required to report?	<p>Any person who, in the course of employment, examines, attends, counsels, or treats a dependent adult, including the following:</p> <ul style="list-style-type: none"> • A member of the staff of a community mental health center; • A peace officer; • An in-home homemaker-home health aide; • An individual employed as an outreach person; • A health practitioner, as regulated by the state; • A member of the staff or an employee of a supported community living service, sheltered workshop, or work activity center; • A social worker; and • A certified psychologist. <p>Note: Statute does not seem to require a report for abuse of an "elder" but provides a procedure on how to commence an action seeking relief from elder abuse. (See "Anything Else I Should Know?")</p>
When is a report required and where does it go?	<p>When is a report required?</p> <ul style="list-style-type: none"> • When there is reasonable belief that a dependent adult has suffered abuse. <p>Where does it go?</p> <ul style="list-style-type: none"> • Report should be made to the Department of Human Services (1-800-362-2178). • If a staff member or employee is required to report, the person shall also immediately notify the person in charge or that person's designated agent.
What definitions are important to know?	<ul style="list-style-type: none"> • "Caretaker" means a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court. • "Coercion" means communication or conduct which unduly compels a vulnerable elder to act or refrain from acting against the vulnerable elder's will and against the vulnerable elder's best interests. • "Dependent adult" means a person 18 years of age or older who is unable to protect his or her own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another, or as defined by departmental rule. • "Dependent adult abuse" means:

- Any of the following as a result of the willful or negligent acts or omissions of a caretaker:
 - Physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult.
 - The commission of a sexual offense with or against a dependent adult.
 - Exploitation of a dependent adult which means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources for one's own personal or pecuniary profit, without the informed consent of the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.
 - The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health.
- The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult;
- Sexual exploitation of a dependent adult by a caretaker; or
- Personal degradation of a dependent adult by a caretaker.

“**Dependent adult abuse**” does not include any of the following:

- “**Financial exploitation**” relative to a vulnerable elder means when a person stands in a position of trust or confidence with the vulnerable elder and knowingly and by undue influence, deception, coercion, fraud, or extortion, obtains control over or otherwise uses or diverts the benefits, property, resources, belongings, or assets of the vulnerable elder.
- Elder abuse does not include any of the following:
 - Circumstances in which the vulnerable elder declines medical treatment if the vulnerable elder holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
 - Circumstances in which the vulnerable elder's caretaker, acting in accordance with the vulnerable elder's stated or implied consent, declines medical treatment if the vulnerable elder holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
 - The withholding or withdrawing of health care from a vulnerable elder who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the vulnerable elder or at the request of the vulnerable elder's next of kin, attorney in fact, or guardian pursuant to the applicable procedures under chapter 125, 144A, 144B, 222, 229, or 633.
 - Good faith assistance by a family or household member or other person in managing the financial affairs of a vulnerable elder at the request of the vulnerable elder or at the request of a family member, guardian, or conservator of the vulnerable elder.
- “**Elder abuse**” means any of the following:
 - Physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a vulnerable elder by a person

not otherwise governed by chapter 235E.

- The commission of a sexual offense under chapter 709 (sexual abuse) or section 726.2 (incest) with or against a vulnerable elder.
- Neglect which is the deprivation of the minimum food, shelter, clothing, supervision, or physical or mental health care, or other care necessary to maintain a vulnerable elder's life or health by a caretaker.
- Financial exploitation.
 - Circumstances in which the dependent adult declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment;
 - Circumstances in which the dependent adult's caretaker, acting in accordance with the dependent adult's stated or implied consent, declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment; or
 - The withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next of kin, attorney in fact, or guardian.
- **“Personal degradation”** means a willful act or statement by a caretaker intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a dependent adult, or where the caretaker knew or reasonably should have known the act or statement would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. “Personal degradation” includes the taking, transmission, or display of an electronic image of a dependent adult by a caretaker, where the caretaker's actions constitute a willful act or statement intended to shame, degrade, humiliate, or otherwise harm the personal dignity of the dependent adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person.
- **“Sexual exploitation”** means any consensual or nonconsensual sexual conduct with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act.
 - Includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation, or investigation. Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.
- **“Stands in a position of trust or confidence”** means the person has any of the following relationships relative to the vulnerable elder:
 - Is a parent, spouse, adult child, or other relative by consanguinity or affinity of the vulnerable elder.
 - Is a caretaker for the vulnerable elder.

	<ul style="list-style-type: none"> • Is a person who is in a confidential relationship with the vulnerable elder. <ul style="list-style-type: none"> • A confidential relationship does not include a legal, fiduciary, or ordinary commercial or transactional relationship the vulnerable elder may have with a bank incorporated under the provisions of any state or federal law, any savings and loan association or savings bank incorporated under the provisions of any state or federal law, any credit union organized under the provisions of any state or federal law, any attorney licensed to practice law in this state, or any agent, agency, or company regulated under chapter 505, 508, 515, or 543B. • “Substitute petitioner” means a family or household member, guardian, conservator, attorney in fact, or guardian ad litem for a vulnerable elder, or other interested person who files a petition under this chapter. • “Undue influence” means taking advantage of a person's role, relationship, or authority to improperly change or obtain control over the actions or decision making of a vulnerable elder against the vulnerable elder's best interests. • “Vulnerable elder” means a person 60 years of age or older who is unable to protect himself or herself from elder abuse as a result of a mental or physical condition or because of a personal circumstance which results in an increased risk of harm to the person.
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> • Must report immediately.
<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"> • An employee of a financial institution may report suspected financial exploitation of a dependent adult to the Department of Human Services. • Any other person who believes that a dependent adult has suffered abuse may report the suspected abuse to the Department of Human Services. • A person required to report a suspected case of dependent adult abuse who knowingly and willfully fails to do so commits a simple misdemeanor. A person required to report a suspected case of dependent adult abuse who knowingly fails to do so, or who knowingly interferes with the making of such a report, or applies a requirement that results in such a failure is civilly liable for the damages proximately caused by the failure. • A person participating in good faith in reporting a case of dependent adult abuse has immunity from liability, civil, or criminal, which might otherwise be incurred or imposed based upon the act of making the report. The same person also has immunity with respect to participating in good faith in any judicial proceeding resulting from the report or cooperation or assistance relating to the subject matter of the report, cooperation or assistance. • The employer or supervisor of a person who is required to or may make a report pursuant to this section shall not apply a policy, work rule, or other requirement that interferes with the person making a report

- of dependent adult abuse or that results in the failure of another person to make the report.
- It shall be unlawful for any person or employer to discharge, suspend, or otherwise discipline a person required to report or voluntarily reporting an instance of suspected dependent adult abuse , or cooperating with, or assisting the Department of Human Services in evaluating a case of dependent adult abuse, or participating in judicial proceedings relating to the reporting or cooperation or assistance based solely upon the person's reporting or assistance relative to the instance of dependent adult abuse. A person or employer found in violation of this subsection is guilty of a simple misdemeanor.

Process for Commencing Action Seeking Relief from Elder Abuse

- A vulnerable elder or a substitute petitioner may seek relief from elder abuse by filing a verified petition in the district court.
- The petition shall state all of the following:
 - The name of the vulnerable elder and the name and address of the vulnerable elder's attorney, if any. If the vulnerable elder is proceeding pro se, the petition shall state a mailing address for the vulnerable elder.
 - The name of the substitute petitioner if the petition is being filed on behalf of a vulnerable elder, and the name and address of the attorney of the substitute petitioner. If the substitute petitioner is proceeding pro se, the petition shall state a mailing address for the substitute petitioner.
 - The name and address, if known, of the defendant.
 - The relationship of the vulnerable elder to the defendant.
 - The nature of the alleged elder abuse.
 - The name and age of any other individual whose welfare may be affected.
 - The desired relief, including a request for temporary or emergency orders.

Statutory citation(s):

- Iowa Code §§ 235B.2, 235B.3; 235F.1, 235F.2