Financial Exploitation of

Older Adults

A Guide for Civil Legal Aid Attorneys in

State

(Can add state image here)

*Created By*

*(Add Legal Aid Organization/Logo or Author Information Here)*

*With Help From:*



**Financial Exploitation of Older Adults: A Guide for Civil Legal Aid Attorneys in State XXXX**

About This Guide

Elder abuse is a growing issue faced by older adults, and the effects of abuse can negatively impact the physical health, mental well-being, and financial stability of victims. Elder Abuse includes physical abuse, sexual abuse, neglect and financial exploitation. Elder financial exploitation is the most prevalent form of abuse experienced by older adults.

While acts of elder abuse may fall under various criminal statutes, civil legal aid attorneys are uniquely positioned to deploy legal strategies and advocacy to mitigate the effects of abuse and help older adults attain the remedies they seek. This Guide contains state-specific information, tools, and links to resources to help civil legal aid attorneys advise and represent clients who have experienced financial exploitation. Additionally, the resources and partner information shared at the end of the Guide will help you connect with community partners, prosecutors, and coalitions who are also working to prevent and address elder abuse in your state.

This Guide was produced by XXXX, and adapted from information from the [**National Center on Law and Elder Rights**](https://ncler.acl.gov/). NCLER has additional training and resources on a variety of Elder Abuse topics, including: Legal Basics of Financial Exploitation, Undue Influence and Elder Abuse, Elder Financial Abuse and Medicaid Denials, and Civil Litigation as a Remedy for Financial Exploitation. NCLER is developing a series of resources to help aging professionals address the legal aspects of elder abuse, and all resources are available on [**ncler.acl.gov**](https://ncler.acl.gov).

Introduction to Financial Exploitation

Financial exploitation of older adults is a prevalent and underreported problem. In XXXX, an estimated XXXX older adults have experienced abuse. Financial exploitation has many faces, including theft, ID theft, unauthorized use of credit cards, undue influence, deceptive and unfair business practices, and abusive debt collection practices. Financial exploitation is enormously costly to victims’ health and economic security. Studies estimate the financial losses due to exploitation are in the billions of dollars. For many victims, the funds lost are their entire life savings. Financial exploitation is frequently committed by family members, trusted friends or caregivers. Reporting exploitation can take an emotional toll on the person and result in a loss of caregivers or companions. A [**2015 report from True Link Financial**](https://www.truelinkfinancial.com/research) contains more information about estimated losses and effects of elder financial abuse.

Defining Financial Exploitation

Financial exploitation is defined in the [**Older Americans Act**](https://www.acl.gov/about-acl/authorizing-statutes/older-americans-act) as: “The fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an older individual for monetary or personal benefit, profit, or gain, or that results in depriving an older individual of rightful access to, or use of, benefits, resources, belongings, or assets.”

Insert state definition if one exists: states can check the [**Department of Justice Elder Justice Initiative website**](https://www.justice.gov/elderjustice/prosecutors/statutes).

There are differing ways of categorizing types of financial abuse and exploitation, and the boundaries between them can be blurry, but one simple distinction divides financial exploitation into two types: those by a “known” person and those by a “stranger”:

* **Known person:** Financial abuse/exploitation by a known person (a family member, close friend, caregiver, or person/organization in a position of trust) who breaches the trust between a vulnerable person and misuses the individual’s funds to serve their own needs at the elder’s expense. Attorneys should be mindful of the distinction between family and non-family perpetrators, and how that can inform your approach to the matter. Remedies for these kinds of abuse are both civil and criminal.
* **Stranger or “new friend”:** Fraud, misrepresentation, or scams by a stranger or “new friend” who deceives the vulnerable person via an ever-changing variety of con games, such as bogus lotteries, sweetheart swindles, grandparent scams, fake charities, home repair fraud, IRS back taxes schemes, gift card scams, identity theft, etc.

This Guide focuses primarily on civil legal remedies for “known person” financial exploitation, but you can utilize the practice tips at the end of this Guide to assist your clients who have experienced stranger financial exploitation or scams.

The Role of Attorneys in Preventing & Addressing Financial Exploitation

Civil legal remedies can provide valuable relief to older adults, including stopping ongoing abuse and obtaining restitution. Civil legal services programs are also generally equipped to handle the associated legal issues discussed in this guide, such as Medicaid, housing, and consumer issues. Some of your clients may not want to pursue criminal charges against a family member or friend, but are willing to explore their civil options. Additionally, some cases may not have the elements necessary for criminal prosecution. Civil legal remedies may be helpful whether or not a criminal prosecution is pursued. As a civil legal aid attorney, you can play an important role in the protection and recovery process by assisting with obtaining protection orders, recouping funds and other civil remedies that are addressed in this guide.

Interviewing & Important Ethical Considerations

Trauma-Informed Legal Advocacy

Older adults who have experienced maltreatment are at risk of further harm if their legal matter is not handled in a trauma-informed manner by their advocate. Learning how to provide trauma-informed lawyering will help your client in their recovery process and also allow you to get more thorough information from your client in order to effectively represent them.

The family versus non-family distinction is important for advocates to recognize. The sensitivities involved with a family member perpetrator should inform the conversation between you and your client, and the trauma-informed lawyering tips in this guide should be especially utilized in this context. Additionally, a victim may be willing to pursue certain remedies against a non-family exploiter that they may be reluctant to consider if the exploiter is related.

Traumatic triggers can impact your ability to connect with your client. Triggers bring up the memory of a past event and may create a feeling of unease or fear. Each client’s experience and triggers will be different, so it is important that you understand the various options that are available to make your client feel more comfortable. Providing options for the interview location, being careful to explain the process of the interview in advance, and taking breaks can all be beneficial when conducting a legal interview. If your client will have to go to court, you should be mindful of the triggers that they may face, particularly if they will encounter the perpetrator of abuse. A run-through of the day can be helpful, as well as arranging for a supportive friend or family member to be present. For practice tips and more information about trauma-informed lawyering, resources are available through the [**Trauma-Informed Legal Advocacy (TILA) Project**](http://www.nationalcenterdvtraumamh.org/trainingta/trauma-informed-legal-advocacy-tila-project/).

Mandated Reporter Policy

In XXXX, (Insert state information on whether lawyers must report suspected financial exploitation to adult protective services—be sure to include information on who is covered by the statute, who is required to report, and how they are expected to report. States can use the [**Stetson guide**](http://www.stetson.edu/law/academics/elder/ecpp/media/Mandatory%20Reporting%20Statutes%20for%20Elder%20Abuse%202016.pdf) linked from the [**DOJ Elder Justice Initiative statutes**](https://www.justice.gov/elderjustice/elder-justice-statutes-0#SL3) page).

However, if you have reason to believe that your client has experienced abuse, you have the option of permissive reporting to Adult Protective Services if your client consents to the report. Permissive reporting should be weighed carefully with your client. Under the[**Model Rules of Professional Conduct 1.4**](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_4_communications.html), you must communicate the issue, options, and implications of any potential action. (States should replace the MRPC information listed here if they have their own state professional rules of conduct.)This includes explaining to your client what would happen next, including services that may become available to them, possible criminal charges against the abuser, the potential for a guardianship investigation and capacity assessment, and more, including possible negative implications. Reporting elder abuse to Adult Protective Services can result in a case worker investigating the report, which could include a home visit and other actions that your client may not be comfortable with. A complete understanding of the impact and potential benefits and detriments of reporting will help you advise your clients on permissive reporting and weigh the benefits and burdens of taking this action.

As an attorney, you will need to assess your reporting obligations and ethical duties, and then be clear with your clients about your obligations and confidentiality during initial interviews and subsequently if necessary. In State XXXX, you can find ethics opinions on reporting abuse with or without your client’s consent. (States can include links to available state-specific training on mandated reporting.)

Capacity Concerns

Diminished capacity is a risk factor for exploitation, and you need to understand your ethical obligations pursuant to [**Model Rules of Professional Conduct (MRPC) 1.14**](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_14_client_with_diminished_capacity.html). . (States should replace the MRPC information listed here if they have their own state professional rules of conduct.)The rule starts with a presumption of capacity, and directs attorneys to maintain a normal attorney-client relationship when reasonably possible. Capacity is not an on/off switch, and the standard of capacity will vary, depending on the nature of the decision that your client is required to make. Capacity level may change during your period of representation and you must be cognizant of how duty to your client may be affected as this occurs.

State statutes provide the standards of capacity for specific legal transactions and guardianship. (States can insert state-specific information regarding relevant state statutes and case law here.)

MRPC 1.14 also triggers protective action when an attorney reasonably believes a client has diminished capacity, there is potential for harm to the client, and the client cannot act in their own interest. To help you address issues of capacity in your cases, the handbook by the American Bar Association and American Psychological Association titled, [**Assessment of Older Adults with Diminished Capacity: A Handbook for Lawyers (2005)**](https://www.americanbar.org/groups/law_aging/resources/capacity_assessment.html) includes in-depth information and a 4-page worksheet to screen for incapacity.

Capacity determinations call into play the sometimes competing goals of preserving autonomy and promoting protection. Attorneys should consider certain factors such as grief, stress, and non-permanent medical conditions when assessing a client’s capacity to make decisions. These are all factors that could be present for your client who has experienced abuse, and they are part of trauma-informed lawyering.

Screening

Sometimes your client will come to you seeking help to end or recover from an abusive situation. Perhaps more frequently, however, you may also discover that someone is the victim of abuse in the course of representing them in another matter. Your legal services program should have a system in place for screening for financial exploitation and other forms of elder abuse.

The signs and symptoms of elder abuse can be detected in all practice areas. Elder financial exploitation cases do not always present as elder abuse. The older adult who comes in for help with utilities, rent or a consumer debt lawsuit may be struggling to pay her bills because she has been financially exploited. Or, an older adult may be facing eviction because of an abusive adult child who refuses to leave the home.

If elder financial exploitation is suspected, reviewing a client’s bank account activity, credit card statements, other bills, budget, and any accountings that are available may help you identify problems. The Elder Investment Fraud & Financial Exploitation Prevention Program has developed a [**financial exploitation checklist and screening tool**](https://www.maine.gov/pfr/securities/documents/Checklist%20for%20Lawyers.pdf) that may be helpful. Insert state screening tool if office on aging, legal services provider, or local elder abuse program has created one. Before adding a screening tool here, please verify that the tool is appropriate for a legal setting and comports with lawyer ethical obligations.

Below are some examples of how an elder abuse case might initially present in your office. These situations may not always involve abuse, but could raise red flags and prompt further investigation:

* A client is being encouraged to sign legal documents that they do not understand.
* A client is being evicted from a nursing facility due to non-payment, and a family member manages their finances.
* A client is seeking to modify their advance planning documents in an unusual way.
* A client is facing mortgage foreclosure, but has adequate income to pay the mortgage.
* A client has a reverse mortgage but did not understand the documents and did not have access to the funds.
* A client is being sued for a credit card debt, but they did not open the account or use the credit card.
* A client is being evicted from their apartment for a violation of the housing authority’s guest policies.
* A client comes in for an appointment, and is accompanied by a coercive or overbearing family member or friend.

For more guidance on screening for elder abuse and other legal issues faced by older adults, utilize NCLER’s skills training session on [Issue Spotting, Intake, & Referrals](https://ncler.acl.gov/Files/Legal-Issue-Spotting%2C-Intake-Referrals-Practice-Gu.aspx) which provides practical tips and visual guides for attorneys and support staff.

Legal Strategies

When exploring the strategies in this section, you should keep in mind that some filing fees may be waived based on indigency. Although some court actions may be available for free (such as a domestic violence injunction or a change of guardian in a pre-existing), other actions, like removing an unwanted person from the household, often require a filing fee. This is especially important where an exploiter has deprived the elder of funds, or controls access to the funds. States should add any information available here about their state’s procedures, such as In Forma Pauperis or Application for Waiver of Fees Based on Indigency.

Immediate Responses for Protection

There are certain options that you should discuss with your client if they need protection from the perpetrator and immediate help to stop the abuse.

|  |  |  |  |
| --- | --- | --- | --- |
| **Your Client Wants…** | **Potential Steps to Take** | **Why this Action for this Situation?** | **Practice Tips & Statutes** |
| **To stop the perpetrator from contacting them or coming to their home** | Motion for Restraining Order, Protective Orders, or Order of Protection  | Protective orders, restraining orders, or stay away orders are civil orders from the court telling the perpetrator not to contact your client, approach them, or harm them again. While the order is civil, if the perpetrator violates it, they could face criminal consequences.  | Insert information and citations about protective orders here—are there multiple options for courts? States can look at the [**ABA chart**](https://www.americanbar.org/content/dam/aba/administrative/domestic_violence1/Charts/2014%20Elder%20Abuse%20Chart.authcheckdam.pdf) for guidance.Necessary elements for obtaining orders should be listed here, i.e.: 1) violence has occurred and 2) is likely to occur in the future.If online forms are available through your state’s court website, [LawHelp](https://www.lawhelp.org/), [**Law Help Interactive**](https://lawhelpinteractive.org/), or other sources, they should be linked here. |
| **To get the perpetrator out of their home**  | Eviction or Ejectment  | If the perpetrator currently lives with your client, it may be necessary for you to help your client legally evict the perpetrator. Even when there is no formal lease agreement, your client should have options for eviction. In some states, an ejectment action is necessary to evict a family member. Depending on your state's law, some perpetrators may not qualify as tenants or have the protection of being a tenant, and could be considered house guests. State based options for the legal removal of house guests, may not be clear, but may include self-help or the assistance of law enforcement. | Insert information and citations about eviction options here—are there special procedures for family members? States should also include any relevant information about bringing an action for ejectment in conjunction with any protective orders.If online forms are available through your state’s court website, [LawHelp](https://www.lawhelp.org/), [**Law Help Interactive**](https://lawhelpinteractive.org/), or other sources, they should be linked here.**Practice Tip**: If your client is in immediate danger by staying in the home, you should look at shelter options, including any elder shelter networks in your area. (States can add elder shelter information here if available). Practice Tip: if your client does not want to seek immediate court relief, for example against a family member, a certified letter from an attorney demanding that the person vacate the premises and stop any act of financial exploitation, with a specified move out date, can provide relief in some situations.The use of the home without authorization or after permission has been withdrawn or revoked, may be considered to be financial exploitation under the law of your State and could be grounds for a relief from abuse order if the person stays and refuses to leave after the demand to leave. |
| **To stop money from being taken from their bank account** | Freeze of Bank Account States can add any other options available to hold funds or property, such as attachments. | If the perpetrator has access to your client’s bank account or has been utilizing your client’s checks or debit card, you may want to help your client take steps to freeze their account from any further withdrawals and possibly advise them to open a new account.  | Indicate here whether there are specific state banking laws or procedures that could be helpful. If online forms are available, link here as well. **Practice Tip**: Your client may have automatic deposit of their Social Security, pension and other income in their current account. You will want to help them with arrangements to change the account information on the direct deposits.  |
| **To stop their agent from misusing a power of attorney document or not fulfilling their fiduciary obligations**  | Revocation  | Revoking a power of attorney document can be a helpful first step to stop the perpetrator from continuing to exploit your client while using the document. Legal capacity is required to exercise this option. Also, consideration must be given to the client’s ability to handle their own finances and other options/potential agents who can step in to replace the perpetrator. | In XXXX, guidance for POA drafting & revocation can be found at \_\_\_. Indicate here whether there is a specific state form and/or state procedures. If online forms are available, link here as well. **Practice Tip**: Be sure to send the revocation and any new POA documents to the banks and other institutions that may have a copy of the previous POA document.  |
| **To change their guardian because the current guardian is misusing funds or taking their property** | Termination or Change of Guardianship  | If your client has a guardian who is guilty of misconduct, such as committing elder abuse, the court has the discretion to remove the guardian and appoint a new guardian. | In XXXX, guidance for termination of guardianship can be found at \_\_\_. Indicate here whether there is a specific state form and/or state procedures. If online forms are available, link here as well. **Practice Tip**: Review the [**ABA’s PRACTICAL Tool for Lawyers**](https://www.americanbar.org/content/dam/aba/administrative/law_aging/PRACTICALGuide.authcheckdam.pdf) for assistance in determining whether your client should be considered for less restrictive options than guardianship.  |

Civil Legal Strategies for Redress

After taking care of your client’s immediate needs, you will want to discuss options for possible recovery of funds, termination of fraudulent agreements, and more. Using the remedies outlined below, you can assist your client by filing a complaint for restitution, compensatory damages, or punitive damages. Abuse committed using a Power of Attorney or other fiduciary appointment can have real legal consequences. Many of the civil legal remedies available to your client are based on the perpetrator’s breach of their fiduciary responsibility.

If your state has a specific cause of action for elder abuse, add it here with necessary elements.

|  |  |  |  |
| --- | --- | --- | --- |
| **You need a legal remedy to…** | **Consider** | **Why?** | **Statutes & Practice Tips** |
| **Require the perpetrator to account for the funds and property of your client** | Action for an Accounting Action to Freeze Assets | If the perpetrator was in a fiduciary relationship with your client, they may be subject to prove that they properly handled the funds and property of your client by supplying records and information.  | If a separate action for an accounting is available in your state, insert citation for and any necessary elements. If online forms are available through your state’s court website, [LawHelp](https://www.lawhelp.org/), [**Law Help Interactive**](https://lawhelpinteractive.org/), or other sources, they should be linked here. |
| **Recover damages from the perpetrator, and the perpetrator was acting as your client’s agent**  | Breach of Fiduciary Duty (Tort) | If your client’s funds or property were mishandled by their agent (through a POA or other agent relationship), you might have a claim for breach of fiduciary duty. Generally, an agent is required to act in the best interests of the principal. If this breach occurred, your client may be able to recover traditional tort damages.  | Insert citation for breach of fiduciary duty in your state, and/or case law ,and any necessary elements. If online forms are available through your state’s court website, [**LawHelp**](https://www.lawhelp.org/), [**Law Help Interactive**](https://lawhelpinteractive.org/), or other sources, they should be linked here. |
| **Recover damages from a perpetrator who was a hired caregiver, the company employing the perpetrator and/or their insurance company** | Breach of Contract | If the perpetrator was hired by or working for your client, the financial exploitation could be characterized as a breach of their contract to perform their work.  | Insert citation for breach of contract in your state, and/or case law, and any necessary elements. If online forms are available through your state’s court website, [LawHelp](https://www.lawhelp.org/), [**Law Help Interactive**](https://lawhelpinteractive.org/), or other sources, they should be linked here. |
| **Recover damages from the perpetrator where a “theft” occurred. The perpetrator does not have to be an agent or hired caretaker** | Conversion (Tort) | Generally, conversion is an intentional tort in which one person takes, uses or alters the property of another person without permission. Property can include money, tangible items and real property. Conversion can sometimes be characterized as the civil version of theft. (States should put a more-state specific explanation here, if applicable.) | Insert citation for conversion in your state, and any necessary elements.If online forms are available through your state’s court website, [LawHelp](https://www.lawhelp.org/), [**Law Help Interactive**](https://lawhelpinteractive.org/), or other sources, they should be linked here. |
| **Recover damages from the perpetrator for using deceitful means to induce your client to transfer property, funds or sign an agreement** | Fraud or Constructive Fraud (Tort) | Proving fraud, while sometimes difficult, can provide options for your client to “undo” certain transfers or agreements as well as possibly recover punitive damages. Generally, it involves the intentional misrepresentation or concealment of a material fact, which the victim relied on and caused them harm. (States should put a more-state specific explanation here, if applicable.) | Insert citation for fraud in your state, and any necessary elements. You should also note any particular difficulties with proving fraud under the statute.  |
| **Reverse transactions or agreements that are damaging to your client** | Rescission/Undue Influence (Remedy) | As a remedy for fraud or undue influence, rescission or a reversal can be sought when your client was “induced” into a contract by a misrepresentation or undue influence by the perpetrator or if the client lacked necessary capacity at the time of the transaction. This could be considered in situations where your client may have added the perpetrator as a joint bank account holder or signed an agreement to transfer funds or property to the perpetrator or another party. | Insert citation in your state, and any necessary elements or special applications.  |
| **Seek compensation for lost funds**  | **File for compensation funds through Victims’ Compensation Assistance Programs** | Most of these programs have a very short time frame during which a victim can file for compensation and a police report must have been filed in a timely manner. | States should add local programs here and any relevant timelines to apply.  |

Tools for Addressing Stranger Financial Exploitation & Scams

Scams and fraudulent practices aimed at older adults include a wide range of illegal behavior from imposter scams to mortgage fraud. Scammers use deceptions, misrepresentation and threats to convince older adults to send money or provide personal or financial information. [**Common frauds and scams**](https://www.consumer.ftc.gov/features/scam-alerts) aimed at older adults include: imposter scams, identity theft, home improvement and mortgage-related scams, and fraudulent marketing practices.

If your client has been targeted by a scam, it is important to take immediate action to stop the scam and further depletion of income and assets. A NCLER Chapter Summary, [**Legal Basics: Protecting Older Adults against Scams**](https://ncler.acl.gov/pdf/Legal%20Basics-%20Protecting%20Older%20Adults%20Against%20Scams.pdf), details the actions an advocate can take when responding to identity theft, along with unauthorized credit and debit card use. Identitytheft.gov, the Consumer Financial Protection Bureau and the Department of Justice, as well as many state Attorney General’s offices, offer information on the [**scams targeting older adults**](https://www.consumer.ftc.gov/features/feature-0030-pass-it-on), [**reporting options**](https://www.ftccomplaintassistant.gov/#crnt&panel1-1), and [**steps for recovering from identity theft.**](https://www.consumer.ftc.gov/topics/identity-theft) Civil legal aid attorneys can play a role in helping their clients avoid future exploitation, reducing solicitations, and empowering them to move forward.

Coordination with Prosecutors & Criminal Proceedings

If the prosecutor’s office is pursuing criminal charges against the perpetrator, you will want to coordinate your civil case strategy to ensure that you are strategically bringing your civil case at the appropriate time and that you are not acting at cross purposes with the prosecution or failing to file within the statute of limitations for civil actions while a criminal action is being pursued. Coordination with the prosecutor may be accomplished through a multidisciplinary team (discussed below). If there is a criminal conviction, the court may be able to enter an order for restitution.

The Department of Justice has Elder Justice Task Forces and Assistant US Attorney Elder Justice Coordinators in each federal district in the country. The Task Forces provide coordination among state and local agencies, organizations and law enforcement who are combating elder abuse. Additionally, the Task Forces can evaluate complaints, investigate scams, and provide training centered on federal criminal actions.

Associated Legal Issues

Elder financial exploitation is often associated with a broad range of legal problems. Civil legal aid attorneys can help clients address not only the abuse, but also the other legal problems it has created. The next section provides examples of the issues you may be able to address for your clients.

Medicaid Denials

When someone applies for Medicaid to pay for long-term care, they need to provide financial records to prove their income and assets, and to show that they haven’t transferred funds or property without getting fair market value for them. When someone has been financially exploited, they may have problems qualifying for Medicaid or maintaining their Medicaid eligibility. Issues that your client may face include:

* Being denied Medicaid eligibility because of missing bank records or financial information;
* Having to delay eligibility during a “penalty period” based on perceived “gifts;”
* Receiving an eviction or involuntary discharge from a nursing home or hospital due to nonpayment;
* Needing to apply for a “hardship waiver” to explain why funds are missing; and
* Needing to have a fraudulent deed transfer reversed and designated as never having occurred; such transfers are not eligible for “hardship waivers.”

Legal services attorneys can play a critical role in ensuring that victims of elder financial exploitation can access Medicaid long-term care benefits by advocating on their behalf, helping construct the information needed to show that financial exploitation has caused the issue, and drafting hardship waivers. If you are assisting a client with issues with financial exploitation, you should consider how the exploitation may impact your client’s future Medicaid eligibility, and alert your clients to this possibility. For more information and tips on handling these cases, the NCLER offers a [**guide**](https://ncler.acl.gov/pdf/Elder-Financial-Abuse-and-Medicaid-Denials.pdf). Include any helpful state-specific Medicaid information here, such as local procedures, contacts and forms, if applicable.

States can also add a section on defending involuntary nursing home discharges or references to OBRA nursing home resident’s rights provisions and federal nursing home regulations, and other resources.

Federal Tax Consequences

Your client may be facing federal tax consequences if the financial exploitation included the early withdrawal of funds from their IRA. If your office provides federal tax assistance, you may want to connect your client to those services or to an outside tax professional. For clients who meet the eligibility guidelines, you can refer them to the [**Volunteer Income Tax Assistance program**](https://www.irs.gov/individuals/free-tax-return-preparation-for-you-by-volunteers) if there is one in your area. States can add any additional local resources here: In XXXX, free income tax assistance can be found at XXXX.

Consumer

If the financial exploitation experienced by your client included the unauthorized use of their credit cards or accounts unknowingly opened in their name, he or she may be left with credit card bills that they cannot pay. Working with the fraud department of the credit or banking institution may help your client—it is important that you or your client reach out to the financial institutions as soon as possible. Many will have defined windows of time in which the fraud must be reported. For more information about the steps your client will need to take, use identitytheft.gov. CFPB resources including sample [letters](https://www.consumerfinance.gov/consumer-tools/credit-reports-and-scores/sample-letters-dispute-credit-report-information/) are also available on their website. Additional resources are available through your state’s Attorney General and the Department of Justice.

If your client is facing consumer credit lawsuits or existing credit judgments, you will want to determine whether your client can assert any defenses to the credit card lawsuit, such as fraud. You can also evaluate whether your client is “collection-proof,” meaning their income and/or homestead, for example, is beyond the reach of creditors .If judgments have already been entered, determine whether the judgement can be vacated or if the case can be re-opened. In XXXX, you have XXXX years to make a motion to vacate a judgement. You can locate interactive forms on vacating judgments at (link to state’s [**Law Help Interactive**](https://lawhelpinteractive.org/) page, [**LawHelp**](https://www.lawhelp.org/) page or other website with consumer forms. States may also want to add any local consumer clinics here as well.)

States can expand the additional legal issues section by adding Housing and Family Law topics here if desired.

Collaboration with Community Partners & Enhanced Multi-Disciplinary Teams

Collaboration with aging services providers, community partners, and the justice system is an important component of your effective representation of your client. It is important that you are aware of the programs and organizations that are available to help your client with their non-legal concerns. You should connect your client to supportive services when needed, including nutrition services, counseling, safety planning, and shelter options.

Adult Protective Services

Adult Protective Services (APS) is an emergency social services program provided by state and local governments serving older adults and adults with disabilities who want assistance because of abuse, neglect, self-neglect, or financial exploitation (adult maltreatment). APS receives and responds to reports of adult maltreatment and works closely with clients and allied professionals to maximize client safety and independence. If you are working with older adults, you should become familiar with your local APS’s reporting procedures, as well as the services and resources that they can provide. This will be helpful in weighing whether your client wants to involve APS in their case, as discussed in the earlier section on mandated reporting.

Once a report is substantiated, APS and other senior services providers can arrange for myriad supportive services for your clients, which can be key to their ongoing safety and recovery. These services can include housing, health care services, food, medical supplies, transportation, and mental health services. When legal aid and APS have an established relationship, they can better understand each other’s scope of services, constraints, and ability to refer.

States should add information here about their state-specific APS structure, and information about their Area Agencies on Aging if preferred.

Long-Term Care Ombudsmen

The Older Americans Act requires every state to have a Long-Term Care Ombudsman (LTCO) program that addresses complaints and advocates for improvements in the long-term care system. Ombudsmen advocate for residents of nursing homes, board and care homes, assisted living facilities, and other adult care facilities. Because LTCO are often a first point of contact for long-term care residents, they may be the first to notice the warning signs of financial exploitation or be the first person a resident confides in regarding financial exploitation. LTCO are a key community partner in preventing and identifying financial exploitation.

State should add information about their LTCO program, including how to contact, and any Elder Abuse Task Forces the LTCO and legal services participate in.

Multi-Disciplinary Teams

One of the most notable forms of collaboration on elder exploitation cases is through multi-disciplinary teams and enhanced multi-disciplinary teams (MDTs and E-MDTs). MDTs are partnerships among public, private and non-profit organizations with the goal of improving outcomes for victims of elder financial exploitation. Most teams include a prosecutor, adult protective services, civil legal services, financial institutions, forensic accountant and other members. The collaboration on these teams fosters accountability and improved cooperation among agencies. In XXXX, there are (insert number) MDTs currently operating. For information on developing team in your area, the US Department of Justice offers a [**guide.**](https://www.justice.gov/archives/elderjustice/file/938921/download)

As a civil legal aid attorney, if you are participating in a multi-disciplinary team model, you should remain aware of your ethical responsibilities and ensure that there are procedures in place to protect attorney-client confidentiality. Procedures can include implementing confidentiality agreements, excluding client names from conversation, and consent forms. Visit the [**Multidisciplinary Technical Assistance Center**](https://www.justice.gov/elderjustice/mdt-tac) for additional forms and information.

States should use this section to include any response teams, multidisciplinary teams, task forces, elder shelter options, and other supportive services that may be available for victims of abuse. If an elder court is in place within the state, that information should be listed here. States can also information about home and community based services, which can be an important resource to replace an abusive caregiver.

Additional Resources

* General Information & Resources on Elder Abuse: [**National Center on Elder Abuse**](https://ncea.acl.gov/)
* Webinars & Practice Guides: [**National Center on Law & Elder Rights**](https://ncler.acl.gov/)
* Ethics & Practice Guidance: [**ABA Commission on Law & Aging**](https://www.americanbar.org/groups/law_aging.html)
* Statutes, Information & Webinars: [**U.S. Department of Justice, Elder Justice Initiative**](https://www.justice.gov/elderjustice)
* Long-Term Care Ombudsman Resource: [**Long-Term Care Ombudsman Resource Center**](http://ltcombudsman.org/)
* States should add local resources here