

Elder Abuse



This booklet was developed for Albertans who want to know more about the law as it pertains to elder abuse. It provides legal information on Alberta law only. It does not provide legal advice. If you need more detailed information, consider a self-help publication or asking for a lawyer's advice.



You should **NOT** rely on this booklet for legal advice.
It provides general information on **Alberta law only**. 2019

DISCLAIMER

The contents of this booklet are provided as general information only. It is not legal advice. If you have a legal problem, you should consult a lawyer.

The information contained in this booklet was correct at the time it was produced. Be aware that there may have been subsequent changes which make the information outdated at the time you are reading it. The Legal Resource Centre of Alberta Ltd. will not be responsible for any loss arising from reliance on or action taken (or not taken) as a result of this information.

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The Legal Resource Centre of Alberta Ltd., operating as the Centre for Public Legal Education Alberta, is a non-profit organization whose mission is to help people understand the law as it affects their everyday lives. We develop plain language booklets, presentations, and other learning materials to help people recognize and respond to their legal rights and responsibilities. We have a variety of programs, and provide legal information and referrals on many legal topics. For more information, please visit www.cplea.ca.



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Table of contents

What is Elder Abuse?	4
Physical Abuse	5
Emotional Abuse	6
Financial Abuse	7
Sexual Abuse	8
Neglect and Self-Neglect	9
Discussing the Abuse	10
Reporting the Abuse	11
Stopping the Abuse	12
Emergency Protection Orders	13
Queen's Bench Protection Orders	14
Exclusive Possession Orders	14
Restraining Orders	15
Peace Bonds	16
Resources	18

What is Elder Abuse?

Edmonton Seniors Abuse Help Line

780.454.8888
(24 Hours)

Alberta Family Violence Information Line

For resource information
in your area.

Toll Free: 310.1818
(24 Hours)

Calgary Elder Abuse Resource Line

403.705.3250
(24 Hours)

Resolution and Court Administration Services

provides a range of
resolution and court
supports for people
involved in legal
disputes.

Toll-free at
1.855.738.4747

or visit their website
www.rcas.alberta.ca

Elder abuse is any action or lack of action done (or not done) on purpose that harms an older adult. The harm can be physical, emotional, sexual, psychological, financial, or some combination of these things. Neglecting an older adult by not doing something can be as abusive as actually hitting or hurting the older adult physically.

You may feel the need to protect your children, spouse or other family members, even if they are treating you badly, but abusive behaviour is not healthy for you or for your abuser. No one deserves to be hurt.

A close friend, relative or caregiver often causes elder abuse. It is a controlling behaviour. Abuse does not stop on its own. If ignored, abuse will continue and may even get worse.

**If you are
an elder
experiencing
abuse,
IT IS NOT
YOUR FAULT !**

Physical Abuse

Physical abuse is caused by inflicting physical harm on an older adult.

Physical abuse includes behaviours such as:

- sedating (quietening) a person through over-medication;
- under-medicating a person when drugs are needed for a medical problem;
- holding back or not giving enough food;
- purposely exposing a person to severe weather; or
- physically confining the person for long periods of time.

Signs of Physical Abuse:

- marks or physical injuries that cannot be explained (or where the explanation seems unlikely);
- repeated falls;
- medical attention sought from a variety of doctors or clinics;
- injuries that have not received proper medical attention;
- delay in seeking treatment;
- confusion or tiredness from over-medication;
- continued suffering from a medical condition as a result of under-medication;
- loss of mobility as a result of being restrained;
- depression;
- signs of fear of certain family members, friends, or caregivers;
- locks on the doors;
- locks in areas where food is kept; or
- unusual marks on furniture from restraints.



Emotional Abuse

Emotional or psychological abuse can include:

- threatening to do something to the older adult or to something or someone the person cares about;
- mental cruelty;
- humiliation;
- forced socialization or isolation;
- treating the older adult like a child; or
- not allowing the older adult to make decisions for themselves.



Signs of Emotional Abuse:

- showing fear of certain family members, friends, or caregivers;
- withdrawal, passivity, agitation, anxiety, apathy, or depression without any apparent reason;
- unexplained paranoia or fears;
- physical signs of isolation;
- unusual weight gain/loss;
- refusing to talk openly;
- making inconsistent statements;
- waiting for the caregiver to respond to questions;
- noticeable behavioural changes including avoiding eye contact;
- low self-esteem;
- difficulty sleeping or needing excessive sleep;
- making excuses for social isolation; or
- being largely ignored, treated passively, or treated like a child by a caregiver.

Encourage older adults to maintain their network of friends to prevent isolation.

Financial Abuse

Financial or material abuse can include:

- stealing money, belongings, credit cards, or pension cheques;
- forcing an older adult to make or change a Power of Attorney, Enduring Power of Attorney or Will;
- forging a signature on personal cheques or legal documents;
- holding back money that the older adult needs;
- convincing an older adult to invest in a fraudulent investment scheme;
- pressuring an older adult to provide services without pay;
- forcing, convincing or tricking an older adult to sell a home or possessions, or to pay for unnecessary services; or
- abusing Power of Attorney, Guardianship, or Trusteeship responsibilities.

Signs of Financial Abuse:

- confusion about their own finances;
- signing a document without being told of its consequences;
- failing to make financial choices/decisions;
- family members moving in without agreement or without sharing costs;
- experiencing unusual bank or ATM activity done on their behalf;
- starting to show a difference between income and standard of living;
- disappearing belongings;
- sudden or unexplained difficulty in paying bills; or
- refusing to spend money without the agreement of their caregiver.

Edmonton Seniors Protection Partnership

A collaborative effort of Catholic Social Services, Edmonton Police Service, City of Edmonton, Covenant Health and SAGE.

Provides assessment, information and direct intervention in cases of elder abuse.

780.477.2929

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780.454.8888
(24 Hours)

Alberta Family Violence Information Line

For resource information in your area.

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Calgary Elder Abuse Resource Line

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(24 Hours)

Malnourishment is a lack of proper nutrition, caused by not having enough to eat or not eating enough of the right things.

Sexual Abuse

Examples of sexual abuse include:

- forced oral contact such as kissing;
- grabbing or groping;
- genital contact;
- oral sex;
- vaginal or anal penetration; or
- forced exposure to pornography.

Sexual assault can be violent or coercive. Coercion does not involve physical force. It happens when someone uses manipulation, pressure or threats to make someone do something they do not want to do.



Any unwanted sexual contact is sexual assault.

Signs of Sexual Abuse:

- pain, bleeding, or bruising in the genital or other areas of the body;
- depression;
- signs of fear, withdrawal, anxiety, or passivity;
- sleeping more or less than usual;
- difficulty in trusting others;
- developing an addiction to drugs or alcohol;
- experiencing flashbacks;
- engaging in self-harming behaviors; or
- diminished self-esteem.

Neglect and Self-Neglect

Neglect can include:

- failing to provide adequate clothes, food, medication, personal care, hygiene, medical care or social activities; or
- placing the older adult in an unsafe or isolated environment.

Neglect can be intentional or unintentional. Unintentional neglect can occur when a caregiver does not provide necessities because of a lack of skill, information or interest.

It is important to distinguish between neglect caused by someone else and self-neglect caused by the older adult not taking care of themselves.

When a mentally competent person chooses to live in a situation of self-neglect, it can be difficult to help. In very general terms, people have a right to live as they choose as long as they are not committing a crime or posing a risk to others.

Signs of Neglect

- physical signs of **malnourishment** such as dry lips, pallor (paleness of skin) or excessive weight loss;
- untidy appearance or inappropriate clothing for the weather;
- lack of needed medication, appliances, dentures, hearing aids, mobility aids, or glasses;
- infrequent bathing or poor hygiene;
- incontinence;
- physical or mental decline with no medical reason;
- confinement;
- wandering dangerously;
- lack of groceries; or
- cooking or housekeeping standards that could lead to an accident or illness.

Discussing the Abuse

When you notice signs of abuse it is important to discuss all possible outcomes of intervention or involvement with the abused person.

There are many reasons why people do not report abuse:

- shame that a family member treats them badly and therefore a need to keep the abuse hidden;
- fear of making the situation worse, leading to more abuse;
- fear of being placed in an institution;
- fear of losing a caregiver or contact with a family member;
- a belief that they are getting what they deserve;
- a belief that police or social services cannot help them; or
- a belief that they cannot prove the abuse is happening.

It is important that the older adult agree with any actions that are taken, unless the older adult is not mentally competent. Be careful to deal with cases of suspected abuse with care because the abuser might react negatively. Also, remember to respect the dignity of the older adult who can choose to accept or reject help.

Depending on the individual, you can approach the discussion with the older adult about the abuse by:

- directly and respectfully asking if the abuse is occurring;
- encouraging them to contact others such as a doctor, lawyer, or social worker;
- identifying benefits that can help them be more independent;
- providing information about counselling services for the abused or abuser;
- explaining that protecting the abuser's reputation will not stop the abuse;
- encouraging the use of community services such as drop-in centres; or
- helping make an appointment to get a thorough health assessment.

Reporting the Abuse

There is no specific criminal offence of “elder abuse.” However, there are criminal offences that apply to different forms of elder abuse.

The majority of the criminal law is set out in the *Criminal Code*, which applies to all provinces and territories in Canada.

Under the *Criminal Code*:

- assault can be committed by attempting or threatening to apply force to another person if the other person believes that the abuser has the ability to carry out the act;
- harassment includes behaviour of threatening conduct directed at another person where that person then fears for their safety;
- uttering threats includes someone knowingly expressing, passing on, or causing anyone to receive a threat to:
 - kill or physically harm someone;
 - burn, destroy, or damage property; or
 - kill, poison, or injure an animal or bird belonging to the victim.



You can report a criminal matter to the police even if you are not directly involved.

If you want the police to investigate the possibility of elder abuse, you will have to “lay an information” at the police station. This is a statement that describes what abuse you believe is occurring and is sworn or affirmed under oath in front of a justice of the peace or judge. The police will then investigate the situation and decide if they have enough evidence to charge the abuser with a criminal offence.

Several pieces of Alberta legislation protect elders from abuse.

More information can be found at:

www.oaknet.ca

<https://www.cplea.ca/ABLawsElderAbuse.pdf>

Stopping the Abuse

For more detailed information on :

- Emergency Protection Orders
- Queen's Bench Protection Orders

Visit:

<https://www.cplea.ca/DomesticViolenceSeries>

Alberta Queen's Printer

For free electronic and print copies of Acts or Regulations visit:

www.qp.alberta.ca

Depending on the urgency of the situation and the relationship between the abuser and the older adult, there are different types of court orders to stop the abuser from contacting the older adult.

Protection Orders

In Alberta, there is a law called the *Protection Against Family Violence Act*. This law provides a way for a family member experiencing abuse, the police, or another person acting with the consent of the abused person to apply for a Protection Order.

Protection Orders are granted when family members are experiencing family violence.

Family violence includes:

- any action or non-action that causes injury or property damage and that intimidates or harms a family member;
- any act or threatened act that intimidates a family member by creating a reasonable fear of property damage or injury to a family member;
- forced confinement;
- sexual abuse; or
- stalking.

A family member means:

- a current or former spouse;
- a current or former adult interdependent partner;
- someone you currently live with or formerly lived with in an intimate relationship;
- a parent of your children (even if you are not in a relationship or do not live together);

- someone you are related to by blood, marriage or adoption or by virtue of an adult interdependent relationship;
- your children or other children in your care;
- someone you live with where one person has care and custody over the other person pursuant to a court order (such as a guardianship order or trusteeship order).

There are two types of Protection Orders:

1. **Emergency Protection Orders (EPOs);**
2. **Queen’s Bench Protection Orders (QBPOs).**

Emergency Protection Orders (EPOs)

An EPO is granted in emergency situations at any time (24 hours a day, 7 days a week). It is granted by a justice of the peace or a Provincial Court judge.

An EPO usually states that the abuser cannot contact the victim and cannot go near certain places where the victim goes regularly. An EPO can also give the abused person exclusive occupation of a residence if the abuser and the abused person live together.

Once an EPO has been issued by the court, a copy of the order will be given to the abuser, usually by the police or a process server. Once the abuser has a copy of the EPO, the abuser must comply with the order. If the abuser does not comply with the order, the abused person can contact the police.

An EPO is reviewed within nine working days after it is granted. At that time, the order can be cancelled or confirmed or a QBPO can be issued instead.

To get an EPO, contact your local police or victim services agency. In Alberta, you can also contact **Legal Aid Alberta’s Emergency Protection Order Program** for free advice and assistance.

For advice or assistance with EPO’s in Alberta, contact:

Legal Aid Alberta

toll-free 1.866.845.3425

<http://www.legalaid.ab.ca/help/Pages/Emergency-Protection-Orders-Domestic-Violence.aspx>

Queen's Bench Protection Orders (QBPOs)

A QBPO is similar to an EPO but it is granted in non-emergency situations. The abuser must receive notice that the abused person is making an application for a QBPO. A QBPO is granted by a justice of the Court of Queen's Bench of Alberta. It can be in place for one year and extended further if necessary.

A QBPO can:

- state that the abuser cannot contact the abused person and cannot go near certain places where the abused person goes regularly;
- give an abused person exclusive occupation of a residence;
- give exclusive possession of personal property to one person, such as a vehicle, ID documents, bank cards, keys, etc.; and
- require that the abuser reimburse the abused person for monetary losses the abused person suffered, such as loss of income, medical or dental expenses, moving and accommodation expenses, legal expenses and the cost of applying for the QBPO.

Once a QBPO has been issued by the court, a copy of the order will be given to the abuser, usually by the police or a process server. Once the abuser has a copy of the QBPO, the abuser must comply with the order. If the abuser does not comply with the order, the abused person can contact the police.

Exclusive Possession Orders

An Exclusive Possession Order is a court order under Alberta's *Family Law Act* or *Family Property Act* that can give you sole possession of the family home.

A court can order your spouse or adult interdependent partner be evicted from the home and can require them to stop entering or going near the home. An Exclusive Possession Order can also give you exclusive possession of the family vehicle, pets and other household goods you may need.

Restraining Orders (RO)

A Restraining Order is a type of no-contact order issued by a justice of the Court of Queen's Bench of Alberta that requires a person to stay away from you. You can apply for a RO against anyone whose behaviour causes you to fear for your safety. This includes family violence.

A RO can only be requested during normal court hours. In an emergency situation, a RO can be granted without notice to the abuser. In these cases, the RO is usually reviewed within 2 weeks so that the abuser can respond to the allegations.

In a non-emergency situation, notice of the RO application must be given to the abuser, who can then choose to attend the court application and speak about the order being requested from their perspective. It is a good idea to hire a lawyer to help you apply and represent you in court.

If you are not eligible for an EPO or QBPO, then a Restraining Order may be your next best option.

ROs are different from Protection Orders (EPOs and QBPOs) in two main ways:

- they are not limited to family members; and
- they only deal with preventing contact between people.

A RO cannot evict someone from a place where they a legal right to live. Only a Protection Order can do this.

For more detailed information on:

- Exclusive Possession Orders
- Restraining Orders

Visit:

<https://www.cplea.ca/DomesticViolenceSeries>

Resolution and Court Administration Services

provides a range of resolution and court supports for people involved in legal disputes.

Toll-free at

1.855.738.4747

or visit their website

www.rcas.alberta.ca

For more detailed information on:

- Peace Bonds

Visit:

<https://www.cplea.ca/DomesticViolenceSeries>

Alberta Courts

www.albertacourts.ca

A RO can include special terms that state how far away the person must stay from you and identify specific locations where the person must not attend or try to contact you. In each case, the judge granting the order will decide the specific terms in the order and how long it should remain in effect. You can request or suggest terms to the judge, but the judge does not need to accept your request or suggestion.

It is very important to include a term that gives the police the power to arrest the abuser if the order is breached. This is called a police enforcement clause. If the RO contains this clause, then the RO should be registered with the police. If the abuser tries to contact the abused or breach the order, the police will be able to arrest them.

Simply having the order in place does not guarantee your safety. You should exercise caution. Carry a copy of the RO at all times to be able to show it to any authority, such as the police, who can then take the necessary action in arresting the abuser.

Peace Bonds

A Peace Bond (also called a recognizance) is a type of no-contact order issued by a criminal court judge. It can be issued in two different situations:

- where someone has committed a minor criminal offence; or
- where someone appears likely to commit a criminal offence but there are no reasonable grounds to believe that a criminal offence has been committed.

The judge can order that the alleged abuser:

- keep the peace and not be charged with any other criminal offences for up to one year;
- stay away from your home, place of employment and other places where you frequently go;

- stop communicating with you, in person, by mail or email, telephone, etc.;
- stop using alcohol or drugs;
- periodically report to the police or a probation officer; or
- follow a curfew.

A peace bond cannot be used to protect from emotional or financial abuse.

Applying for a Peace Bond requires a court hearing. There are two ways to request a court hearing:

1. Go to the police. The police will ask the Crown Prosecutor to apply for a Peace Bond on your behalf.
2. If the police do not agree to proceed, you can go directly to the Provincial Court of Alberta and speak with a justice of the peace.

The abused person must be prepared to appear in court and give evidence to show that there are reasonable grounds to fear that the alleged abuser might cause personal injury or damage to property. The judge will decide if a Peace Bond is appropriate.

There may be other steps in the process. The police may interview the alleged abuser and conduct an investigation. They may lay criminal charges or arrest the alleged abuser. They may ask the alleged abuser to consent to the terms of the Peace Bond.

Once the Peace Bond is issued by the Court, if the alleged abuser does not comply with it, they could be charged and convicted of an offence.

A Peace Bond is usually not ideal in emergency situations because there can be a delay of two or three months from the date of the request to the date of the hearing.

Resources

Government & Court

Government of Alberta: Elder Abuse

www.alberta.ca/get-help-elder-abuse.aspx

Resolution and Court Administration Services (RCAS)

Resolution and court support services across Alberta.

1.855.738.4747

www.alberta.ca/rcas.aspx

Alberta Supports

Help accessing more than 30 programs and 120 community services.

Toll-free: 1.877.644.9992

Office of the Public Guardian and Trustee

Services and support for vulnerable Albertans and their families.

Toll-free: 310.0000 then 780.422.1868

www.alberta.ca/office-public-guardian-trustee.aspx

Legal Services

Law Society of Alberta Lawyer Referral Service

Provides names of three lawyers. Each lawyer to provide half-hour consultation free of charge.

Toll-free: 1.800.661.1095

<https://www.lawsociety.ab.ca/public/lawyer-referral/>

Legal Aid Alberta

Toll-free: 1.866.845.3425

www.legalaid.ab.ca

Edmonton Community Legal Clinic (ECLC)

Legal clinic in Edmonton. Call for hours and eligibility.

Phone: 780.702.1725

www.eclc.ca

Calgary Legal Guidance (CLG)

Legal clinic in Calgary. Call for hours and eligibility.

Phone: 403.234.9266

<http://clg.ab.ca>

Lethbridge Legal Guidance

Legal clinic in Lethbridge. Call for hours and eligibility.

Phone: 403.380.6338

www.lethbridgelegalguidance.ca/

Grande Prairie Legal Guidance

Legal clinic in Grande Prairie. Call for hours and eligibility.

Phone: 780.882.0036

www.gplg.ca

Community Legal Clinic – Central Alberta

Legal clinics in Central Alberta. Call for hours and eligibility.

Central Alberta: 403.314.9129

Fort McMurray: 587.674.2282

Lloydminster: 587.789.0727

Medicine Hat: 403.712.1021

www.communitylegalclinic.net

Resources for Seniors

Protection for Persons in Care (PPC)

Report abuse of adults receiving care or support from publicly funded service providers.

Toll-free: 1.888.357.9339

www.alberta.ca/report-abuse-to-protection-for-persons-in-care.aspx

Older Adult Knowledge Network

Legal information on Canadian law for older adults.

www.oaknet.ca

Seniors Association of Greater Edmonton (SAGE)

Phone: 780.423.5510

www.MySage.ca

Kerby Centre (Calgary)

Phone: 403.265.0661

<https://www.kerbycentre.com/>

Golden Circle Senior Resource Centre (Calgary)

Phone: 403.343.6074

www.goldencircle.ca

Elder Abuse

This booklet is one of many publications produced by the Centre for Public Legal Education Alberta. All publications can be viewed and downloaded for free by visiting www.cplea.ca/publications or **you may order pre-printed publications to be sent to you by visiting www.cplea.ca/store**

Other publications related to this topic that may interest you include:

- Making a Will
- Making a Personal Directive
- Making an Enduring Power of Attorney
- Being a Personal Representative
- Being an Attorney Under an Enduring Power of Attorney
- General Powers of Attorney
- *Adult Guardianship and Trusteeship Act*

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Fax 780.451.2341
Email info@cplea.ca
Web www.cplea.ca



You should **NOT** rely on this booklet for legal advice.
It provides general information on **Alberta law only**. 2019