

# Abuse Against the Elderly and Vulnerable Adults

2010

POTENTIAL LEGAL  
**REMEDIES**

## Elder Justice Partners Members:

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### ELDER JUSTICE PARTNERS

*Together, we're working to protect Maine's seniors.*

#### AARP

Department of Health and Human Services:  
Office of Elder Services, Adult Protective Services

Department of Health and Human Services:  
Licensing and Regulatory Services

Department of Professional and Financial Regulation:  
Office of Securities

Elder Abuse Institute of Maine

Legal Services for the Elderly

Maine Area Agencies on Aging

Maine Coalition Against Sexual Assault

Maine Coalition to End Domestic Violence

Maine Long Term Care Ombudsman Program

Maine Prosecutor's Association

Maine Statewide Elder Abuse Task Force

Maine TRIAD

North Country Associates

Office of the Maine Attorney General

University of Maine at Augusta

Volunteers of America, Northern New England

**To learn more about the Elder Justice Partners  
visit [www.elderjusticepartners.org](http://www.elderjusticepartners.org)**

#### **EJP is supported by:**

U.S. Department of Justice, Office on Violence Against Women,  
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## Introduction

Each year, nationwide, an estimated 5 million adults 60 years and older are victims of abuse, neglect and financial exploitation including domestic violence, sexual assault and stalking.<sup>1</sup> In Maine it is estimated that 1 in 14 people 60 years of age and older are victims of elder abuse.<sup>2</sup> According to the U.S. Census, Maine leads the nation as the 'oldest / grayest state' in the nation.<sup>3</sup>

The most common perpetrators of elder abuse are family members.<sup>4</sup> Victims are often unable to report the crime themselves because they are too afraid to tell someone. This is just one of many reasons elder abuse cases go unreported or are uncovered too late. Compounding the lack of reporting is that older adults interface with several service gateways and, unfortunately, professionals themselves don't always recognize the signs of elder abuse.

Maine law makes it a criminal act to endanger the welfare of a **dependent person**. There are no federal or Maine laws that specifically address elder abuse as a distinct crime against an adult, who is neither dependent nor incapacitated. Maine adult protection law defines elder abuse and exploitation as it relates to **dependent or incapacitated adults**. The distinction between capacitated and incapacitated or dependent means that both a criminal justice response and some social services are challenged to provide support to an older victim who does not fit under any of these categories. This is just one example of how systems create barriers for older people from receiving appropriate services.

Because there exists a complex and intricate web of systems that serve older adults, consistent and coordinated responses are imperative to improving the identification of and responses to elder abuse cases. The Elder Justice Partners was formed in 2006 to assist systems to respond, rather than react, to elder abuse cases. Currently, EJP is composed of 17 state governmental and non-profit organizations. The mission is two fold: improve responses to incidents of elder abuse through professional trainings; and actively engage systems in a review of policies and protocols that serve older victims.

Since 2007, EJP has trained hundreds of professionals in the criminal justice, victim and social service systems; conducted statewide eval-

uations related to the effectiveness of our trainings and the current state of older victim services; created this legal publication in both print and digital formats; and partners have not only identified tangible gaps in systems, they have also helped bridge gaps that enhance victim safety and offender accountability.

This Legal Guide is part of our ongoing contribution to education and systems change. Our hope is that the potential legal remedies and resources available in this guide will assist professionals to think more broadly about elder abuse issues.

The guide is divided into three sections: 1) Statutory Definitions of Common Topics; 2) Potential Criminal and Civil Remedies; and 3) Referral and Resources to Aid Investigations and Assist Elder and Vulnerable Adults.

The facts of each case should be used to determine what remedies may be offered to improve victim safety and offender accountability. In most cases, multiple forms of abuse will occur and various forms of remedies are available and may be fully utilized.

Under the criminal statutes cited, law enforcement officers may arrest abusers, and prosecutors may charge them. Civil actions may be brought by an individual, a private attorney, Adult Protective Services and/or the state Attorney General's office to provide some remedy for the victim. Victims living in residential or institutional facilities may have additional remedies available to them.

**The information in this guide does not constitute legal advice.**

## Acknowledgements

The Elder Justice Partners modeled this guide on publications previously developed by the Wisconsin Coalition Against Domestic Violence/ National Clearinghouse on Abuse in Later Life, Marin Elder Abuse Prevention Project, The Erie County Elder Abuse Training Project, and most especially by the work of Rebecca Henry, Esq, formerly of Legal Services for the Elderly in Maine.

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Finally, this guide is dedicated to the victims and family members of elder abuse and to the hundreds of individuals who have served and continue to serve Maine's older adult population. Their tireless efforts to improve the state of elder abuse in Maine is an inspiration.

Sharon R. Herrick, MSW  
Elder Justice Partners

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1 National Committee for the Prevention of Elder Abuse. (2010). Retrieved on April 29, 2010 from, <http://www.preventelderabuse.org/>

2 Legal Services for the Elderly (2001). Elder abuse still a "dirty little secret".

3 Bangor Daily News (2009). Census: Maine oldest, whitest state in the nation. Retrieved on April 29, 2010 from, <http://www.bangordailynews.com/detail/105991.html>

4 National Center on Elder Abuse. (2010). Retrieved on April 29, 2010 from, [http://www.ncea.aoa.gov/NCEARoot/Main\\_Site/FAQ/Questions.aspx](http://www.ncea.aoa.gov/NCEARoot/Main_Site/FAQ/Questions.aspx) (Also see 2000- Survey of Adult Protective Services: [http://www.ncea.aoa.gov/NCEARoot/Main\\_Site/pdf/research/apsreporto30703.pdf](http://www.ncea.aoa.gov/NCEARoot/Main_Site/pdf/research/apsreporto30703.pdf))

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Agencies are encouraged to reprint and distribute all material found in this manual.

# TABLE OF CONTENTS

## SECTION I: Statutory Definition of Common Topics

Elder Abuse	I
Endangering Welfare of Dependent Person	4
Mandatory Reporting	4
Licensing	9
HIPAA	10
Domestic Abuse	11
Civil Harassment	13
Sexual Abuse	15
<b>Financial Exploitation</b>	<b>16</b>
Power of Attorney, Principal and Agent	16
Undue Influence	19
Improvident Transfer of Title Act	21
Securities	22

## SECTION II: Potential Criminal and Civil Remedies

Denial of Access	25
Physical Abuse	27
Sexual Abuse	30
Confinement	33
Stalking	36
Emotional Abuse	39
Neglect	41
Financial Exploitation	44

# TABLE OF CONTENTS

## SECTION III: Referral and Resources to Aid Investigations & Assist Elder Victims and Vulnerable Adults

Abuse and Neglect Reporting	48
Alcohol and Substance Abuse Services	50
Disabilities	51
Domestic and Family Abuse Services	51
Elder Support Services	52
Financial Services to Aid Investigations	53
Immigrant and Multicultural Resources	54
Guardianship/Conservator	56
Hearing and Vision Impaired Services	57
Legal Services	57
Mental Health	58
Long Term Care Ombudsman	58
Independent Living Services	59
Sexual Abuse Services	59
Transportation	60
Adult Protective Services by District Office	61
Domestic Violence Services by County	62
Sexual Assault Support Services by County	64
Area Agencies on Aging by County	66
Maine Emergency Services for Elder Victims	Back Cover

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## **ELDER ABUSE**

**(22 M.R.S.A. § 3472)**

Elder Abuse is any of the following types of abuse, neglect or exploitation against a person age 60 or older:

- Domestic Violence
- Physical Abuse including Confinement and Stalking
- Emotional Abuse
- Sexual Abuse
- Financial Exploitation
- Neglect and Self Neglect

## **SECTION I: STATUTORY DEFINITIONS OF COMMON TOPICS**

Under Maine law, elder abuse of a competent adult is not a unique crime or civil cause of action; that is, the age of a victim is not relevant to any legal action taken on behalf of that victim. Therefore, usual abuse statutes and causes of action apply.

However, Maine law does define elder abuse and exploitation as it relates to dependent or incapacitated adults. These definitions appear in the Adult Protective Services Act, and therefore are typically available only to Adult Protective Service professionals (i.e., they do not define a crime or independent civil cause of action).

The relevant definitions are as follows:

## GLOSSARY OF RELEVANT TERMS (22 M.R.S.A. § 3472)

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<b>1. Abuse</b>	“Abuse” means the infliction of injury, unreasonable confinement, intimidation or cruel punishment that causes or is likely to cause physical harm or pain or mental anguish; sexual abuse or exploitation; or the intentional, knowing or reckless deprivation of essential needs. “Abuse” includes acts and omissions.
<b>3. Caretaker</b>	“Caretaker” means any individual or institution who has or assumes the responsibility for the care of an adult.
<b>6. Dependent adult</b>	“Dependent adult” means an adult who has a physical or mental condition that substantially impairs the adult’s ability to adequately provide for that adult’s daily needs. “Dependent adult” includes, but is not limited to, any of the following:  A. A resident of a nursing home licensed or required to be licensed under section 1817; B. A resident of a facility providing assisted living services licensed or required to be licensed pursuant to section 7801; or C. A person considered a dependent person under Title 17-A, section 555.
<b>9. Exploitation</b>	“Exploitation” means the illegal or improper use of an incapacitated or dependent adult or that adult’s resources for another’s profit or advantage.
<b>10. Incapacitated adult</b>	“Incapacitated adult” means any adult who is impaired by reason of mental illness, mental deficiency, physical illness or disability to the extent that that individual lacks sufficient understanding or capacity to make or communicate responsible decisions concerning that individual’s person, or to the extent the adult cannot effectively manage or apply that individual’s estate to necessary ends.

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<b>11. Neglect</b>	“Neglect” means a threat to an adult’s health or welfare by physical or mental injury or impairment, deprivation of essential needs or lack of protection from these.
<b>12. Protective services</b>	“Protective services” means services that separate incapacitated or dependent adults from danger. Protective services include, but are not limited to, social, medical and psychiatric services necessary to preserve the incapacitated or dependent adult’s rights and resources and to maintain the incapacitated or dependent adult’s physical and mental well-being. Protective services may include seeking guardianship or a protective order under Title 18-A, Article 5.
<b>13. Serious harm</b>	“Serious harm” means:  A. Serious physical injury or impairment; B. Serious mental injury or impairment that now or in the future is likely to be evidenced by serious mental, behavioral or personality disorder, including, but not limited to, severe anxiety, depression or withdrawal, untoward aggressive behavior or similar serious dysfunctional behavior; C. Sexual abuse or exploitation; or D. Serious waste or dissipation of resources.
<b>15. Sexual abuse or exploitation</b>	“Sexual abuse or sexual exploitation” means contact or interaction of a sexual nature involving an incapacitated or dependent adult without that adult’s informed consent.

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## ENDANGERING WELFARE OF DEPENDENT PERSON

(17-A M.R.S.A. § 555)

1. A person is guilty of endangering the welfare of a dependent person if:
  - A. The person recklessly endangers the health, safety or mental welfare of a dependent person who is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect. Violation of this paragraph is a Class D crime; or [2005, c. 43I, §I (NEW).]
  - B. The person intentionally or knowingly endangers the health, safety or mental welfare of a dependent person who is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect. Violation of this paragraph is a Class C crime. [2005, c. 43I, §I (NEW).] [ 2005, c. 43I, §I (RPR).]
2. As used in this section, “endangers” includes a failure to act only when the defendant has a legal duty to protect the health, safety or mental welfare of the dependent person. For purposes of this section, a legal duty may be inferred if the defendant has assumed responsibility for the care of the dependent person.

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## MANDATORY REPORTING

(22 M.R.S.A. §§ 3475-3485)

### § 3475 Penalty for violations

A person who knowingly violates a provision of this chapter commits a civil violation for which a forfeiture of not more than \$500 may be adjudged. Any licensed, registered, accredited or certified professional who has been adjudged to have violated a provision of this chapter must, in addition to any financial penalty, be reported by the court or the department to the appropriate professional licensing organization, registration board, accrediting unit or facility.

### § 3476 Spiritual treatment

1. Treatment not considered abuse, neglect or exploitation. An incapacitated or dependent adult shall not be considered to be abused, neglected or exploited solely because treatment is by spiritual means by an accredited practitioner of a recognized religious organization.
2. Treatment to be considered if requested. When medical treatment is authorized, under this chapter, treatment by spiritual means by an accredited practitioner of a recognized religious organization may also be considered if requested by the incapacitated or disabled adult or his caretaker.

### § 3477 Persons mandated to report suspected abuse, neglect or exploitation

1. Report required. The following persons immediately shall report to the department when the person has reasonable cause to suspect that an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation:

A. While acting in a professional capacity:

- (1) An allopathic or osteopathic physician;
- (2) A medical intern;
- (3) A medical examiner;
- (4) A physician’s assistant;
- (5) A dentist;
- (6) A chiropractor;
- (7) A podiatrist;
- (8) A registered or licensed practical nurse;
- (9) A certified nursing assistant;
- (10) A social worker;
- (11) A psychologist;
- (12) A pharmacist;
- (13) A physical therapist;
- (14) A speech therapist;



- (15) An occupational therapist;
- (16) A mental health professional;
- (17) A law enforcement official;
- (18) Emergency room personnel;
- (19) An ambulance attendant;
- (20) An emergency medical technician;
- (21) Unlicensed assistive personnel;
- (22) A humane agent employed by the Department of Agriculture, Food and Rural Resources;
- (23) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (24) A sexual assault counselor; or
- (25) A family or domestic violence victim advocate;

- B. Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the incapacitated or dependent adult, regardless of whether the person receives compensation; or
- C. Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether the person receives compensation.

The duty to report under this section applies to individuals who must report directly to the department. A supervisor or administrator of a person making a report under this section may not impede or inhibit the reporting, and a person making a report may not be subject to any sanction for making a report. Internal procedures to facilitate, ensure confidentiality of and apprise supervisors and administrators of reports may be established as long as those procedures are not inconsistent with this chapter.

1-A. Permitted reporters. An animal control officer, as defined in Title 7, section 3907, subsection 4, may report to the department when that person has reasonable cause to suspect that an incapacitated or

dependent adult has been or is at substantial risk of abuse, neglect or exploitation.

- 2. Reports. Reports regarding abuse, neglect or exploitation must be made immediately by telephone to the department and shall be followed by a written report within 48 hours if requested by the department. The reports must contain the name and address of the involved adult; information regarding the nature and extent of the abuse, neglect or exploitation; the source of the report; the person making the report; his occupation; and where he can be contacted. The report may contain any other information which the reporter believes may be helpful.
- 3. Confidentiality in case of treatment of individual suspected of causing abuse, neglect or exploitation. This section does not require any person acting in that person's professional capacity to report when all of the following requirements are met:
  - A. The factual basis for knowing or suspecting abuse, neglect or exploitation of an adult covered under this subchapter derives from the professional's treatment of the individual suspected of causing the abuse, neglect or exploitation;
  - B. The treatment was sought by the individual for a problem relating to the abuse, neglect or exploitation; and
  - C. In the opinion of the person required to report, the abused, neglected or exploited adult's life or health is not immediately threatened.
- 4. Confidentiality in case of treatment of individual suspected of being abused, neglected or exploited. This section does not require any person acting in that person's professional capacity to report when all of the following requirements are met:
  - A. The factual basis for knowing or suspecting abuse, neglect or exploitation of an adult covered under this subchapter derives from the professional's treatment of the individual suspected of being abused, neglected or exploited;
  - B. The treatment was sought by the individual for a problem relating to the abuse, neglect or exploitation; and

- C. In the opinion of the person required to report, the individual is not incapacitated and the individual's life or health is not immediately threatened.

**§ 3478 Mandatory reporting to medical examiner for post-mortem investigation**

A person required to report cases of known or suspected abuse or neglect, who knows or has reasonable cause to suspect that an adult has died as a result of abuse or neglect, shall report that fact to the appropriate authority as provided in section 3026. An adult shall not be considered to be abused or neglected solely because he was provided with treatment by spiritual means by an accredited practitioner of a recognized religious organization.

**§ 3479 Optional reporting**

Any person may make a report to the department when that person has reasonable cause to suspect an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation.

**§ 3479-A Immunity from liability**

1. Reporting and proceedings. A person participating in good faith in reporting under this subchapter, or in a related adult protection investigation or proceeding, is immune from any civil liability that might otherwise arise under state or local laws or rules regarding confidentiality of information.
2. Presumption of good faith. In a proceeding regarding immunity from liability, there shall be a rebuttable presumption of good faith.

**§ 3485 Reporting abuse**

Upon finding evidence indicating that a person has abused, neglected or exploited an incapacitated or dependent adult, resulting in serious harm, the department shall notify the district attorney or law enforcement agency.

**LICENSING**  
**(Title 32 of the Maine Revised Statutes Annotated)**

All of the following professions are regulated by professional boards with the authority to discipline practitioners for incompetence or unprofessional conduct. Section numbers refer to disciplinary chapters of Title 32, Professions and Occupations.

To file a complaint against one of these licensed professionals, go to the website of the Department of Professional and Financial Regulation, Office of Licensing and Registration at [www.state.me.us/pfr/olr/](http://www.state.me.us/pfr/olr/).

To file a complaint against an attorney, go to the website of the Maine Board of Overseers of the Bar at [www.mebaroverseers.org](http://www.mebaroverseers.org).

§ 64-B	Nursing Home Administrators
§ 503-B	Chiropractors
§ 1077	Dentists and Dental Hygienists
§ 2105-A	Nurses and Nursing
§ 2286	Occupational Therapists
§ 2431-A	Optometrists
§ 2591-A	Osteopathic Physicians
§ 3117-A	Physical Therapists
§ 3282-A	Medicine
§ 3656	Podiatrists
§ 3837-A	Psychologists
§ 6119	Money Transmitters and Check Cashers
§ 6217-B	Alcohol and Drug Counselors
§ 7059-A	Social Workers
§ 9713	Respiratory Care Practitioners
§ 9910	Dieticians
§ 12503-A	Acupuncturists and Naturopaths
§ 12273-A	Certified Public Accountants

§ 13067-A	Real Estate Brokers
§ 13742-A	Pharmacies
§ 13861-A	Counseling Professionals
§ 13909	Land Surveyors
§ 14014-A	Real Estate Appraisers

To file a complaint against a licensed facility, report to the Department of Health and Human Services, Division of Licensing and Regulatory Services:

1-800-383-2441 (statewide toll-free) 1-800-606-0215 (TTY).

“The Department will accept complaints from any person about alleged violation(s) of licensing regulations. The provider shall not retaliate against any consumer or his/her representative for filing a complaint. Complainants have immunity from civil or criminal liability when the complaint is made in good faith. Any licensing violations noted as a result of a complaint investigation will be provided to the assisted living program in writing.”

–DHHS Regulations Governing Licensing & Functioning Of Assisted Housing Programs. Source: [www.bit.ly/DHHS-AH](http://www.bit.ly/DHHS-AH)

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## HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

### DISCLOSURE BY MEDICAL PROFESSIONALS

HIPAA is the federal law that establishes standards for the privacy and security of health information, as well as standards for electronic data interchange (EDI) of health information.

HIPAA has two main goals, as its name implies: making health insurance more portable when persons change employers; and making the health care system more accountable for costs—trying especially to reduce waste and fraud.

HIPAA’s regulations directly cover three basic groups of individual or

corporate entities: health plans, health care providers and health care clearinghouses.

With regard to potential cases of elder abuse, permitted use and disclosures include giving information (without consent) to health care professionals and to law enforcement officials.

A covered entity may disclose patient information without consent:

- A) To law enforcement regarding victims of abuse, neglect or domestic violence. (45CFR sec. 164.512).
- B) When protected information may be evidence of a crime or to inform law enforcement of the nature of the crime. (45CFR sec. 164.512).

### **HIPAA does not override Maine’s state law requiring the reporting of abuse, neglect and exploitation of dependent and incapacitated persons.**

For the full HIPAA legal text go to: <http://www.cms.hhs.gov/hipaageninfo/downloads/hipaalaw.pdf>.

Additional questions should be referred to your agency counsel.

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## DOMESTIC ABUSE

A broad definition of abuse is a pattern of coercive behavior that is used by a person against family or household members or dating partners to gain power or control over the other party in a relationship. This behavior may include any of the following: physical violence, sexual abuse, emotional and psychological intimidation, verbal abuse and threats, stalking, isolation from friends and family, economic control, destruction of personal property and animal cruelty. Domestic violence occurs between people of all racial, economic, educational and religious backgrounds. It occurs in heterosexual and same-sex relationships, between married and unmarried partners, between current and former partners and between other family and household members (Maine Coalition to End Domestic Violence, [www.mcedv.org](http://www.mcedv.org)).

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## CRIMES OF DOMESTIC VIOLENCE

In 2008, new legislation took effect to formally label crimes that occur between family and household members as defined by 19-A M.R.S.A. § 4002(4) as crimes of domestic violence. These crimes include:

Domestic Violence Assault	(17-A M.R.S.A. §207-A)
Domestic Violence Criminal Threatening	(17-A M.R.S.A. §209-A)
Domestic Violence Terrorizing	(17-A M.R.S.A. §210-B)
Domestic Violence Stalking	(17-A M.R.S.A. §210-C)
Domestic Violence Reckless Conduct	(17-A M.R.S.A. §211-A)

These are all Class D crimes on their first offense, but upon the second domestic violence offense, the crime is elevated to a felony.

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## WHO CAN SECURE A PROTECTION FROM ABUSE ORDER?

### (19-A M.R.S.A. §§ 4002 & 4005)

Recent amendments to the Protection from Abuse (PFA) statute now allow victims of stalking and sexual assault to secure a protection order even if the parties do not meet the statutory definition of “family or household member”. This means that a victim of a “stranger rape” or a “stranger stalker” can secure a civil protection order against the perpetrator if his identity becomes known. Further, this protection is also now available to dating partners even if the dating partners have not engaged in sexual intercourse.

**Dating partners:** “Dating partners” means individuals currently or formerly involved in dating each other, whether or not the individuals are or were sexual partners.

**Family or household members:** “Family or household members” means spouses or domestic partners or former spouses or former domestic partners, individuals presently or formerly living together as spouses, natural parents of the same child, adult household members

related by consanguinity<sup>1</sup> or affinity or minor children of a household member when the defendant is an adult household member and, for the purposes of this chapter and Title 17-A, sections 1201, 1202 and 1253 only, includes individuals presently or formerly living together and individuals who are or were sexual partners. Holding oneself out to be a spouse is not necessary to constitute “living as spouses.” For purposes of this subsection, “domestic partners” means 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other’s welfare.

**Sexual Assault/Stalking Victims:** An adult who has been a victim of conduct defined as stalking in Title 17-A, section 210-A or described as sexual assault in Title 17-A, chapter 11, whether or not the conduct was perpetrated by a family or household member or dating partner, may seek relief by filing a complaint alleging that conduct without regard to whether criminal prosecution has occurred.

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## CIVIL HARASSMENT (5 M.R.S.A. § 4651)

In cases where the facts do not support a victim seeking a PFA (usually because the victim is not in fear for his or her physical safety, or because the abuse was not perpetrated by a family or member living in the same household), a Protection from Harassment order may be an option.

2. Harassment. “Harassment” means:

- A. Three or more acts of intimidation, confrontation, physical force or the threat of physical force directed against any person, family or business that are made with the intention of causing fear, intimidation or damage to property and that do in fact cause fear, intimidation or damage to property;
- B. Three or more acts that are made with the intent to deter the free exercise or enjoyment of any rights or privileges secured by the Constitution of Maine or the United States Constitution; or
- C. A single act or course of conduct constituting a violation of section 4681 [civil rights act]; Title 17, section 2931 [criminal interference with constitutional and civil rights]; or Title 17-A, sections 201 [murder], 202 [felony murder], 203 [manslaughter], 204 [aiding

<sup>1</sup> Consanguinity: n. 1. Blood relationship. 2. Any close connection or affinity. THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE 283 (1970).

or soliciting suicide], 207 [assault], 208 [aggravated assault], 209 [criminal threatening], 210 [terrorizing], 210-A [stalking], 211 [reckless conduct], 253 [gross sexual assault], 301 [kidnapping], 302 [criminal restraint], 303 [criminal restraint by parent], 506-A [harassment], 511 [violation of privacy], 556 [incest], 802 [arson], 805 [aggravated criminal mischief] or 806 [criminal mischief].

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## PFA V. PFH CONUNDRUM RE: THE ELDERLY IN MAINE

There are two general types of protective orders utilized by those working to protect victims of domestic violence: Protection from Abuse (PFA) Orders obtained pursuant to 19-A M.R.S.A. §§ 4001 – 4014 and Protection from Harassment (PFH) Orders obtained pursuant to 5 M.R.S.A. §§ 4651 – 4660-A. In certain Maine Courts parents of children who do not live within the same building as their offspring are not allowed to seek Protection from Abuse (PFA) orders. They are not deemed “household members” and are not deemed to have the status of “formerly living together.” Elders being abused by non resident children are directed to seek Protection from Harassment orders pursuant to 5 M.R.S.A. § 4651 et seq. The conundrum is embedded in the statutes.

### Title 19-A M.R.S.A. § 4002(1) describes “abuse” so:

“Abuse” means the occurrence of the following acts<sup>1</sup> between family or household members or dating partners or by a family or household member or dating partner upon a minor child of a family or household member or dating partner:

### Further on the same statute, at §4002(4) defines “household member” thus:

“Family or household members” means spouses or domestic partners or former spouses or former domestic partners, individuals presently or formerly living together as spouses, natural parents of the same child, adult household members related by consanguinity<sup>2</sup> or affinity or minor children of a household member when the defendant is an adult household member; and for the purposes of this chapter and Title 17-A, sections 1201, 1202 and 1253 only, also includes individuals presently or formerly living together and individuals who are or were

<sup>1</sup> These acts as defined in 19-A M.R.S.A § 4002(1)(A-F).

<sup>2</sup> Consanguinity: n. 1. Blood relationship. 2. Any close connection or affinity. THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE 283 (1970).

sexual partners. Holding oneself out to be a spouse is not necessary to constitute “living as spouses.” For purposes of this subsection, “domestic partners” means two unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other’s welfare.

### The problems that being barred from PFA and directed to PFH create include:

- PFH orders expire in one year. 5 M.R.S.A. § 4655(2).
- There is a \$30.00 PFH filing fee (no fee to file for PFA).
- “Three or more” acts are commonly required to prove harassment §4651(2)(A).
- “When reasonable” the Plaintiff must give notice (before obtaining even a temporary PFH order) to the Defendant. 5 M.R.S.A. § 4654(2)(B).
- While PFA orders routinely bar defendants from possessing firearms, 19-A §4007(1)(A-2), PFH orders do not.

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## SEXUAL ABUSE (22 M.R.S.A. § 3472)

Sexual abuse occurs when the abuser engages in unwanted sexual acts, contact or touching. Sexual abuse often occurs with an incapacitated adult as the victim.

Sexual acts may also include unwarranted, intrusive and/or painful procedures in caring for the victim’s genitals or rectal area, such as application or insertion of creams, ointments, thermometers, enemas, catheters, fingers, soap, washcloths or other objects when not medically prescribed and unnecessary for the health and well-being of the victim.

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## SEXUAL ASSAULTS (17-A M.R.S.A. §§ 251-283)

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§ 253. Gross Sexual Assault  
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§ 255-A. Unlawful Sexual Contact  
.....

§ 260. Unlawful Sexual Touching  
.....

# Financial Exploitation

## POWER OF ATTORNEY, PRINCIPAL & AGENT (18-A M.R.S.A. § 5-508)

Often, financial abuse occurs via the misuse of a durable financial power of attorney. Black's Law Dictionary defines Power of Attorney (POA) as: "An instrument granting someone authority to act as agent or attorney-in-fact for the grantor."

"Power" (letter) of Attorney (appointing agent) is an ancient device that is essentially a contract wherein one person (the Principal) appoints another (the Agent) to act on his or her behalf.

A *durable* (read: "enduring") power of attorney (DPOA) is a POA that appoints an agent to act on behalf of the Principal beyond the time the principal can no longer direct the agent.

All POAs expire with the death of the principal. The agent is allowed to act only until the time of "actual notice" of death or revocation.

Agents pursuant to POA have no inherent automatic or remaining authority over the estate of a deceased.

Under Maine statute, durable financial power of attorney means the following:

- (a) A durable financial power of attorney is a durable power of attorney by which a principal designates another as attorney-in-fact [a.k.a. agent] to make decisions on the principal's behalf in matters concerning the principal's finances, property or both. In the exercise of the powers conferred under a durable financial power of attorney, an attorney-in-fact shall act as a fiduciary under the standards of care applicable to trustees as described by Title 18-B, sections 802 to 807 and chapter 9.
- (b) An attorney-in-fact is not authorized to make gifts to the attorney in-fact or to others unless the durable financial power of attorney explicitly authorizes such gifts.

(c) A durable financial power of attorney executed in this State must be notarized by a notary public or an attorney-at-law.

(d) A durable financial power of attorney executed in this State must contain the following language:

Notice to the Principal: As the "Principal," you are using this Durable Power of Attorney to grant power to another person (called the "Agent" or "Attorney-in-fact") to make decisions about your money, property or both and to use your money, property or both on your behalf. If this written Durable Power of Attorney does not limit the powers that you give your Agent, your Agent will have broad and sweeping powers to sell or otherwise dispose of your property and spend your money without advance notice to you or approval by you. Under this document, your Agent will continue to have these powers after you become incapacitated, and you may also choose to authorize your Agent to use these powers before you become incapacitated. The powers that you give your Agent are explained more fully in the Maine Revised Statutes, Title 18-A, sections 5-501 to 5-508 and in Maine case law. You have the right to revoke or take back this Durable Power of Attorney at any time as long as you are of sound mind. If there is anything about this Durable Power of Attorney that you do not understand, you should ask a lawyer to explain it to you.

Notice to the Agent: As the "Agent" or "Attorney-in-fact," you are given power under this Durable Power of Attorney to make decisions about the money, property or both belonging to the Principal and to spend the Principal's money, property or both on that person's behalf in accordance with the terms of this Durable Power of Attorney. This Durable Power of Attorney is valid only if the Principal is of sound mind when the Principal signs it. As the Agent, you are under a duty (called a "fiduciary duty") to observe the standards observed by a prudent person dealing with the property of another. The duty is explained more fully in the Maine Revised Statutes, Title 18-A, sections 5-501 to 5-508 and Title 18-B, sections 802 to 807 and chapter 9 and in Maine case law. As the Agent, you are not entitled to use the money or property for your own benefit or to make gifts to yourself or others unless the Durable Power of Attorney specifically gives you the authority to do so. As the Agent, your authority under this Durable Power of Attorney will end when the Principal dies and you will not have the authority to administer the estate unless you are authorized to do so in accordance with the Probate Code. If you violate your fiduciary duty under this Durable Power of Attorney, you may be liable for damages and may be subject to criminal prosecution. If there is anything about this Durable Power of Attorney or your duties

under it that you do not understand, you should ask a lawyer to explain it to you. This language does not confer powers not otherwise contained in the durable financial power of attorney.

- (e) Subject to the requirements of subsection (b), the generality powers of an attorney-in-fact in a power of attorney that contains language appointing the attorney-in-fact to care for, manage, control and handle all of the principal's business, financial, property and personal affairs in as full and complete a manner as the principal might do is not limited by the inclusion in the power of attorney of a list of the specific powers granted to the attorney-in-fact.
- (f) A power of attorney that contains a grant of general authority referred to in subsection (e) does not create a power of attorney for health care unless the power of attorney explicitly authorizes the attorney-in-fact to make health care decisions.
- (g) The requirements of subsections (b), (c) and (d) do not render ineffective a durable financial power of attorney validly executed prior to September 19, 1997 or a durable financial power of attorney executed prior to December 31, 1998 in accordance with this section as in effect on September 19, 1997. The requirements of subsection (d) do not render ineffective a durable power of attorney validly executed prior to July 1, 2005 in accordance with this section.
- (h) The requirements of this section do not apply to any durable financial power of attorney:
  - 1. Granted by a person other than a natural person;
  - 2. Granted to the secured party or mortgagee in a security agreement or mortgage; or
  - 3. Given by or on behalf of a debtor, guarantor or accommodation party as a part of loan documentation related to a credit transaction, if the creditor entered into the transaction for value.
- (i) Notwithstanding subsections (c) and (d), any military power of attorney executed in accordance with 10 United States Code, Section 1044b is valid in this State.

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## UNDUE INFLUENCE

(33 M.R.S.A. §§ 1022-1023)

### § 1022. Undue influence

- 1. **Presumption.** In any transfer of real estate or major transfer of personal property or money for less than full consideration or execution of a guaranty by an elderly person who is dependent on others to a person with whom the elderly dependent person has a confidential or fiduciary relationship, it is presumed that the transfer or execution was the result of undue influence, unless the elderly dependent person was represented in the transfer or execution by independent counsel. When the elderly dependent person successfully raises the presumption of undue influence by a preponderance of the evidence and when the transferee or person who benefits from the execution of a guaranty fails to rebut the presumption, the elderly dependent person is entitled to avoid the transfer or execution and is entitled to the relief set forth in section 1024.
- 2. **Confidential or fiduciary relationship.** For the purpose of this section, the transfer of property or execution of a guaranty is deemed to have been made in the context of a confidential or fiduciary relationship if the transferee or person who benefits from the execution of a guaranty had a close relationship with the elderly dependent person prior to the transfer or execution. Confidential or fiduciary relationships include the following:
  - A. A family relationship between the elderly dependent person and the transferee or person who benefits from the execution of a guaranty, including relationships by marriage and adoption;
  - B. A fiduciary relationship between the elderly dependent person and the transferee or person who benefits from the execution of a guaranty, such as with a guardian, conservator, trustee, accountant, broker or financial advisor;
  - C. A relationship between an elderly dependent person and a physician, nurse or other medical or health care provider;
  - D. A relationship between the elderly dependent person and a psychologist, social worker or counselor;
  - E. A relationship between the elderly dependent person and an attorney;
  - F. A relationship between the elderly dependent person and a priest, minister, rabbi or spiritual advisor;

- G. A relationship between the elderly dependent person and a person who provides care or services to that person whether or not care or services are paid for by the elderly person;
- H. A relationship between an elderly dependent person and a friend or neighbor; or
- I. A relationship between an elderly dependent person and a person sharing the same living quarters.

When any of these relationships exist and when a transfer or execution is made to a corporation or organization primarily on account of the membership, ownership or employment interest or for the benefit of the fiduciary or confidante, a fiduciary or confidential relationship with the corporation or organization is deemed to exist.

### § 1023. Civil action; relief available

1. **Civil action.** A civil action may be brought to obtain relief under this chapter by an elderly dependent person, that person's legal representative or the personal representative of the estate of an elderly dependent person.
2. **Relief available; protected transfers and executions.** When a court finds that a transfer of property or execution of a guaranty was the result of undue influence, it shall grant appropriate relief enabling the elderly dependent person to avoid the transfer or execution, including the rescission or reformation of a deed or other instrument, the imposition of a constructive trust on property or an order enjoining use of or entry on property or commanding the return of property. When the court finds that undue influence is a good and valid defense to a transferee's suit on a contract to transfer the property or a suit of a person who benefits from the execution of a guaranty on that guaranty, the court shall refuse to enforce the transfer or guaranty.

No relief obtained or granted under this section may in any way affect or limit the right, title and interest of good faith purchasers, mortgagees, holders of security interests or other 3rd parties who obtain an interest in the transferred property for value after its transfer from the elderly dependent person. No relief obtained or granted under this section may affect any mortgage deed to the extent of value given by the mortgagee.

## Improvident Transfer of Title Act

### 33 M.R.S.A. § 1021 – 1025

The Improvident Transfer of Title Act, enacted in 1987, is a statutory cause of action that can be used to protect and repair elders who have been financially exploited by those close to them.

“Presumption. In any transfer of real estate or major transfer of personal property or money for less than full consideration or execution of a guaranty by an elderly person who is dependent on others to a person with whom the elderly dependent person has a confidential or fiduciary relationship, it is presumed that the transfer or execution was the result of undue influence, unless the elderly dependent person was represented in the transfer or execution by independent counsel. When the elderly dependent person successfully raises the presumption of undue influence by a preponderance of the evidence and when the transferee or person who benefits from the execution of a guaranty fails to rebut the presumption, the elderly dependent person is entitled to avoid the transfer or execution and entitled to the relief set forth in section 1024.”

“At the heart of the Improvident Transfers of Title Act is a presumption of undue influence.” *First Union Nat’l Bank v. Curtis*, 2005 ME 108, ¶ 4, n2, 882 A.2d 796.

### Elements Required by Improvident Transfer Act

- **Elderly** – over 60 years of age § 1021(2).
- **Dependent** – means “wholly or partially dependant” for emotional or physical support due to “significant limitation” i.e. mobility, vision, hearing, mental functioning or ability to read or write or suffering or recovering from major illness or surgery. § 1021(1). (There is no requirement that the elder be dependant on the specific person to whom the transfer was made.)
- **Lack of “Independent” counsel** – counsel must represent the elder. § 1021(3).
- **Major Transfer for less than value** – means transfer of more than 10% of elder's estate<sup>1</sup> to transferee for less than “fair market value”. § 1021(4) & (5).<sup>2</sup>
- **Transferee must have “confidential or fiduciary” relationship** – this includes family, fiduciaries, doctors, ministers, attorneys, health care provider, other care givers (paid or not), friends/ neighbors, or anyone sharing the same living quarters.<sup>3</sup>



\*Improvident Transfer of Title is not an exclusive remedy. Besides the remedies available in the Act pursuant to §1023, all other causes of action or relief at law or equity (i.e., fraud, unjust enrichment, constructive trusts) remain available. See, § 1024.

\* Improvident Transfer of Title Actions can be filed in District or Superior Court. The Improvident Transfer of Title Act was amended in 2003 to make clear that the cause of action survives death. See, § 1023(1).

<sup>1</sup> There is no minimum in statute on value of real estate transfers.

<sup>2</sup> “Transfers” via wills or other testamentary devices are outside the scope of this law.

<sup>3</sup> The list in § 1022(2) does not appear exhaustive, it appears to be ejusdem generis: “things of this type”.

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## SECURITIES

(32 M.R.S.A. § 16102(28))

Although many people think of securities exclusively as formally traded stocks, even the simplest of “investments” can be considered a security for purposes of criminal prosecution. This is especially useful in cases of financial exploitation in which the exploited elder was persuaded to “loan” money for some type of “business” enterprise. According to federal case law, all that is required to establish a security is (a) an investment of assets (cash or property), (b) in an enterprise with others, (c) all of whom expect to make money (even if only as interest on a loan), (d) while someone else manages the activity (i.e., the investor is expected to do nothing).

**Under Maine law, the definition is as follows:**

**28. Security.** “Security” means a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; investment in a viatical or life settlement contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas or other mineral rights; documents of title to or certificates of interest or participation in an oil, gas or other mineral title or lease or in payments out of production under any title, lease, right or royalty; put, call, straddle, option or privilege on a security, certificate of

deposit or group or index of securities, including an interest therein or based on the value thereof; put, call, straddle, option or privilege entered into on a national securities exchange relating to foreign currency; or, in general, an interest or instrument commonly known as a “security”; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of or warrant or right to subscribe to or purchase any of the foregoing.

“Security”:

- A. Includes both a certificated and an uncertificated security;
- B. Does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed or variable sum of money either in a lump sum or periodically for life or some other specified period;
- C. Does not include an interest in a contributory or noncontributory pension or welfare plan subject to the Federal Employee Retirement Income Security Act of 1974;
- D. Includes as an investment contract an investment in a common enterprise with the expectation of profits to be derived primarily from the efforts of a person other than the investor. For purpose of this paragraph, “common enterprise” means an enterprise in which the fortunes of the investor are interwoven with those of either the person offering the investment, a 3rd party or other investor; and
- E. Includes as an investment contract, among other contracts, an interest in a limited partnership and a limited liability company.

## SECTION II: POTENTIAL CRIMINAL AND CIVIL REMEDIES

### DENIAL OF ACCESS

Denial of Access occurs when abuse is occurring and the abuser refuses to allow any of the following professionals into the home despite the need for assistance: law enforcement officer, emergency medical technician, adult protective services worker, or investigator for the Attorney General or District Attorney. The following actions may be warranted, depending on the severity of abuse and the specific actions of the abuser.

### POTENTIAL CRIMINAL JUSTICE ACTIONS: DENIAL OF ACCESS

(Statutes under which law enforcement may arrest and/or prosecutors may charge)

Endangering welfare of dependent person	17-A M.R.S.A. § 555
Failure to report to Adult Protective Services (APS) (civil violation; \$500 fine)	22 M.R.S.A. §§ 3475, 3477
Obstructing report of a crime or injury (Class D)	17-A M.R.S.A. § 758
Obstructing government administration (Class D)	17-A M.R.S.A. § 751
Reckless conduct (Class D)	17-A M.R.S.A. § 211
Unsworn falsification (Class D)	17-A M.R.S.A. § 453
Assault on an emergency medical provider (Class C)	17-A M.R.S.A. § 752-C
Obstructing criminal prosecution (Class C)	17-A M.R.S.A. § 754
Aggravated reckless conduct (Class B)	17-A M.R.S.A. § 213
Tampering with a witness, informant, juror or victim (Class B or C)	17-A M.R.S.A. § 454
Manslaughter (Class A or C)	17-A M.R.S.A. § 203
Murder	17-A M.R.S.A. § 201

In addition to the remedies listed above, consider the following when abuse occurs in regulated facilities/community programs:

Falsifying private records (Class E)	17-A M.R.S.A. § 707
Falsifying physical evidence (Class D)	17-A M.R.S.A. § 455

## POTENTIAL CIVIL ACTIONS: DENIAL OF ACCESS

(Actions that may be brought by an individual, a private attorney, or the state attorney general on behalf of the victim or for offender accountability)

### Directly Associated Statutes

Protection from abuse order	19-A M.R.S.A. § 4002(1)(C) or (D)
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NB: Relief may include remedies for financial losses suffered as a direct result of the abuse. 19-A M.R.S.A. § 4007(1) (I), (K), (M)

Protection from harassment order	5 M.R.S.A. § 4655
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NB: Relief may include remedies for financial losses suffered as a direct result of the harassment. 5 M.R.S.A. § 4655(1) (D), (F)

Persons mandated to report suspected abuse, neglect or exploitation.	22 M.R.S.A. § 3477
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### Often Associated Statutes

Protective custody of mentally ill person	34-B M.R.S.A. § 3862
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Wrongful Death	18-A M.R.S.A. § 2-804
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In addition to the remedies listed above, consider the following when abuse occurs in regulated facilities or community programs:

- Negligent Hiring or Retention common law
- Complaint with professional licensing board, See Section III
- False Imprisonment common law
- Respondeat Superior common law
- Negligence common law
- Negligent Infliction of Emotional Distress (if there is physical harm) common law
- Intentional Infliction of Emotional Distress common law

## PHYSICAL ABUSE

Physical abuse occurs when the abuser intentionally, knowingly or recklessly causes offensive physical contact or bodily injury (17-A M.R.S.A. § 2(5)). This includes physical pain, physical illness or any impairment of physical condition, or creating a substantial risk of death or serious bodily injury. “Serious bodily injury” means a bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or loss, or substantial impairment of the function of any bodily member or organ, or extended convalescence necessary for recovery of physical health (17-A M.R.S.A. § 2(23)).

## POTENTIAL CRIMINAL JUSTICE ACTIONS: PHYSICAL ABUSE

(Statutes under which law enforcement may arrest and/or prosecutors may charge)

### Directly Associated Statutes

Reckless conduct (Class D)	17-A M.R.S.A. § 211
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Assault (Class D)	17-A M.R.S.A. § 207
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Violation of a protective order (Class D)	17-A M.R.S.A. § 506-B
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Reckless violation of a protective order (Class C)	19-A M.R.S.A. § 4011(4)
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Aggravated assault (Class B)	17-A M.R.S.A. § 208
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Aggravated reckless conduct (Class B)	17-A M.R.S.A. § 213
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Elevated aggravated assault (Class A)	17-A M.R.S.A. § 208-B
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Attempted Murder (Class A)	17-A M.R.S.A. §§ 152, 201
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Manslaughter (Class A)	17-A M.R.S.A. § 203
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Murder	17-A M.R.S.A. § 201
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## Often Associated Statutes

Endangering welfare of dependent person	17A-M.R.S.A. § 555
Failure to report to APS (civil violation; \$500 fine)	22 M.R.S.A. §§ 3475, 3477
Disorderly conduct (Class E)	17-A M.R.S.A. § 501
Aiding or soliciting suicide (Class D)	17-A M.R.S.A. § 204
Unsworn falsification (Class D)	17-A M.R.S.A. § 453
Cruelty to animals (Class C or D, or civil violation)	17-A M.R.S.A. § 1031
Unlawfully furnishing scheduled drugs (Class C or D)	17-A M.R.S.A. § 1106
Stealing drugs (Class C or D)	17-A M.R.S.A. § 1109
Tampering with a witness, informant, juror or victim (Class A-C)	17-A M.R.S.A. § 454

In addition to the remedies listed above, consider the following when abuse occurs in regulated facilities/community programs:

Falsifying private records (Class E)	17-A M.R.S.A. § 707
Falsifying physical evidence (Class D)	17-A M.R.S.A. § 455

### POTENTIAL CIVIL ACTIONS: PHYSICAL ABUSE

(Actions that may be brought by an individual, a private attorney, and/or the state attorney general on behalf of the victim or for offender accountability)

## Directly Associated Statutes

Protection from abuse order	19-A M.R.S.A. § 4002
NB: Relief may include remedies for financial losses suffered as a direct result of the abuse.	19-A M.R.S.A. § 4007(1) (I), (K), (M)
Protection from harassment order	5 M.R.S.A. §§ 4651-4655

NB: Relief may include remedies for financial losses suffered as a direct result of the harassment. 5 M.R.S.A. § 4655(1) (D), (F)

Failure to report to APS (civil violation; \$500 fine)	22 M.R.S.A. §§ 3475, 3477
Petition for guardianship of incapacitated person	18-A M.R.S.A. §§ 5-301-5-313
NB: Availability of limited guardianship	18-A M.R.S.A. § 5-105
Petition for removal of guardian	18-A M.R.S.A. § 5-307

## Often Associated Statutes

Durable Power of Attorney	18-A M.R.S.A. §§ 5-501-5-510
Revocation of Power of Attorney	18-A M.R.S.A. § 5-504
Durable Health-care Power of Attorney	18-A M.R.S.A. § 5-506
Advance Health-care Directive	18-A M.R.S.A. §§ 5-801-5-818
Revocation of Advance Health-care Directive	18-A M.R.S.A. § 5-803
Protective custody of mentally ill person	34-B M.R.S.A. § 3862
Application to Victims' Compensation Fund	5 M.R.S.A. §§ 3360-3360-M
Wrongful Death	18-A M.R.S.A. § 2-804

In addition to the remedies listed above, consider the following when abuse occurs in regulated facilities/community programs:

- Negligent hiring or retention common law
- Complaint with professional licensing board
- Respondeat Superior common law
- Negligence common law
- Assault/battery common law
- Negligent Infliction of Emotional Distress (if there is physical harm) common law
- Intentional Infliction of Emotional Distress common law

## SEXUAL ABUSE

Sexual abuse occurs when the abuser engages in unwanted sexual acts, contact or touching. Sexual abuse often occurs with an incapacitated adult as the victim. Sexual acts may also include: unwarranted, intrusive and/or painful procedures in caring for the victim’s genitals or rectal area, such as application or insertion of creams, ointments, thermometers, enemas, catheters, fingers, soap, washcloths or other objects when not medically prescribed and unnecessary for the health and well-being of the victim.

### POTENTIAL CRIMINAL JUSTICE ACTIONS: SEXUAL ABUSE

(Statutes under which law enforcement may arrest and/or prosecutors may charge)

#### Directly Associated Statutes

Unlawful sexual touching (Class D)	17-A M.R.S.A. § 260
Incest (Class D)	17-A M.R.S.A. § 556
Unlawful sexual contact (Class B-D)	17-A M.R.S.A. § 255-A
Gross sexual assault (Class A-C)	17-A M.R.S.A. § 253

#### Often Associated Statutes

Endangering welfare of dependent person	17A-M.R.S.A. § 555
Failure to report to APS (civil violation; \$500 fine)	22 M.R.S.A. §§ 3475, 3477
Indecent conduct (Class E)	17-A M.R.S.A. § 854
Tampering with a witness, informant, juror or victim (Class A-C)	17-A M.R.S.A. § 454
Unsworn falsification (Class D)	17-A M.R.S.A. § 453

In addition to the remedies listed above, consider the following when abuse occurs in regulated facilities/community programs:

Falsifying private records (Class E)	17-A M.R.S.A. § 707
Falsifying physical evidence (Class D)	17-A M.R.S.A. § 455

### POTENTIAL CIVIL ACTIONS: SEXUAL ABUSE

(Actions that may be brought by an individual, a private attorney, and/or the state attorney general on behalf of the victim or for offender accountability)

#### Directly Associated Statutes

Protection from abuse order	19-A M.R.S.A. §§ 4002-4077
Relief may include remedies for financial losses suffered as a direct result of the abuse	19-A M.R.S.A. § 4007(1) (I), (K), (M)
Protection from harassment order	5 M.R.S.A. §§ 4651-4655
Relief may include remedies for financial losses suffered as a direct result of the harassment	5 M.R.S.A. § 4655(1) (D), (F)
Failure to report to APS (civil violation; \$500 fine)	22 M.R.S.A. §§ 3475, 3477
Petition for guardianship of incapacitated person	18-A M.R.S.A. §§ 5-301-5-313
NB: Availability of limited guardianship	18-A M.R.S.A. § 5-105
Petition for removal of guardian	18-A M.R.S.A. § 5-307

#### Often Associated Statutes

Durable Power of Attorney	18-A M.R.S.A. §§ 5-501-5-510
Revocation of Power of Attorney	18-A M.R.S.A. § 504
Durable Health-care Power of Attorney	18-A M.R.S.A. § 5-506
Advance Health-care Directive	18-A M.R.S.A. §§ 5-801-5-818
Revocation of Advance Health-care Directive	18-A M.R.S.A. § 5-803
Protective custody of mentally ill person	34-B M.R.S.A. § 3805
Application to Victims’ Compensation Fund	5 M.R.S.A. §§ 3360-3360-M

In addition to the remedies listed above, consider the following when abuse occurs in regulated facilities/community programs:

- Negligent hiring or retention common law
- Complaint with professional licensing board
- Respondeat Superior common law
- Negligence common law
- Assault/battery common law
- Negligent Infliction of Emotional Distress (if there is physical harm) common law
- Intentional Infliction of Emotional Distress common law

## CONFINEMENT

Confinement occurs when the abuser holds the victim against their will by physical or chemical restraint, and/or by engaging in behavior that results in a person not feeling free to move about or seek assistance. This may include removing or impairing assistive devices, or threatening the safety of loved ones, including pets.

## POTENTIAL CRIMINAL JUSTICE ACTIONS: CONFINEMENT

(Statutes under which law enforcement may arrest and/or prosecutors may charge)

### Directly Associated Statutes

Endangering welfare of dependent person	17A-M.R.S.A. § 555
Failure to report to APS (civil violation; \$500 fine)	22 M.R.S.A. §§ 3475, 3477
Obstructing report of crime or injury (Class D)	17-A M.R.S.A. § 758
Criminal restraint (Class D)	17-A M.R.S.A. § 302
Reckless conduct (Class D)	17-A M.R.S.A. § 211
Aggravated reckless conduct (Class B)	17-A M.R.S.A. § 213
Kidnapping (Class A or B)	17-A M.R.S.A. § 301
Manslaughter (Class A)	17-A M.R.S.A. § 203
Murder	17-A M.R.S.A. § 201

### Often Associated Statutes

Unsworn falsification (Class D)	17-A M.R.S.A. § 453
Unlawfully furnishing scheduled drugs (Class C or D)	17-A M.R.S.A. § 1106
Cruelty to animals (Class C or D, or civil violation)	17 M.R.S.A. § 1031
Tampering with a witness, informant, juror or victim (Class A-C)	7-A M.R.S.A. § 454

In addition to the remedies listed above, consider the following when abuse occurs in regulated facilities/community programs:

Falsifying private records (Class E)	17-A M.R.S.A. § 707
Falsifying physical evidence (Class D)	17-A M.R.S.A. § 455

### POTENTIAL CIVIL ACTIONS: CONFINEMENT

(Actions that may be brought by an individual, a private attorney, and/or the state attorney general on behalf of the victim or for offender accountability)

Protection from abuse order	19-A M.R.S.A. § 4002(1)(C) or (D)
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Relief may include remedies for financial losses suffered as a direct result of the abuse

Protection from harassment order	5 M.R.S.A. §§ 4651-4655
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NB: Relief may include remedies for financial losses suffered as a direct result of the harassment.

Failure to report to APS (civil violation; \$500 fine)	22 M.R.S.A. §§ 3475, 3477
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Assault & Battery common law

False imprisonment common law

Guardianship	18-A M.R.S.A. §§ 5-301-5-313
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Conservatorship	18-A M.R.S.A. §§ 5-401-5-432
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Negligent Infliction of Emotional Distress (if there is physical harm) common law

Intentional Infliction of Emotional Distress common law

### Often Associated Statutes

Protective custody of mentally ill person	34-B M.R.S.A. § 3805
Application to victims' compensation fund	5 M.R.S.A. § 3360
Wrongful Death	18-A M.R.S.A. § 2-804

In addition to the remedies listed above, consider the following when abuse occurs in regulated facilities/community programs:

- Negligent hiring or retention common law
- Complaint with professional licensing board, See Section III
- Respondeat Superior common law
- Negligence common law

## STALKING

Stalking occurs when a person engages in a course of conduct that would cause a reasonable person to suffer serious inconvenience or emotional distress, to fear bodily injury or death, to fear bodily injury or death to a close relation, to fear damage or destruction to or tampering with property, or to fear injury or the death of an animal owned or in the possession of the victim. A course of conduct of stalking means two or more acts including, but not limited to, acts in which the actor, by any action, method, device or means, directly or indirectly follows, monitors, tracks, observes, surveils, threatens, harasses or communicates to or about a person or interferes with a person's property; threats implied by conduct and gaining unauthorized access to personal, medical, financial or other identifying or confidential information. For purposes of this law, serious inconvenience means that the conduct causes a person to significantly modify that person's actions and routines in an attempt to avoid the stalker or because of the stalker's course of conduct. A close relation can be a family member, co-worker or friend.

### POTENTIAL CRIMINAL JUSTICE ACTIONS: STALKING

(The following offenses are *frequently associated* with stalking behavior under which law enforcement may arrest and/or offender may charge)

Endangering welfare of dependent person	17A-M.R.S.A. § 555
Failure to report to APS (civil violation; \$500 fine)	22 M.R.S.A. §§ 3475, 3477
Harassment (Class E)	17-A M.R.S.A. § 506-A
Harassment by telephone (Class E)	17-A M.R.S.A. § 506
Trespass by motor vehicle (Class E)	17-A M.R.S.A. § 404
Criminal trespass (Class D or E)	17-A M.R.S.A. § 402
Stalking (Class D)	17-A M.R.S.A. § 210-A
Criminal threatening (Class D)	17-A M.R.S.A. § 209

Terrorizing (Class D)	17-A M.R.S.A. § 210
Violation of privacy (Class D)	17-A M.R.S.A. § 511
Criminal invasion of computer privacy (Class D)	17-A M.R.S.A. § 432
Violation of a protective order (Class D)	17-A M.R.S.A. § 506-B
Unsworn falsification (Class D)	17-A M.R.S.A. § 453
Aggravated criminal invasion of computer privacy (Class C)	17-A M.R.S.A. § 433
Aggravated criminal trespass (Class C)	17-A M.R.S.A. § 402-A
Tampering with a witness, informant, juror or victim (Class A-C)	17-A M.R.S.A. § 454

In addition to the remedies listed above, consider the following when abuse occurs in regulated facilities/community programs:

Falsifying private records (Class E)	17-A M.R.S.A. § 707
Falsifying physical evidence (Class D)	17-A M.R.S.A. § 455

### POTENTIAL CIVIL ACTIONS: STALKING

(Actions that may be brought by an individual, a private attorney, and/or the state attorney general on behalf of the victim or for offender accountability)

#### Directly Associated Statutes

Protection from abuse order	19-A M.R.S.A. § 4002(1)(F)
Relief may include remedies for financial losses suffered as a direct result of the abuse.	19-A M.R.S.A. § 4007(1) (I), (K), (M)
Protection from harassment order	5 M.R.S.A. § 4651
NB: Relief may include remedies for financial losses suffered as a direct result of the harassment.	5 M.R.S.A. § 4655(1) (D), (F)
Failure to report to APS (civil violation; \$500 fine)	22 M.R.S.A. §§ 3475, 3477
No Trespass Order	17-A M.R.S.A. § 402 (Citizen can send out this notice.)



## Often Associated Statutes

Application to Victims' Compensation Fund	5 M.R.S.A. § 3360
Protective custody of mentally ill person	34-B M.R.S.A. § 3805

In addition to the remedies listed above, consider the following when abuse occurs in regulated facilities/community programs:

- Complaint with professional licensing board See Section III
- Respondeat Superior common law
- Negligence common law
- Negligent Infliction of Emotional Distress (if there is physical harm) common law
- Intentional Infliction of Emotional Distress common law

## EMOTIONAL ABUSE

Emotional abuse occurs when the abuser engages in humiliation, isolation, name-calling, intimidation and threats.

## POTENTIAL CRIMINAL JUSTICE ACTIONS: EMOTIONAL ABUSE

(Unlawful Emotional Abuse is often associated with the following criminal offenses under which law enforcement may arrest and/or prosecutors may charge.)

Endangering welfare of dependent person	17A-M.R.S.A. § 555
Failure to report to APS (civil violation; \$500 fine)	22 M.R.S.A. §§ 3475, 3477
Disorderly conduct (Class E)	17-A M.R.S.A. § 501-A
Harassment by telephone (Class E)	17-A M.R.S.A. § 506
Harassment (Class E)	17-A M.R.S.A. § 506-A
Criminal threatening (Class D)	17-A M.R.S.A. § 209
Terrorizing (Class D)	17-A M.R.S.A. § 210
Violation of a protective order (Class D)	17-A M.R.S.A. § 506-B
Unsworn falsification (Class D)	17-A M.R.S.A. § 453
Cruelty to animals (Class C or D, or civil violation)	17 M.R.S.A. § 1031
Tampering with a witness, informant, juror or victim (Class A-C)	17-A M.R.S.A. § 454

In addition to the remedies listed above, consider the following when abuse occurs in regulated facilities/community programs:

Falsifying private records (Class E)	17-A M.R.S.A. § 707
Falsifying physical evidence (Class D)	17-A M.R.S.A. § 455

## POTENTIAL CIVIL ACTIONS: EMOTIONAL ABUSE

(Actions that may be brought by an individual, a private attorney, and/or the state attorney general on behalf of the victim or for offender accountability)

### Directly Associated Statutes

Protection from abuse order	19-A M.R.S.A. § 4002
NB: Relief may include remedies	19-A M.R.S.A. § 4007(1) (I), (K), (M)
Protection from harassment order	5 M.R.S.A. § 4651
NB: Relief may include remedies for financial losses suffered as a direct result of the harassment.	5 M.R.S.A. § 4655(1) (D), (F)
Failure to report to APS (civil violation; \$500 fine)	22 M.R.S.A. §§ 3475, 3477
Guardianship	18-A M.R.S.A. §§ 5-301-5-312
Conservatorship	18A M.R.S.A. §§ 5-401-5-432
Negligent Infliction of Emotional Distress (if there is physical harm) common law	
Intentional Infliction of Emotional Distress common law	

### Often Associated Statutes

Protective custody of mentally ill person	34-B M.R.S.A. § 3805
Application to Victims' Compensation Fund	5 M.R.S.A. § 3360

In addition to the remedies listed above, consider the following when abuse occurs in regulated facilities/community programs:

- Negligent hiring or retention common law
- Complaint with professional licensing board, See Section III
- Respondeat Superior common law
- Negligence common law
- Defamation common law

## NEGLECT

Withholding essential needs from a dependent adult for whom they have assumed responsibility.

**Intentional:** refuses to take dependent adult to seek medical care, not allowing social contact with others, willfully withholds food, water, clothing, shelter, hygiene, medical treatment, medication and assistive devices.

**Unintentional:** ignorance or genuine inability to provide care.

**Self-Neglect:** inability to perform tasks essential to caring for oneself due to physical and/or mental impairment.

**Abandonment:** desertion of a vulnerable adult by anyone who has assumed responsibility for their care.

## POTENTIAL CRIMINAL JUSTICE ACTIONS: NEGLECT

(Statutes under which law enforcement may arrest and/or prosecutors may charge)

### Directly Associated Statutes

Endangering welfare of dependent person (Class D)	17-A M.R.S.A. § 555
Failure to report to APS (civil violation; \$500 fine)	22 M.R.S.A. §§ 3475, 3477
Nonsupport of dependents (Class E)	17-A M.R.S.A. § 552
NB: Spiritual healing permitted	17-A M.R.S.A. § 557
Reckless conduct (Class D)	17-A M.R.S.A. § 211
Stealing drugs (Class C or D)	17-A M.R.S.A. § 1109
Aggravated reckless conduct (Class B)	17-A M.R.S.A. § 213
Manslaughter (Class A)	17-A M.R.S.A. § 203
Murder	17-A M.R.S.A. § 201

## Often Associated Statutes

Unsworn falsification (Class D)	17-A M.R.S.A. § 453
Unlawfully furnishing scheduled drugs (Class C or D)	17-A M.R.S.A. § 1106
Acquiring drugs by deception (Class C or D)	17-A M.R.S.A. § 1108
Unlawful trafficking in scheduled drugs (Class B-D)	17-A M.R.S.A. § 1103
Tampering with a witness, informant, juror or victim (Class A-C)	17-A M.R.S.A. § 454

In addition to the remedies listed above, consider the following when abuse occurs in regulated facilities/community programs:

Falsifying private records (Class E)	17-A M.R.S.A. § 707
Falsifying physical evidence (Class D)	17-A M.R.S.A. § 455

### POTENTIAL CIVIL ACTIONS: NEGLIGENCE

(Actions that may be brought by an individual, a private attorney, or the state attorney general on behalf of the victim or for offender accountability)

## Directly Associated Statutes

Protection from abuse order	19-A M.R.S.A. § 4002 (I) (D)
NB: Relief may include remedies 19-A M.R.S.A. § 4007(I) (I), (K), (M) for financial losses suffered as a direct result of the abuse.	
Protection from harassment order	5 M.R.S.A. § 4651
NB: Relief may include remedies 5 M.R.S.A. § 4655(I) (D), (F) for financial losses suffered as a direct result of the harassment.	
Failure to report to APS (civil violation; \$500 fine)	22 M.R.S.A. §§ 3475, 3477
Guardianship	18-A M.R.S.A. §§ 5-301-5-313
NB: Availability of limited guardianship 18-A M.R.S.A. § 5-105	
Conservatorship	18-A M.R.S.A. §§ 5-401-5-432
NB: Termination of Conservatorship 18-A M.R.S.A. § 5-430	

Durable Power of Attorney	18-A M.R.S.A. §§ 5-501-5-510
Revocation of Power of Attorney	18-A M.R.S.A. § 5-504
Durable Health-care Power of Attorney	18-A M.R.S.A. § 5-506
Advance Health-care Directive	18-A M.R.S.A. §§ 5-801-5-818
Revocation of Advance Health-care Directive	18-A M.R.S.A. § 5-803

## Often Associated Statutes

Protective custody of mentally ill person	34-B M.R.S.A. § 3862
Wrongful Death	18-A M.R.S.A. § 2-804

In addition to the remedies listed above, consider the following when abuse occurs in regulated facilities/community programs:

- Negligent Hiring or Retention common law
- Complaint with professional licensing board See Section III
- Respondeat Superior common law
- Negligence common law
- Breach of contract common law

## FINANCIAL EXPLOITATION

Financial exploitation occurs when the abuser improperly uses the victim's resources for his or her own profit or advantage. This may include transfers of cash, property or real estate, preventing or forcing the signing of a will, power of attorney or other legal document, diverting mail and payments of social security or other income sources, forgery and/or grossly overcharging for rent or services. This often occurs after the abuser has established a personal relationship with the victim for the purpose of facilitating this offense.

### POTENTIAL CRIMINAL JUSTICE ACTIONS: FINANCIAL EXPLOITATION

(Statutes under which law enforcement may arrest and/or prosecutors may charge)

#### Directly Associated Statutes

Suppressing recordable instrument (Class E)	17-A M.R.S.A. § 706
Deceptive business practices (Class D)	17-A M.R.S.A. § 901
Deceptive insurance practices (Class D)	17-A M.R.S.A. § 901-A
Misuse of entrusted property (Class D)	17-A M.R.S.A. § 903
Misuse of identification (Class D)	17-A M.R.S.A. § 905-A
Reckless conduct (Class D)	17-A M.R.S.A. § 211
Unauthorized use of property (Class C or D)	17-A M.R.S.A. § 360
Acquiring drugs by deception (Class C or D)	17-A M.R.S.A. § 1108
Stealing drugs (Class C or D)	17-A M.R.S.A. § 1109
Maine Uniform Securities Act; Criminal Penalties (Class C)	32 M.R.S.A. § 16508
Theft by extortion (Class C)	17-A M.R.S.A. § 355
Theft by unauthorized taking or transfer (Class B-E)	17-A M.R.S.A. § 353
Theft by deception (Class B-E)	17-A M.R.S.A. § 354

Insurance deception (Class B-E)	17-A M.R.S.A. § 354-A
Theft by misapplication of property (Class B-E)	17-A M.R.S.A. § 358

#### Often Associated Statutes

Endangering welfare of dependent person	17A-M.R.S.A. § 555
Failure to report to APS (civil violation; \$500 fine)	22 M.R.S.A. §§ 3475, 3477
Unsworn falsification (Class D)	17-A M.R.S.A. § 453
Defrauding a creditor (Class D)	17-A M.R.S.A. § 902
Unlawful trafficking in scheduled drugs (Class B-D)	17-A M.R.S.A. § 1103
Forgery (Class B-D)	17-A M.R.S.A. § 703
Aggravated forgery (Class B)	17-A M.R.S.A. § 702
Tampering with a witness or victim (Class A-C)	17-A M.R.S.A. § 454
Federal Mail Tampering or Tax Fraud	See Section III & IV

In addition to the remedies listed above, consider the following when abuse occurs in regulated facilities/community programs:

Falsifying private records (Class E)	17-A M.R.S.A. § 707
Falsifying physical evidence (Class D)	17-A M.R.S.A. § 455

### POTENTIAL CIVIL ACTIONS: FINANCIAL EXPLOITATION

(Actions that may be brought by an individual, a private attorney, and/or the state attorney general on behalf of the victim or for offender accountability)

Protection from abuse order	19-A M.R.S.A. § 4002(1)(C)
NB: Relief may include remedies for financial losses suffered as a direct result of the abuse.	19-A M.R.S.A. § 4007(1) (I), (K), (M)
Protection from harassment order	5 § M.R.S.A. 4651
NB: Relief may include remedies for financial losses suffered as a direct result of the harassment.	5 M.R.S.A. § 4655(1) (D), (F)

Failure to report to APS (civil violation; \$500 fine)	22 M.R.S.A. §§ 3475, 3477
Petition for conservatorship of incapacitated person	18-A M.R.S.A. § 5-401
Demand to review inventory and records of conservator	18-A M.R.S.A. § 5-418
Demand for accounting by conservator	18-A M.R.S.A. § 5-419
Petition for removal of conservator	18-A M.R.S.A. § 5-415
Petition to modify conservator	18-A M.R.S.A. § 5-426
Petition for termination of conservator	18-A M.R.S.A. § 5-430
Void transactions with conflicted conservator	18-A M.R.S.A. § 5-422
Durable financial power of attorney	18-A M.R.S.A. § 5-508
Revocation of financial power of attorney	18-A M.R.S.A. § 5-504
Fiduciary duties of trustee	18-A M.R.S.A. § 7-703
Improvident Transfers of Title	33 M.R.S.A. § 1021
Reformation and/or Declaratory Judgment (e.g., deed, mortgage, covenant, easement, will, contract)	14 M.R.S.A. § 5954
Unjust Enrichment common law	
Equitable Accounting common law	
Constructive Trust common law	
Breach of Contract common law	
Negligence/Breach of fiduciary duty common law	
Actual or Constructive Fraud common law	
Conversion common law	
Abuse of Confidential Relationship common law	
Undue Influence common law	

In addition to the remedies listed above, consider the following when abuse occurs in regulated facilities/community programs:

- Negligent Hiring or Retention common law
- Complaint with professional licensing board
- Respondeat Superior common law
- Negligence common law

## SECTION III: REFERRAL AND RESOURCES

### To Aid Investigations and Assist Older Victims and Vulnerable Adults

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## **ABUSE AND NEGLECT – REPORTING (24 HRS)**

### **Adult Protective Services—Office of Elder Services**

(Department of Health and Human Services)

800-624-8404 (Nationwide, 24 Hours, Toll Free)

800-606-0215 (TTY, Statewide, 24 Hours, Toll Free)

[www.maine.gov/dhhs/oes](http://www.maine.gov/dhhs/oes)

*Please see pg 61 for contacts by district office.*

Provides and arranges for services to protect incapacitated and dependent adults (age 18 and over) in danger of abuse, neglect or exploitation.

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### **Adults With Cognitive and Physical Disabilities**

(Department of Health and Human Services)

207-287-4242 (Business hours)

888-568-1112 (After hours)

800-606-0215 (TTY 24 hours)

[www.maine.gov/dhhs/oacpds](http://www.maine.gov/dhhs/oacpds)

Provides leadership and is an active partner in Maine’s comprehensive system of support to individuals with mental retardation and autism.

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### **Domestic Violence (Statewide Hotline)**

866-834-4357

*Please see pg 51 for statewide coalition and pg 62 for contacts by county.*

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### **Sexual Assault (Statewide Hotline)**

800-871-7741

888-458-5599 (TTY)

*Please see pg 59 for statewide coalition and page 64 for contacts by county.*

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## **Licensing and Regulatory Services**

(Department of Health and Human Services)

800-791-4080 (Administrative Business Hours)

800-606-0215 (TTY/TDD)

[www.maine.gov/dhhs/dlrs](http://www.maine.gov/dhhs/dlrs)

800-452-1999 (24/7 Emergency Number to Report Abuse will route you to Adult Protective Services after hours)

800-621-8222 (Home Health Hotline-Business Hours)

800-383-2441 (Medical, Nursing, and Residential Care Facilities, C.N.A. Registry, and Customer Support-Business Hours)

The mission of the Division of Licensing and Regulatory Services is to support access to quality and effective health care and social services for Maine citizens by developing and applying regulatory standards that help people have safe and appropriate outcomes.

The Division is responsible for licensing medical and long term care facilities, assisted living, residential care, Private Non-Medical Institutions, mental health service providers, substance abuse agencies, and programs and services to children. The Division is also responsible for regulation of health care facilities and providers under the Certificate of Need Act, the Hospital Cooperation Act and laws pertaining to Continuing Care Retirement Communities.

To report abuse or neglect in a health care facility, medical facility, child care facility, or residential care facility call the:

Medical, Nursing, and Residential Care Facilities, C.N.A. Registry, and Customer Support Line

800-383-2441

Monday-Friday 8:00am-5:00pm

If you call after hours you will be asked to leave a voice message.

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## **Office of the Attorney General— Health Care Crimes Unit and Elder Abuse Investigator**

207-626-8870  
207-626-8865 (TTY)  
www.maine.gov/ag

The Unit investigates and prosecutes fraud by Medicaid or Medicare providers and complaints of physical abuse, neglect and theft of drugs or resident funds in health care facilities or by caregivers covered under the State's Medicaid grant.

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### **Elder Abuse Investigator: Detective Seth Blodgett**

207-626-8531  
207-626-8865 (TTY)

Det. Blodgett is the lead elder abuse investigator for the state. He provides assistance to law enforcement, adult protective services and prosecutors on all types of elder abuse cases regardless of its connection to Medicaid or Medicare. Det. Blodgett has additional expertise in cases of financial exploitation.

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## **ALCOHOL AND OTHER DRUG ABUSE SERVICES**

### **Office of Substance Abuse (Department of Health and Human Services)**

207-287-2595  
800-606-0215 (TTY)  
www.maine.gov/dhhs/osa/

The Maine Office of Substance Abuse is the single state administrative authority responsible for the planning, development, implementation, regulation, and evaluation of substance abuse services.

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## **DISABILITIES**

### **Adults With Cognitive and Physical Disabilities (Department of Health and Human Services)**

207-287-4265  
800-606-0215 (TTY)  
www.maine.gov/dhhs/OACPDS/DS/

Provides leadership and is an active partner in Maine's comprehensive system of support to individuals with mental retardation and autism.

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## **DOMESTIC AND FAMILY ABUSE**

### **Maine Coalition to End Domestic Violence**

207-430-8334 (Administrative Line)  
866-834-4357 (24/7 Hotline see page 62 for contacts by county)  
www.mcedv.org

The Maine Coalition to End Domestic Violence (MCEDV) is organized to create and encourage a social, political, and economic environment in which domestic violence no longer exists, and to ensure that all people affected by domestic abuse and violence are supported and that batterers are held accountable. MCEDV mobilizes and coordinates community action through a statewide network of domestic violence projects. Through these partnerships, we focus our resources on public policy, education, and systems advocacy.

Maine's nine domestic violence services programs provide the following:

- 24-Hour Hotline/Helpline
- Individual Advocacy
- Emergency Shelter
- Transitional Housing Services
- Support Groups
- Legal Advocacy

- Community Response Education & Training
- School-based Outreach & Education
- Volunteer Program

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## ELDER SUPPORT SERVICES

### Office of Elder Services

(Department of Health and Human Services)

207-287-9200

800-262-2232

800-606-0215 (TTY)

[www.maine.gov/dhhs/oes](http://www.maine.gov/dhhs/oes)

The Office of Elder Services promotes programs and services for older adults, their families and for people with disabilities. This state office provides resources for both professionals and consumers.

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### Maine's Area Agencies on Aging

207-626-0972

[www.maine4a.com](http://www.maine4a.com)

The five non-profit organizations serve as a central resource for elder information and assistance. Services offered by each agency vary. They may include Meals on Wheels, financial management, in home caregiver services, family caregiver assistance, or Medicare/Health Insurance assistance. (See page 66 for contact information by county.)

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### Catholic Charities of Maine— Home and Family Services

800-781-8550

[www.ccmaine.org](http://www.ccmaine.org)

Provides homemaking services to allow elderly clients, disabled individuals, and families in crisis to remain in their homes. Also helps families needing support with parenting skills and child rearing.

Services include grocery shopping, laundry and errands, light house cleaning, household management, emotional support, parenting skills, and occasional respite care.

*Locations include: Augusta, Auburn, Calais, Caribou, and Portland.*

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## FINANCIAL SERVICES TO AID INVESTIGATIONS

### Internal Revenue Service

800-829-0433

[www.irs.gov](http://www.irs.gov)

If you suspect or know of an individual or company that is not complying with the tax laws, report this activity. Reports of suspected tax fraud can be made by phone, mail or your local IRS walk-in office.

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### Social Security

800-772-1213

[www.ssa.gov](http://www.ssa.gov)

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### Office of Securities (Department of Professional and Financial Regulation)

877-624-8551

888-577-6690 (TTY)

[www.maine.gov/pfr/securities/](http://www.maine.gov/pfr/securities/)

The Office of Securities protects Maine investors by investigating and prosecuting violations of the securities laws; licensing broker-dealers, agents, investment advisers, and investment adviser representatives; and reviewing registration statements and exemption filings for securities issuers that are seeking to sell in Maine. The Office offers consumers and the general public a toll-free telephone number (877-624-8551) to call to check on the licensure and disciplinary history of any person or firm offering securities for sale in Maine, and any other



question related to the registration status of an investment. The Office works with the Maine Bureau of Insurance to assist investors with questions or complaints concerning the purchase of variable or equity indexed annuities.

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## **Bureau of Insurance** (Department of Professional and Financial Regulation)

800-300-5000

888-577-6690 (TTY)

[www.maine.gov/pfr/insurance](http://www.maine.gov/pfr/insurance)

The mission of the Bureau of Insurance is to regulate the insurance industry for solvency and consumer protection. The Bureau has statutory authority to enforce the State's insurance laws and rules and it initiates investigations and holds hearings concerning possible violations.

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## **IMMIGRANT AND MULTICULTURAL RESOURCES**

### **Office of Immigrant and Multicultural Services** (Department of Health and Human Services)

207-557-0232

207-287-4240

866-241-8639 (TTY)

The primary role of the Office of Multicultural Affairs is to function as a resource to all state agencies and to all communities served to improve services to minority and multicultural populations in the state of Maine.

### **Interpreting Services and Referral Agencies (List of contacts)**

[www.maine.gov/dhhs/oma/MulticulturalResource/interpreting.html](http://www.maine.gov/dhhs/oma/MulticulturalResource/interpreting.html)

### **Domestic Violence Pictorial Interview Booklet for working with victims of domestic violence.**

[www.maine.gov/dhhs/oma/MulticulturalResource/DV/](http://www.maine.gov/dhhs/oma/MulticulturalResource/DV/)

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## **Catholic Charities: Elder Refugee Services**

207-523-2793

[www.ccmaine.org](http://www.ccmaine.org)

Help refugees, aged sixty and older, gain access to services in the community that meet their needs in a way that is supportive of their overall well-being.

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## **Tribal and Somali Communities**

Organizations listed below provide elder services, domestic violence and sexual assault services.

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### **Aroostook Band of Micmac, Family Support Services**

207-764-1972 or 800-750-1435

[www.micmac-nsn.gov](http://www.micmac-nsn.gov)

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### **Maliseet Domestic Violence and Sexual Assault Program**

207-532-3000

207-532-6401 (Hotline)

[www.maliseets.com/domestic\\_violence.htm](http://www.maliseets.com/domestic_violence.htm)

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### **Passamaquoddy Peaceful Relations**

207-853-2600 ext. 266

877-853-2613 (Hotline)

[www.tinyurl.com/wabanaki](http://www.tinyurl.com/wabanaki)

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## **Penobscot Nation Domestic Violence and Sexual Assault Services**

207-817-7469

207-631-4886 (Hotline)

[www.penobscotnation.org](http://www.penobscotnation.org)

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## **Somali Community**

**United Somali Women of Maine**

207-753-0061

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## **GUARDIANSHIP/CONSERVATOR**

### **Adult Protective Services—Office of Elder Services**

(Department of Health and Human Services)

800-624-8404 (Nationwide, 24 Hours, Toll Free)

800-606-0215 (TTY, Statewide, 24 Hours, Toll Free)

[www.maine.gov/dhhs/guardianship](http://www.maine.gov/dhhs/guardianship)

Guardianship and conservatorship are intended to protect and provide continuing care for individuals who are unable to make or communicate responsible decisions for themselves. However, it is important to remember that obtaining guardianship or conservatorship is a very serious step to take because both significantly restrict a person's individual rights and freedoms. They should be considered only after all other alternatives have been explored. The decision as to whether a guardian or conservator is necessary will be made by a Probate Court.

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## **HEARING AND VISION IMPAIRED SERVICES**

### **Bureau of Rehabilitation Services**

(Department of Health and Human Services)

Division of Deafness

207-623-7958 (Administrative)

888-755-0023 (TTY)

[www.maine.gov/rehab/dod](http://www.maine.gov/rehab/dod)

Provides a variety of services that include advocacy and referral for Deaf, Hard-of-Hearing and Late-Deafened citizens of Maine.

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### **Bureau of Rehabilitation Services**

(Department of Health and Human Services)

Division for the Blind and Visually Impaired

800-698-4440

800-755-0023 (TTY)

[www.maine.gov/rehab/dbvi](http://www.maine.gov/rehab/dbvi)

Provides comprehensive services that include: vocational rehabilitation, independent living, financial services, real estate tax exemption, I.D. cards, library services, and education services for children.

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## **LEGAL SERVICES**

### **Legal Services for the Elderly (LSE)**

800-750-5353 (Helpline)

207-621-0087 (Administrative)

[www.mainelse.org](http://www.mainelse.org)

LSE provides persons age 60 and over with free legal advice regarding health care, health insurance, Medicare (including Part D), MaineCare (Medicaid), Social Security and other public benefits, pension and retirement benefits, powers of attorney, consumer matters including creditor and bankruptcy problems, physical and financial abuse, guardianship defense and other issues.

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## MENTAL HEALTH SERVICES

### Office of Adult Mental Health Services (Department of Health and Human Services)

888-568-1112 (Crisis)  
800-606-0215 (TTY Crisis)  
207-287-4243 or 287-4250 (Administrative)  
800-606-0215 (TTY Administrative)  
[www.maine.gov/dhhs/mh](http://www.maine.gov/dhhs/mh)

The Office of Adult Mental Health Services (OAMHS) is the designated State Public Mental Health Authority for adults. A primary responsibility of the OAMHS is to develop and maintain a comprehensive system of mental health services and supports for persons age 18 and older with severe and persistent mental illness. Circumstances associated with aging, such as isolation (living alone), denial and shame, impaired mobility and diminished social supports, present unique challenges to delivering effective services.

Statewide mental health service providers for those 60 and older:  
[www.maine.gov/dhhs/mh/OlderPersons/ProviderBooklet](http://www.maine.gov/dhhs/mh/OlderPersons/ProviderBooklet)

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## LONG-TERM CARE OMBUDSMAN

### Maine Long-Term Care Ombudsman Program

800-499-0229 (Voice and TTY)  
[www.maineombudsman.org](http://www.maineombudsman.org)

The Long-Term Care Ombudsman Program is a non-profit agency whose mission is to advocate for quality of life and care for long-term care consumers. Federal law and Maine law authorize our staff to investigate complaints made by or on behalf of long-term care consumers and to assist consumers in exercising their rights that are guaranteed by law. The program serves residents in long-term care facilities including nursing homes, residential care facilities and assisted living facilities. In addition we serve recipients of home care services and adult day services.

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## INDEPENDENT LIVING SERVICES

### Alpha One

800-640-7200  
[www.alpha-one.org](http://www.alpha-one.org)

These services may include: Adaptive Equipment Loan Program; Independent Living Skills Instruction; Adapted Driver Evaluation and Training; Adaptive and Mobility Equipment (high and low tech) and Selection (trial rentals); Adapted Transportation; Access Design Consultation; Information and Referral; and Personal Care Attendant (PCA) Services for adults who want to manage their own services.

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## SEXUAL ABUSE

### Maine Coalition Against Sexual Assault

207-626-0034 (Administrative)  
800-871-7741 (24/7 Hotline)  
888-458-5599 (TTY 24/7 Hotline)  
[www.mecasa.org](http://www.mecasa.org)

*Please see page 64 for Sexual Assault Support Centers by county.*

The Maine Coalition Against Sexual Assault (MECASA) is organized to end sexual violence and ensure there is ongoing support and services for victims and survivors. MECASA's work include: public policy, statewide training, public awareness and prevention and support for Maine's Sexual Assault Support Centers.

Maine's nine sexual assault support centers provide the following:

- 24-hour statewide sexual assault crisis and support line;
- Support groups;
- Crisis intervention and information;
- Support and advocacy for victim/survivors of sexual assault and their families;
- Advocacy for victim/survivors who choose to seek medical

attention, report to the police, or go through the criminal justice system;

- Referrals to mental health professionals; and
- Community and professional education programs for all ages.

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## TRANSPORTATION

Buses, vans, or individual drivers can help older adults get to doctors' offices, clinics and pharmacies in most areas of the state. Advance notice is required for some of these arrangements. For information, contact the local Area Agency on Aging (next section).

Comprehensive contact list of regional transportation options:  
[www.maine.gov/dhhs/oes/resource/addresses.htm#transportation](http://www.maine.gov/dhhs/oes/resource/addresses.htm#transportation)

## ADULT PROTECTIVE SERVICES BY DISTRICT OFFICE

Biddeford Office .....	800-322-1919 (Main)
.....	800-606-0215 (TTY)
Portland Office.....	800-482-7520 (Main)
.....	800-606-0215 (TTY)
Lewiston .....	800-482-7517 (Main)
.....	800-606-0215 (TTY)
Augusta .....	800-452-1926 (Main)
.....	800-606-0215 (TTY)
Rockland .....	800-432-7802 (Main)
.....	800-606-0215 (TTY)
Bangor .....	800-432-7825 (Main)
.....	800-606-0215 (TTY)
Ellsworth .....	800-432-7823 (Main)
.....	800-606-0215 (TTY)
Machias .....	800-432-7846 (Main)
.....	800-606-0215 (TTY)
Calais .....	800-622-1400 (Main)
.....	800-606-0215 (TTY)
Houlton .....	800-432-7338 (Main)
.....	800-606-0215 (TTY)
Caribou.....	800-432-7366 (Main)
.....	800-606-0215 (TTY)
Fort Kent .....	800-432-7340 (Main)
.....	800-606-0215 (TTY)

**STATEWIDE DOMESTIC VIOLENCE 24/7 HOTLINE:  
866-834-4357**

(H=Hotline and A=Administrative Offices)

**Androscoggin**

**Abused Women's Advocacy Project**

www.awap.org  
800-559-2927 (H)  
207-795-6744 (A)

**Aroostook**

**Aroostook Band of Micmacs Family Support Services**

www.micmac-nsn.gov/html/family\_violence.html  
800-439-2323 (H)  
(Hope and Justice Project, Inc.)  
207-764-1972 (A)

**Hope and Justice Project, Inc. (Formerly Battered Women's Project)**

www.hopeandjusticeproject.org  
800-439-2323 (H)  
207-764-2977 (A)

**Maliseet Domestic Violence and Sexual Assault Program**

www.maliseets.com/domestic\_violence.htm  
207-532-6401 (H)  
207-532-3000 (A)

**Cumberland**

**Family Crisis Services**

www.familycrisis.org  
800-537-6066 (H)  
207-767-4952 (A)

**Franklin**

**Abused Women's Advocacy Project**

www.awap.org  
800-559-2927 (H)  
207-795-6744 (A)

**Hancock**

**The Next Step**

www.nextstepdvproject.org  
800-315-5579 (H)  
207-667-0176 (A)

**Kennebec**

**Family Violence Project**

www.familyviolenceproject.org  
877-890-7788 (H)  
207-623-8637 (A)

**Knox**

**New Hope for Women**

www.newhopeforwomen.org  
800-522-3304 (H)  
207-594-2128 (A)

**Lincoln**

**New Hope for Women**

www.newhopeforwomen.org  
800-522-3304 (H)  
207-563-2404 (A)

**Oxford**

**Abused Women's Advocacy Project**

www.awap.org  
800-559-2927 (H)  
207-795-6744 (A)

**Penobscot**

**Penobscot Nation, Domestic Violence and Sexual Assault Services**

www.penobscotnation.org  
207-631-4886 (H)  
207-817-7469 (A)

**Spruce Run**

www.sprucerun.net  
800-863-9909 (H)  
207-945-5102 (A)

**Piscataquis**

**Womancare**

www.wmncare.org  
888-564-8165 (H)  
207-564-8165 (A)

**Sagadahoc**

**Family Crisis Services**

www.familycrisis.org  
800-537-6066 (H)  
207-767-4952 (A)

**Somerset**

**Family Violence Project**

www.familyviolenceproject.org  
877-890-7788 (H)  
207-623-8637 (A)

**Waldo**

**New Hope for Women**

www.newhopeforwomen.org  
800-522-3304 (H)  
207-338-6569 (A)

**Washington**

**Passamaquoddy Peaceful Relations**

Domestic Violence Program  
www.tinyurl.com/wabanaki  
207-853-2613 (H)  
207-853-0644 (A)

**The Next Step**

www.nextstepdvproject.org  
888-604-8692 (H)  
207-255-4934 (A)

**York**

**Caring Unlimited**

www.caring-unlimited.org  
800-239-7298 (H)  
207-490-3227 (A)

## SEXUAL ASSAULT SUPPORT CENTERS BY COUNTY

### STATEWIDE SEXUAL VIOLENCE 24/7 HOTLINE: 800-871-7741 / 888-458-5599(TTY)

(H=Hotline and A=Administrative Offices)

#### **Androscoggin**

Sexual Assault Crisis Center  
www.sexualassaultcrisiscenter.org  
207-784-5272 (A)

#### **United Somali Women of Maine**

www.uswofmaine.org  
207-753-0061 (A)

#### **Aroostook**

AMHC Sexual Assault Services  
www.amhc.org  
207-498-6431 (A)

#### **Maliseet Domestic Violence and Sexual Assault Program**

www.maliseets.com/domestic\_ violence.htm  
207-532-6401 (H)  
207-532-3000 (A)

#### **Cumberland**

Sexual Assault Response  
Services of Southern Maine  
www.sarsonline.org  
207-828-1035 (A)

#### **United Somali Women of Maine**

www.uswofmaine.org  
207-753-0061 (A)

#### **Eastern Cumberland**

Sexual Assault Support  
Services of Midcoast Maine  
www.sassmm.org  
207-725-2181 (A)

#### **Franklin**

Sexual Assault Victims  
Emergency Services  
(SAVES)  
www.savesrapecrisis.org  
207-778-9522 (A)

#### **Hancock**

Downeast Sexual Assault Services  
www.downeasthealth.org/sex\_ assault.html  
800-492-5550 (A)

#### **Kennebec**

Sexual Assault Crisis  
and Support Center  
www.silentnomore.org  
207-377-1010 (A)

#### **Knox**

Sexual Assault Crisis  
and Support Center  
www.silentnomore.org  
207-377-1010 (A)

#### **Lincoln**

Sexual Assault Support  
Services of Midcoast Maine  
www.sassmm.org  
207-725-2181 (A)

#### **Oxford**

Rape Education  
and Crisis Hotline  
(REACH)  
www.reachmaine.org  
207-743-9777 (A)

#### **Penobscot**

Penobscot Nation,  
Domestic Violence  
and Sexual Assault Services  
207-631-4886 (H)  
207-817-7469 (A)

#### **Rape Response Services**

www.rrsonline.org  
207-973-3651 (A)

#### **Piscataquis**

Rape Response Services  
www.rrsonline.org  
207-973-3651 (A)

#### **Sagadahoc**

Sexual Assault Support  
Services of Midcoast Maine  
www.sassmm.org  
207-725-2181 (A)

#### **Somerset**

Sexual Assault Crisis  
and Support Center  
www.silentnomore.org  
207-377-1010 (A)

#### **Waldo**

Sexual Assault Crisis  
& Support Center  
www.silentnomore.org  
207 377-1010 (A)

#### **Washington**

Downeast Sexual Assault Services  
www.downeasthealth.org/sex\_ assault.html  
800-492-5550 (A)

#### **Passamaquoddy Peaceful Relations**

www.tinyurl.com/wabanaki  
877-853-2613 (H)  
207-853-2600 ext. 266 (A)

#### **York**

Sexual Assault  
Response Services  
of Southern Maine  
www.sarsonline.org  
207-828-1035 (A)

## AREA AGENCIES ON AGING BY COUNTY

### Androscoggin

Seniors Plus  
ww.seniorsplus.org  
800-427-1241  
207-795-4010  
207-795-7232 TTY

### Aroostook

Aroostook Area Agency on Aging  
www.arostookaging.org  
800-439-1789  
207-764-3396  
207-992-0150 TTY

### Cumberland

Southern Maine Area Agency on Aging  
www.smaaaa.org  
800-427-7411  
207-396-6500  
207-883-0532 TTY

### Franklin

Seniors Plus  
ww.seniorsplus.org  
800-427-1241  
207-795-4010  
207-795-7232 TTY

### Hancock

Eastern Area Agency on Aging  
www.eaaa.org  
800-432-7812  
207-941-2865  
207-992-0150 TTY

### Kennebec

Spectrum Generations  
www.spectrumgenerations.org  
800-639-1553  
207-622-9212  
800-464-8703 TTY

### Knox

Spectrum Generations  
www.spectrumgenerations.org  
800-639-1553  
207-622-9212  
800-464-8703 TTY

### Lincoln

Spectrum Generations  
www.spectrumgenerations.org  
800-639-1553  
207-622-9212  
800-464-8703 TTY

### Oxford

Seniors Plus  
www.seniorsplus.org  
800-427-1241  
207-795-4010  
207-795-7232 TTY

### Penobscot

Eastern Area Agency on Aging  
www.eaaa.org  
800-432-7812  
207-941-2865  
207-992-0150 TTY

### Piscataquis

Eastern Area Agency on Aging  
www.eaaa.org  
800-432-7812  
207-941-2865  
207-992-0150 TTY

### Sagadahoc

Spectrum Generations  
www.spectrumgenerations.org  
800-639-1553  
207-622-9212  
800-464-8703 TTY

### Somerset

Spectrum Generations  
www.spectrumgenerations.org  
800-639-1553  
207-622-9212  
800-464-8703 TTY

### Waldo

Spectrum Generations  
www.spectrumgenerations.org  
800-639-1553  
207-622-9212  
800-464-8703 TTY

### Washington

Eastern Area Agency on Aging  
www.eaaa.org  
800-432-7812  
207-941-2865  
207-992-0150 TTY

### York

Southern Maine Area Agency on Aging  
www.smaaaa.org  
800-427-7411  
207-396-6500  
207-883-0532 TTY





# MAINE EMERGENCY SERVICES FOR ELDER VICTIMS

## **Emergency: 911**

### **Elder Abuse and Neglect Reporting (24 Hours)**

Adult Protective Services  
Department of Health and Human Services  
800-624-8404

### **Elder Abuse and Neglect Reporting for Persons with Cognitive and Physical Disabilities (24 Hours)**

Mental Health Crisis Services  
Department of Health and Human Services  
888-568-1112

### **Alcohol and Other Drug Abuse Services (24 Hours)**

Mental Health Crisis Services  
Department of Health and Human Services  
888-568-1112

### **Counseling and/or Mental Health (24 Hours)**

Mental Health Crisis Services  
Department of Health and Human Services  
888-568-1112

### **Domestic and Family Violence (24 Hours)**

Statewide Hotline  
866-834-4357

### **Sexual Violence (24 Hours)**

Statewide Hotline  
800-871-7741  
888-458-5599 (TTY)



## **ELDER JUSTICE PARTNERS**

*Together, we're working to protect Maine's seniors.*

To order additional hard copies please contact the Maine Coalition Against Sexual Assault:

207-626.0034 or email: [info@elderjusticepartners.org](mailto:info@elderjusticepartners.org)

For a downloadable PDF version of this guide please visit [www.elderjusticepartners.org](http://www.elderjusticepartners.org)