



# Elder Abuse Signs & Legal Remedies

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Emily Milstein, Staff Attorney



We provide free legal services exclusively  
to county residents 60 and over.

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Legal Services:

- Elder abuse (restraining orders and other services / EAPP)
- Preservation of housing (tenant's rights, eviction defense)
- Consumer issues (scams, identity theft, etc.)
- Advance Health Care Directives / Powers of Attorney
- Public benefits (but not initial applications for benefits)

# Elder and Dependent Adult Abuse

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# What Does “Elder” Mean?

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Elder =  
65 years or older  
  
If not old enough,  
screen for  
“dependent adult.”



# A “Dependent Adult” is:

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A person who is 18-64 years old with physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights.

This is a functional test, not linked to any specific diagnosis.



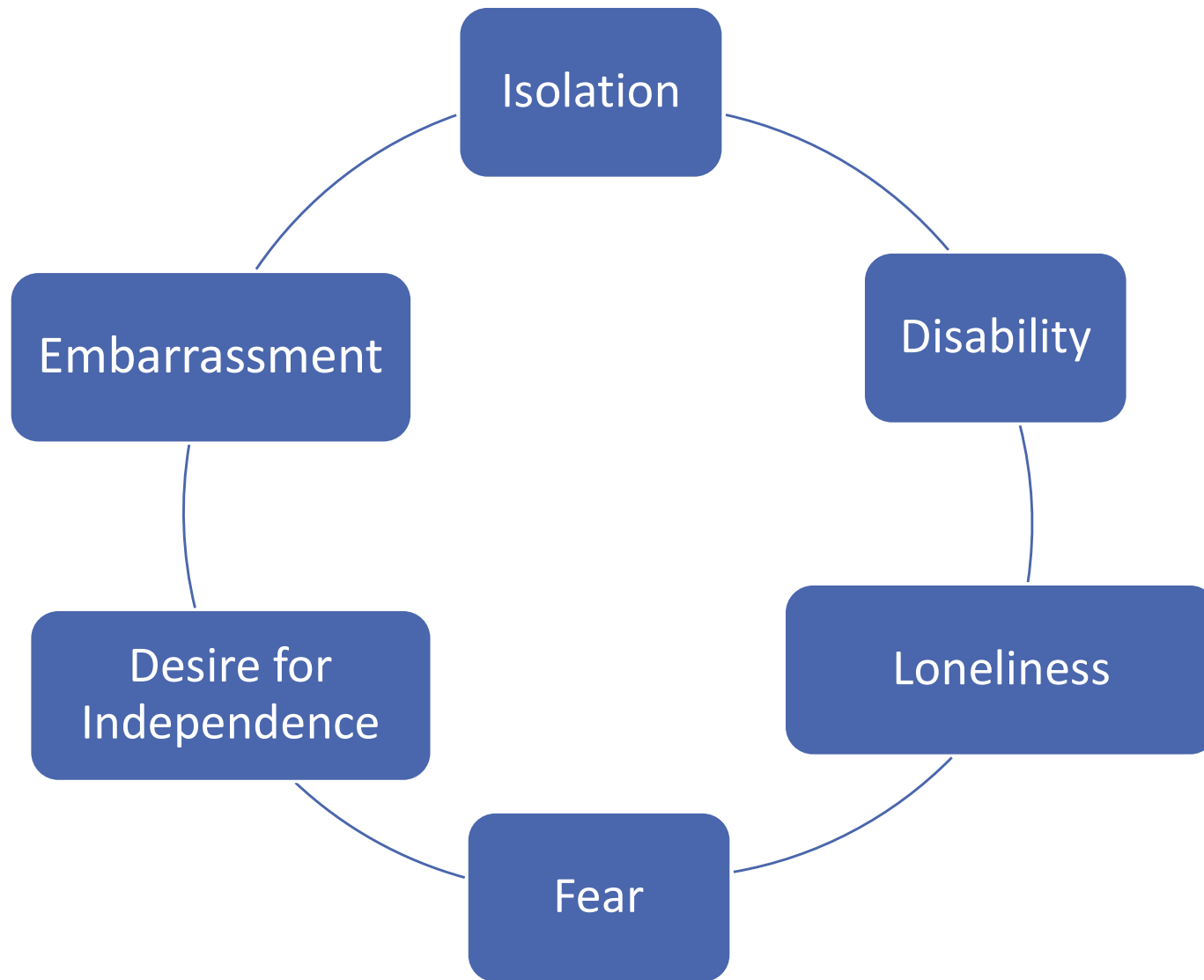


# What makes ELDERS and DEPENDENT ADULTS vulnerable?

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# FACTORS MAY INCLUDE:





# Who experiences elder abuse?

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- § Seniors across all socio-economic groups, cultures, and races
- § Women more likely to be affected (66%)
- § Elders who lack capacity (dementia) are more vulnerable
- § 1 in 10 Americans aged 60+ have experienced elder abuse



# Types of Abuse

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## Physical abuse

- § Inappropriate restraint
- § Deprivation of food / water
- § Medication misuse: over-medicating or administering drugs for a purpose not authorized by physician (e.g., as punishment or restraint)



# Types of Abuse

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- Sexual abuse – nonconsensual sexual activity
- Mental or emotional abuse: includes harassment and intimidation that causes emotional distress or fear (name calling, threats to “put in a home”)
- Isolation

# Types of Abuse

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- Deprivation by a care custodian or caregiver of services or things needed to avoid harm and suffering
- Neglect / Abandonment
- Other treatment that results in physical harm, pain or mental suffering



The background of the slide features a close-up, slightly blurred image of several US dollar bills, including a \$5 bill and a \$1 bill, scattered and overlapping. The bills are in various orientations, creating a textured, financial-themed backdrop.

# Financial Abuse

When a person takes the property of an elder/dependent adult for a wrongful use, or with intent to defraud—or **assists** in any of the above—if the person knew or should have known that this conduct is likely to be harmful to the elder/dependent adult.

Financial abuse is the most common abuse reported to Adult Protective Services



# Examples of Financial Abuse

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A scammer convinces a senior to wire money to a foreign country for an “investment”



A daughter agrees to help her mom pay bills, but writes checks to herself from mom’s account



A “new friend” gets a senior’s social security number and opens credit cards in the senior’s name



A financial advisor asks a senior to invest in their “side business,” which turns out to be a fake



## WHO ARE THE ABUSERS?

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- Family members
- Caregivers
- “Friends”
- Financial Advisors & Lawyers
- Strangers, scam artists

# Elder Abuse Restraining Orders

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FOR ELDERS (65+) AND DEPENDENT ADULTS





# Advantages of an EARO

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- Can protect people who lack capacity
- Orders can be made permanent
- Protection available in cases where abuse is exclusively financial
- Unlike DVRO, there is no relationship requirement
- Lower burden of proof than CHRO
- Designed to be flexible



# Disadvantages of an EARO

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- Not as many available orders as DVROs (for those whose relationships qualify; especially married couples)
- Cannot recover money through EARO
- Can be challenging to enforce, depending on circumstances (i.e., those who live together and move-out is not available)



# What can a restraining order do for seniors?

ORDERS THAT AN ELDER / DEPENDENT ADULT CAN  
OBTAIN IN A RESTRAINING ORDER

# Available Orders

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## (1) **Stay away order**

The restrained party is ordered not to come within a certain distance of:

- Elder/Dependent Adult
- Other Protected Parties
- Home
- Job/workplace
- Vehicle
- Other locations





# Available Orders

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## (2) Personal Conduct Orders:

- o No Abuse – The restrained party is ordered not to physically abuse, financially abuse, intimidate, molest, assault, attack, stalk, threaten, harass, destroy the personal property of, or disturb the peace of, the protected person.
- o No Contact – direct or indirect
- o Other orders to protect the petitioner from harmful or abusive behavior.





# Available Orders

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## (3) **Move-out order** (“residence exclusion”)

For the temporary order, this requires evidence that:

- the elder has a right to possession of the premises
- the party to be excluded has assaulted or threatens to assault the petitioner (or family or household member or conservator)
- physical or emotional harm would otherwise result.

# Available Orders

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## (3) Move Out Orders: Important Points

- The elder's right to possession of the property means that:
  - The elder must have equal or greater right to live there.
  - The title or lease to the residence is not in the name of the respondent only, or of the respondent and a third party.
- Physical abuse / threat of physical abuse is not required for a move out order **after** notice and hearing.
  - Ex. A person who is suffering financial abuse only would not get a move-out TRO, but may get one in the EARO after hearing.

# Elder Abuse Restraining Orders

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## Who is eligible to obtain an EARO?

- Persons age 65 and older and dependent adults

## What is the purpose of an EARO?

- An EARO is meant to protect one individual from another
- Prevent a recurrence of abuse

# Overview: EARO Procedure



(1) Submit complete set of forms to  
Dept. 57 in Martinez (9-10:30 a.m.)  
(2) Pick up forms when the court calls  
you to tell you they're ready



Have Respondent served with one  
copy of filed documents + plus blank  
Response 5 days before hearing.



Appear at hearing

Branch depends on  
Petitioner's home  
address

Bring the Proof of  
Service!



Serve the final order (OAH) as  
required

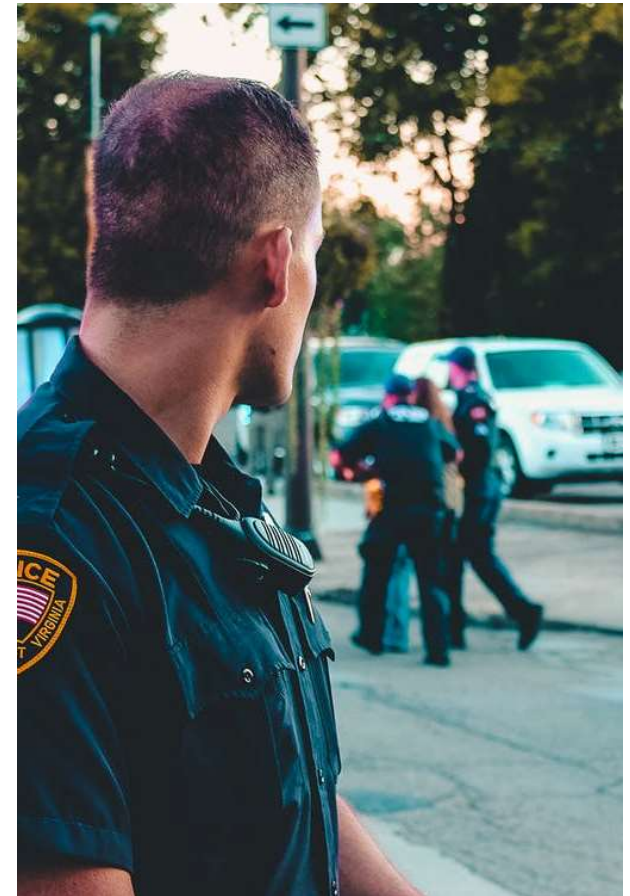


# Restraining Order Enforcement

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To enforce a restraining order, the person who is protected can **call the police** if the restrained person is violating the restraining order. The police can come and arrest the restrained person for the violation. But:

- Police responses may vary by city
- May vary by violation (i.e. coming to the house versus calling on the phone.)
- Protected people can also go back to court for contempt if they document the violations and make police reports, and the restrained person may have to pay a fine. However, this is uncommon.



# Resources for Survivors of Elder Abuse

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Sometimes, seniors want MH treatment for their children instead of a restraining order.

Call 211, or:

Assisted Outpatient Treatment  
Court managed program for severely mentally ill individuals who resist treatment.

Family members can refer.

1-844-422-2268

## Contra Costa Elder Abuse Prevention Project

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- Family Justice Center
- Contra Costa Senior Legal Services
- District Attorney
- Adult Protective Services
- Contra Costa Behavioral Health
- Empowered Aging
- Meals on Wheels Diablo Region
- Senior Peer Counseling



There is  
no wrong  
door!

# Contact Information

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Thank you!

