

Protect Yourself from Elder Abuse

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Iowa Code Chapter 235F—Elder Abuse

Protect Yourself from Elder Abuse

1	What is elder abuse?	<p>Elder abuse is when someone physically or sexually abuses, neglects, or financially exploits a person who is sixty (60) years old or older and is not able to protect himself or herself from the abuse because of a mental or physical condition or because of a personal circumstance. Such a person is a vulnerable elder.</p> <p>Physical elder abuse is when an intimate partner, family member, caregiver, or another person assaults or injures, attempts to assault or injure, or threatens to harm the vulnerable elder, and that person’s actions result in</p> <ul style="list-style-type: none">• Physical injury to the vulnerable elder that seems inconsistent from the history given for the injury.• Unreasonable confinement of the vulnerable elder.• Unreasonable punishment of the vulnerable elder.• Assault of a vulnerable elder. <p>Sexual elder abuse is when someone commits or tries to commit a sex act on the vulnerable elder and the sex act is:</p> <ul style="list-style-type: none">• Done by force or against the vulnerable elder’s will, or the vulnerable elder is not mentally able to consent to the act; or• With a family member or close relative, also known as incest. <p>Sexual abuse may include any form of sexual intercourse, touching or fondling of the inner thigh, groin, genitals, anus or breast, indecent exposure, or invasion of privacy.</p> <p>Elder neglect is the withholding of minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary for life and health of the elder.</p> <p>Elder financial exploitation is when a person trusted by the vulnerable elder knowingly and with undue influence, deceit, coercion, fraud, or extortion, gets control over, uses, or diverts a vulnerable elder’s benefits, property, resources, belongings, or assets.</p>
2	How can I protect myself or someone else from elder abuse?	<p>You can ask the court to help protect you or a vulnerable elder you know from elder abuse by filing a “Petition for Relief from Elder Abuse.”</p> <p>If you are seeking help for a vulnerable elder but not for yourself, you are the “Substitute Petitioner.” If you need help with this process, you should contact an attorney. Additional places to get help are on page 7.</p> <p>Note: You or the person you are seeking protection from (the defendant) must live in Iowa.</p>
3	Who can ask for protection?	<p>Vulnerable elders can ask for protection themselves if the person is at least sixty (60) years old and is unable to protect himself or herself from elder abuse as the result of a mental or physical condition or because of a personal circumstance, which results in an increased risk of harm.</p>

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		<p>If you are aware of a vulnerable elder who is experiencing elder abuse, but cannot or will not ask for protection themselves, you may be able to file on their behalf as a “substitute petitioner.” A substitute petitioner can include a family or household member, guardian, conservator, attorney in fact, or guardian ad litem for a vulnerable elder, or any other person who is interested in the well-being of the vulnerable elder.</p> <p>Important: A vulnerable elder has the right to contact and retain an attorney, have access to personal records, file objections, request a hearing, present evidence, and cross-examine witnesses at any hearing on the Protective Order whether the elder has asked for protection or someone has asked on the elder’s behalf.</p>
4	How do I know I can ask for help?	<p>You or the vulnerable elder must have suffered elder abuse. More than one person may have harmed you or the vulnerable elder or may have committed more than one kind of elder abuse against you or the vulnerable elder. You must be specific about how defendant harmed the vulnerable elder. For example, the defendant may have:</p> <ul style="list-style-type: none">• Neglected or otherwise harmed the vulnerable elder.• Taken financial advantage of the vulnerable elder.• Physically injured or sexually abused the vulnerable elder.• Unreasonably confined or punished the vulnerable elder.
5	What help can the person experiencing elder abuse get?	<p>A vulnerable elder or substitute petitioner can ask the court to help protect the vulnerable elder and order the defendant to take steps necessary to protect the vulnerable elder, including:</p> <ul style="list-style-type: none">• Stop the elder abuse.• Not contact the vulnerable elder in any way, including in-person, by phone, in writing, through social media, or by another person.• Stay away from or move out of the vulnerable elder’s home (even if the elder and the defendant share the home or share title or a lease to the home).• Provide housing, transportation, and financial support for the vulnerable elder.• Not exercise powers on behalf of the vulnerable elder such acting as a guardian, conservator, or other official role.• Not control the vulnerable elder’s funds, property, resource, belongings, or other assets.• Return control or custody over funds, property, resources, belongings, or other assets to the vulnerable elder.• Follow instructions of the vulnerable elder’s guardian, conservator, or attorney.• Not transfer the funds, property, resources, belongings, or assets of the vulnerable elder.• Pay the attorney fees and court costs of the vulnerable elder.
6	How do I ask the court for help?	<p>To ask the court for help, prepare a “Petition for Relief from Elder Abuse” and file it with the Iowa District Court.</p> <ul style="list-style-type: none">• This Petition is free on the Iowa Judicial Branch website at (https://www.iowacourts.gov/for-the-public/court-forms/). This Petition is also available and free from the clerk of court office at the county courthouse.

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		<ul style="list-style-type: none">You may file your Petition electronically from your personal computer. If you file electronically, see the Iowa Judicial Branch eFile User Guide for information on how to file at https://www.iowacourts.gov/static/media/cms/E0002_569890E51EF7C.pdf.If you cannot file electronically, you may go to your county courthouse for help with filing your Petition.
7	What if I do not understand how to do this?	<p>If you need help with these instructions or how to prepare and file a Petition, you may contact:</p> <ul style="list-style-type: none">A private attorney.Iowa Legal Aid at 800.532.1275 (M – F, 8:30 am – 4:30 pm) or at www.iowalegalaid.org.The Iowa State Bar Association “Find-A-Lawyer” at https://www.iowafindalawyer.com/.Your local Area Agency on Aging at 800.532.3213 (M – F, 8:30 am – 4:30 pm), https://www.iowaaging.gov/area-agencies-aging/find-your-local-area-agency-agingYour local domestic violence or sexual assault victim advocacy program. If you are not sure who provides services in your area, call the Iowa Victim Service Call Center Hotline at 800.770.1650, or text IOWAHELP to 20121 (available 24/7), or http://survivorshelpline.org/.The county attorney where you are filing your petition <i>may</i> provide help. <p>Note: Clerks of court cannot give legal advice or tell you what to write on court forms.</p>
8	Will I have to pay to file?	<p>No. You cannot be charged any money for asking the court for protection from elder abuse. The court may order the defendant to pay costs in some cases.</p>
What do I have to say in the Petition for Relief from Elder Abuse?		
9	What do I have to say in the Petition?	<p>You will need to tell the court the following things in the Petition:</p> <ul style="list-style-type: none">Who you are and who abused, exploited, or neglected you or the vulnerable elder you are assisting.How the defendant abused, exploited, or neglected you or the vulnerable elder you are assisting.Your relationship or the vulnerable elders’ relationship with the defendant.Where the defendant can be located in person.The most recent time the defendant abused, exploited, or neglected you, and how the defendant abused, exploited, or neglected you, or threatened to abuse, exploit, or neglect you, including where and when this happened.Any other injuries or threats you received from the defendant, including how the injuries or threats happened and where and when you were hurt or threatened.Whether you want your case kept confidential from the public.What you would like the court to do for you. For example, you could ask the court to order the defendant to stop the abuse and stay away from you, your home, or the family home. The court could order the defendant to not

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contact you personally or through another person or by phone, social media, writing, or any other way. The court could order defendant to provide housing, transportation, or financial support.

What happens next?

10	What happens when I file my Petition?	<p>After you file your Petition, the court may enter a “Temporary Protective Order” and schedule a hearing. The court will also tell law enforcement to serve or deliver papers to the defendant with copies of the:</p> <ul style="list-style-type: none">• Petition you filed.• Temporary Protective Order and information about the court hearing. <p>The court hearing should happen within 5 to 15 days from when you filed the Petition, if law enforcement can find the defendant.</p> <p>Caution: The Temporary Protective Order does not go into effect until the defendant has received this paperwork from law enforcement.</p>
11	What are Protective Orders and how long do they last?	<p>Protective Orders tell law enforcement that the court has ordered defendant to stop the elder abuse, stay away from you, and not contact you. To see what the court can order the defendant to do, see “What help can the person experiencing elder abuse get?” in section 5 above.</p> <p>There are two kinds of Protective Orders:</p> <ul style="list-style-type: none">• Temporary Protective Order—this order begins when the defendant receives it and lasts until the next order from the court.• Final Protective Order—this order will last for up to 1 year after the court hearing on the Temporary Protective Order. You may get another 1-year order if you file a “Request to Cancel, or Change a Chapter 235F Elder Abuse Protective Order” with the clerk of court before the original order expires. This free form is available on the Iowa Judicial Branch website or from the clerk of court. <p>Important: Only the court can change a Protective Order.</p>
12	What do I do during the Temporary Order?	<p>You and anyone protected by the order must do what the order says. For example, if the Protective Order permits defendant to enter a residence or building one time with law enforcement to retrieve work clothes or personal items, you must follow those directions. You should also gather evidence and witnesses to tell the court about the elder abuse. The information could include:</p> <ul style="list-style-type: none">• Information about the elder abuse.• People who know about the elder abuse.• Information that shows the vulnerable elder is unable to protect himself or herself from abuse as a result of a mental or physical condition, or because of a personal circumstance that results in an increased risk of harm to the vulnerable elder.

Do I have to go to court?

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13	Do I have to go to court?	<ul style="list-style-type: none">• When you file your Petition, the court will set a court hearing date that should happen within 5 to 15 days.• The person who filed the Petition must go to the next hearing. If the vulnerable elder or substitute petitioner does not appear, the court could cancel the Temporary Protective Order.• The vulnerable elder will need to be at the hearing, unless the court says the elder does not have to appear. If the vulnerable elder is not able to be in court, it is very important for you to tell the court about this before the hearing. <p>Note: If you need help going to court, see “What if I do not understand how to do this?”</p>
14	What happens at the court hearing?	<p>At the court hearing on the Temporary Protective Order:</p> <ul style="list-style-type: none">• You must provide information about the elder abuse described in the Petition. The information may include financial records, witnesses, recordings, and photographs. If you do not know how to do this, see “What if I do not understand how to do this?”• The defendant can also provide information and ask you or your witnesses questions about what you have told the court.• You can ask the defendant and the defendant’s witnesses questions about what they told the court.
15	What happens after the court hearing?	<p>After the court listens to you and the defendant, the court may issue a Final Protective Order. A Final Protective Order lasts for up to one year from the date issued.</p>
16	What do I do if a Final Protective Order is issued?	<p>You and anyone protected by the Final Protective Order must follow the terms of the order. For example, if the Final Protective Order permits defendant to get a set of work tools from the residence, you must follow those directions.</p>
17	What happens if the court does not give me an Order?	<p>You may contact the Iowa Victim Service Call Center Hotline at 1.800.770.1650, or text IOWAHELP to 20121, or www.survivorshelpline.org. You may also contact local Area Agency on Aging at 800.532.3213 (M – F, 8:30 am – 4:30 pm), https://www.iowaaging.gov/area-agencies-aging/find-your-local-area-agency-aging, and you may also contact an attorney. See “What if I do not understand how to do this?”</p>
After the Protective Order is issued		
18	What if the defendant does not obey the Protective Order?	<p>If the defendant does not obey the Protective Order, you can:</p> <ul style="list-style-type: none">• Call law enforcement by dialing 911.• Call the Iowa Victim Service Call Center Hotline at 1.800.770.1650, text IOWAHELP to 20121, or go to www.survivorshelpline.org. <p>If you need help, see “What if I do not understand how to do this?”</p>

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19 What if I need to change the Protective Order?

You must tell the court what needs to be changed. You can do this by filing a “Request to Cancel, or Change a Chapter 235F Protective Order.” This form is available for free on the Iowa Judicial Branch website or at the clerk of court’s office.

Victim/Survivor assistance resources	
Iowa Victim Service Call Center Hotline 800.770.1650 – or – Text IOWAHELP to 20121 www.survivorshelpline.org (Available 24/7)	Address Confidentiality Program (Iowa Secretary of State) 321 E. 12 th Street 1 st Floor Lucas State Office Building Des Moines, IA 50319 515.281.5204 https://safeathome.iowa.gov/
Area Agency on Aging 800.532.3213 (M – F, 8:30 am – 4:30 pm) https://www.iowaaging.gov/area-agencies-aging/find-your-local-area-agency-aging	
Legal resources	
Iowa State Bar Association: Find-A-Lawyer 625 E. Court Avenue Des Moines, IA 50309 https://www.iowafindalawyer.com/	Iowa Legal Aid 800.532.1275 www.iowalegalaid.org (M – F, 8:30 am – 4:30 pm) Offices located in: Davenport, Des Moines, Cedar Rapids, Council Bluffs, Iowa City, Mason City, Nevada, Muscatine Sioux City, Waterloo
Help for going to court without an attorney	
These links provide information about going to court without an attorney: <ul style="list-style-type: none">• https://www.iowacourts.gov/for-the-public/representing-yourself/ (an overview about going to court)• https://www.iowacourts.gov/for-the-public/common-legal-terms/ (definitions of common legal terms)• https://www.iowacourts.gov/for-the-public/representing-yourself/protect-personal-information/ (protecting personal information)	