



ELDER ABUSE

TASK FORCE REPORT

2022



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**STATE OF TENNESSEE
COMMISSION ON AGING AND DISABILITY**

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January 15, 2022

The Honorable Bill Lee
Governor of Tennessee
1st Floor, State Capitol
600 Dr. Martin L. King, Jr. Blvd.
Nashville, TN 37243

The Honorable Randy McNally
Lieutenant Governor of Tennessee and Speaker of the Senate
Suite 700 Cordell Hull Bldg.
425 Rep. John Lewis Way N.
Nashville, TN 37243

The Honorable Cameron Sexton
Speaker of the House of Representatives
Suite 600 Cordell Hull Bldg.
425 Rep. John Lewis Way N.
Nashville, TN 37243

Dear Governor Lee, Lieutenant Governor McNally, and Speaker Sexton:

In May 2021, the General Assembly passed Public Chapter 464 (2021), which reestablished the Elder Abuse Task Force (“Task Force”). The focus of this Task Force, administered by the Tennessee Commission on Aging and Disability (TCAD), is to examine the issue of financial exploitation and determine its impact on elder and vulnerable Tennesseans. The General Assembly further required that a final report detailing efforts of the Task Force be filed with each of you by January 15, 2022. Submission of the enclosed report effectively dissolves the immediate Task Force as the last action of its business.

Attached please find a copy of this final report, which identifies the impact of financial exploitation on elder and vulnerable adults, reviews best practices, and identifies regulatory gaps. Based on discussions and findings, also included are recommendations that address problems associated with the financial exploitation of elder persons and vulnerable adults in the Volunteer State.

We look forward to your review of this report and are happy to meet and discuss any aspects that you believe might warrant policy changes or legislative action.

Thank you for your efforts on behalf of our elder and vulnerable Tennesseans.

Sincerely,

A handwritten signature in black ink, appearing to read "James Dunn". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "Dunn".

James Dunn
Executive Director

Enclosure: Elder Abuse Task Force Final Report

CC: The Honorable Rusty Crowe, Chair, Senate Health and Welfare Committee
The Honorable Bryan Terry, Chair, House Health Committee
Russell Humphrey, Chief Clerk of the Senate
Tammy Letzler, Chief Clerk of the House

Introduction

Purpose of the 2021 Elder Abuse Task Force

On May 3, 2021, the Tennessee General Assembly passed legislation recreating the Elder Abuse Task Force (Chapter 464 of the Public Acts of 2021). Governor Lee signed the bill on May 18, 2021. See Appendix A. This Act established the Task Force, attaching it administratively to the Tennessee Commission on Aging and Disability (TCAD), and requires the taskforce to do the following:

- Assess the current status of elders and other vulnerable adults covered by the Tennessee Adult Protection Act related to financial exploitation;
- Examine the existing barriers, services, and resources addressing the needs of these elder persons and vulnerable adults; and
- Develop recommendations to address problems associated with the financial exploitation of these elder persons and vulnerable adults.

The Act requires the Task Force to develop and submit a report to the General Assembly by January 15, 2022. This report to the General Assembly was to identify the impact of financial exploitation of older adults, review best practices, and include recommendations to address regulatory gaps.

Due to a change in administration at TCAD, ensuing staff changes, and the COVID-19 pandemic, the Task Force was only able to meet in the last quarter of 2021. At its meeting, the Task Force heard from external stakeholders who are working on initiatives impacting financial exploitation. The agenda from the meeting can be found in Appendix B. Copies of detailed minutes of the meeting are available upon request. A recording of the Task Force meeting can be found on TCAD's website.¹

2021 Elder Abuse Task Force Members

Pursuant to state statute, certain departments and external entities were required to be represented on the Task Force. The following individuals constituted the makeup of the Task Force:

Executive Director James Dunn, Tennessee Commission on Aging and Disability

Renee Bouchillon, Tennessee Department of Human Services, Adult Protective Services

Sally Pitt, Tennessee Department of Health

Commissioner Greg Gonzales, Tennessee Department of Financial Institutions

Commissioner Carter Lawrence, Tennessee Department of Commerce and Insurance

¹ <https://www.tn.gov/aging/news-and-events/calendar/2021/10/13/elder-abuse-taskforce-meeting.html>

Lisa Zavogiannis, Tennessee District Attorneys General Conference

Director David Rausch, Tennessee Bureau of Investigation

Stacey Langford, Tennessee Bankers Association

Kim Bohannon, Tennessee Credit Union League

Jesse Samples, Tennessee Health Care Association

Legislative History

Public Chapters Forming Elder Abuse Task Forces

Public Chapter 961 (2014) established the State's inaugural Elder Abuse Task Force and elevated the criminal penalty for knowingly abusing, neglecting, or exploiting an adult. The Act administratively attached the Elder Abuse Task Force to the Commission on Aging and Disability (TCAD) and required TCAD to submit a report no later than January 15, 2015. However, after meeting multiple times in 2014, the Task Force determined that it needed more time to examine and explore issues of elder abuse, neglect, and exploitation in Tennessee. As a result, Public Chapter 203 (2015) was enacted to permit the Task Force to continue meeting. Public Chapter 203 extended the Task Force's deadline for a final report to January 15, 2016. A report was submitted by the deadline making eight recommendations.² In its report, the 2014 Task Force identified that financial exploitation was a growing problem which detrimentally impacted Tennessee's aging population.

Public Chapter 135 (2019) was passed by the General Assembly and enacted a second State Elder Abuse Task Force. The focus of the 2019 Task Force was to assess existing state laws addressing elder abuse and financial exploitation; analyze existing barriers; and identify existing resources addressing the needs of elder and vulnerable adults. Additionally, the Task Force identified mechanisms to deter financial exploitation and reviewed actions taken by State departments and agencies if an individual became the victim of financial exploitation.

In September 2020, a substantial study completed by the Tennessee Comptroller of the Treasury's Office of Research and Education Accountability (OREA) was published. The OREA report, to be discussed in a later section of this report, put forward numerous conclusions concerning elder abuse and financial exploitation in Tennessee and presented several policy options for state lawmakers to consider.

Unfortunately, the COVID-19 pandemic impacted the 2019-2020 Task Force meeting dates. Due to the pandemic's impact and the findings of the Comptroller's Report, the second Task Force felt that additional time was needed to adequately study the issue. As a result, the second Task Force's

² "Elder Abuse Task Force Final Report" by the Tennessee Commission on Aging and Disability, January 2016.

report submitted in January 2021³ requested the General Assembly grant the Task Force an extension to further address the issues. This resulted in Public Chapter 465 (2021), which created the third and present Task Force.

Recently Enacted Laws to Combat Elder Abuse

In recent years, the Tennessee General Assembly has enacted multiple laws that address elder abuse. This section reviews the current laws related to elder abuse and financial exploitation affecting elder and vulnerable adults.

Public Chapter 961 (2014) elevates from a Class E felony to a Class D felony the penalty for knowingly abusing, neglecting, or exploiting an adult who is unable to manage his or her resources or carry out the activities of daily living due to mental or physical dysfunctions or advanced age. This law also establishes the Elder Abuse Task Force.

Public Chapter 203 (2015) extends the Elder Abuse Task Force from January 15, 2015 to January 15, 2016.

Senate Joint Resolution 678 (2016) directs the Tennessee Commission on Aging and Disability to conduct a study on the financial exploitation of vulnerable adults. As a result of SJR 678, TCAD held community meetings in all three grand divisions of the state and developed surveys that were completed by consumers and financial institutions.

Public Chapter 1006 (2016) requires the District Attorney General of each judicial district to establish a Vulnerable Adult Protective Investigative Team (VAPIT). Each VAPIT shall coordinate the investigation of suspected cases of abuse, neglect, or exploitation of elderly or vulnerable persons. VAPITs meet at least quarterly but may meet as often as needed, and District Attorneys are required to report annually to the General Assembly summarizing the work of each VAPIT.

Public Chapter 264 (2017) creates the Elderly and Vulnerable Adult Financial Exploitation Prevention Act that gives financial institutions, including banks and credit unions, money transmitters, mortgage loan companies, and others, the authority to delay or refuse to conduct transactions that permit the disbursement of funds when financial exploitation of elderly or vulnerable adults is suspected. This law is commonly known as the “Pause Law.” The law provides immunity for the financial services provider from all criminal, civil, and administrative liability for taking any such action. It also permits financial institutions to establish a list of persons the customer would like to have contacted if the bank suspects the customer is a victim of exploitation or theft. The Act also requires financial institutions to respond, within 14 business days, to an administrative subpoena issued by Adult Protective Services (APS) for access to or copies of records relevant to suspected actual or attempted financial exploitation.

³ “Interim Report to Combat the Abuse of Elder Persons and Other Vulnerable Adults” by the Tennessee Commission on Aging and Disability, January 2021.
https://www.capitol.tn.gov/Archives/senate/112GA/committees/LtGovReports/2021/2021-01-15_TN%20Commission%20on%20Aging%20and%20Disability-Elder%20Abuse%20Report%202021.pdf

Public Chapter 424 (2017) enacted the Senior Financial Protection and Securities Modernization Act that authorizes broker-dealers and investment advisors to voluntarily report to the Commissioner of Commerce and Insurance suspected instances or attempts of financial exploitation of an elderly or vulnerable person and gives civil and administrative immunity for making such reports.

Similar to the provisions of Public Chapter 264 (2017) for financial institutions, this Act authorizes broker-dealers and investment advisors to delay disbursements from an account when they have reason to believe the disbursement may result in exploitation of an elderly or vulnerable adult and requires them to report the delays to the commissioner. The Act also permits the Department of Commerce and Insurance to levy a civil penalty of up to \$20,000 against broker-dealers and investment advisors if an act of financial exploitation is committed using their customers' accounts.

Public Chapter 466 (2017) enacted the Elderly and Vulnerable Adult Protection Act that defines and creates the new offense of financial exploitation of elderly or vulnerable adults, including the use of deception, intimidation, undue influence, force, or threat of force to obtain or exert unauthorized control over an elderly or vulnerable adult's property. Prior to this change, financial exploitation of the elderly in Tennessee was previously treated as theft under Tennessee law, making it more complicated to prosecute. With the enactment of Public Chapter 466, the Tennessee General Assembly made financial exploitation of the elderly a stand-alone offense and established an enhanced sentencing factor when the victim is elderly or vulnerable. The Act provides that, under certain conditions, a person charged with financial exploitation of an elderly or vulnerable adult may have their assets frozen (up to 100% of the alleged value in question). The Act also requires those convicted to be included on the State Abuse Registry.

Public Chapter 1050 (2018) added increased penalties for aggravated elder abuse. The Act requires Adult Protective Services (APS) to provide complete, unredacted copies of investigative files (excluding the identity of the referral source) to District Attorneys General for the prosecution for neglect or financial exploitation of an elderly or vulnerable person. Public Chapter 1050 further requires APS to disclose to the District Attorney General the identity of the individual who made the original allegation after an indictment has been returned.

Public Chapter 135 (2019) reestablishes the Elder Abuse Task Force and mandates submission of a report to the Governor and General Assembly by January 15, 2021.

Public Chapter 464 (2021) reestablishes the Elder Abuse Task Force and mandates submission of a report to the Governor and General Assembly by January 15, 2022.

Issues Discovered

Through discussions with stakeholders and conversations at the Task Force's meeting, several common issues and regulatory gaps were identified. This section includes stakeholders' views about the gaps and provides details on the issues that were most prevalently discussed.

Comptroller’s Report on Elder Financial Exploitation in Tennessee

At the Task Force’s October 2021 meeting, members of the Tennessee Comptroller of the Treasury’s Office of Research and Education Accountability (OREA) presented their report to Task Force members. The report is a robust examination of financial exploitation and presents input from each state department or agency involved in Tennessee.

The report⁴ reviews research about elder financial exploitation; attempts to estimate the monetary impact of financial exploitation in Tennessee; and considers our state’s approach to identifying and investigating this type of elder abuse. Further, the report lays out the current framework for prosecuting and convicting perpetrators and addresses regulatory gaps and barriers. The report makes several policy recommendations for government stakeholders and the General Assembly to consider as a matter of legislative remedy.

The Tennessee Comptroller of the Treasury’s Office of Research and Education Accountability (OREA) developed the following findings:

1. *Adult Protective Services has limited statutory authority.* Those who work with elderly and vulnerable adults have expressed concerns about the criteria under which Adult Protective Services (APS) determines whether to investigate cases of elder financial exploitation and have described it as too narrow.
2. *Estimating monetary impact proves difficult.* Allegations of elder financial exploitation have significantly increased. Because of several factors, including a lack of data collection by the various regulatory agencies, the OREA report was unable to quantify the prevalence and cost of elder financial abuse in Tennessee.
3. *The State’s infrastructure to protect vulnerable adults is a “patchwork” system.* Sizeable increases in elder financial exploitation reports to APS over the last few years suggest that elder financial exploitation is increasing in Tennessee and reporting and awareness have increased. Conversely, the number of investigations by APS have not increased, suggesting that other entities (e.g., local police, the Tennessee Bureau of Investigation, District Attorneys, financial institutions) are increasingly responsible for combatting elder financial exploitation.
4. *District Attorneys report increased prosecution, but more data is needed.* The ability for judicial districts to track case data is inconsistent across the State. Further, there is no state-wide system for districts to input case data that would allow data trending analysis of elder abuse and financial exploitation cases. The number of prosecutions of elder financial exploitation, however, are believed to be on the rise as districts become more familiar with the new laws.

⁴ “Financial Exploitation of the Elderly in Tennessee” by the Office of Research and Education and Accountability, Tennessee Comptroller of the Treasury, September 2020. <https://comptroller.tn.gov/content/dam/cot/orea/advanced-search/2020/ElderFinancialExploitationFullReport.pdf>

Outdated Statutes Regulating Investigation of Complaints

Throughout conversations with stakeholders involved in combating financial exploitation among Tennessee’s vulnerable populations, a frequent barrier to investigating allegations of financial exploitation was singled out.

Under state law, every individual in Tennessee has an obligation to report suspected or known incidents of abuse involving vulnerable and elderly adults to Adult Protective Services (APS). APS accepts reports about all types of vulnerable and elder abuse in Tennessee through a 24-hour hotline, in person, by fax, or online.⁵ APS staff who receive the initial complaint determine whether the report of abuse received warrants the agency’s investigation based on criteria set out in state statute. The current APS criteria for investigating a report of financial exploitation defines financial exploitation as “the improper use by a caretaker of funds that have been paid by a governmental agency to an adult or to the caretaker for the use or care of the adult.” Therefore, any report that alleges financial exploitation but does not involve a caregiver **AND** misuse of governmental funds is screened out. (Emphasis added.)

The law governing APS’s investigative criteria has contained this specific language since the statute was first passed in 1978.⁶ According to the Comptroller’s OREA report, “in state fiscal year 2019, out of 3,824 reports of suspected elder financial exploitation, APS screened out 756 reports that did not involve government funds and 1,565 reports that did not involve a caregiver or because the alleged victim did not qualify as vulnerable.”⁷ It is important to note that after APS screens out reports that do not meet its criteria, the report is forwarded to other entities that are appropriate to investigate. However, an investigation might occur if the other state entity deems further action needs to be taken.

During its study, OREA looked at APS units across the country and found no other states limit APS investigations of elder financial exploitation to allegations that involve a caregiver’s misuse of governmental funds. Several stakeholders, Task Force members, and state legislators have expressed concern that the statutory language as it currently reads limits APS’s capability to investigate reports of financial exploitation. Moreover, the Task Force heard from several District Attorneys that changing the statute’s language would improve APS’s ability to investigate reports of elder abuse and financial exploitation.

Poor Data Collection

One of the first steps researchers or policymakers take when attempting to solve a policy issue is to look at data. In the case of elder financial exploitation, this practice presented a clear problem for the Task Force and other stakeholders, as Tennessee does not have a centralized system where data and complaint information are entered for state agencies and departments to access.

⁵ Tennessee Department of Human Services, Adult Protective Services Policy Manual, Effective Nov. 1, 2015, p. 9, https://www.tn.gov/content/dam/tn/human-services/documents/APS_Policy_Manual_11.1.15.pdf

⁶ Public Chapter 899, 1978.

⁷ “Financial Exploitation of the Elderly in Tennessee” by the Office of Research and Education and Accountability, Tennessee Comptroller of the Treasury, September 2020. <https://comptroller.tn.gov/content/dam/cot/orea/advanced-search/2020/ElderFinancialExploitationFullReport.pdf>

In the Comptroller’s study, OREA received elder abuse case data for multiple local and state agencies and accessed publicly available data about financial exploitation. After analyzing the data and information, OREA concluded, “the number of unique cases could not be identified.”⁸ Any case could be under investigation by multiple organizations at one point in time. At present, since it is not possible to connect cases across multiple state agencies, a single case could be counted as separate cases across each entity.

During the Task Force’s October 2021 meeting, it was revealed that only one state department is currently tracking complaints and data by age — the Department of Commerce and Insurance. Due to the absence of a uniform reporting system, OREA found it difficult to estimate the financial loss of individuals who fell victim to financial exploitation. Additionally, the Department of Commerce and Insurance was the only department or agency able to closely approximate the financial loss of victims.

Law enforcement entities (i.e., Tennessee Bureau of Investigation, District Attorneys) have also noted that without a uniform system to track case data across judicial districts, it is difficult to analyze prosecution and conviction data on financial exploitation. While District Attorneys say there has been an increase in prosecutions due to the new laws recently passed by the state legislature, it is important to track cases, trends, and potential perpetrators across judicial districts.

Without a statewide system for all agencies and departments to utilize, it is next to impossible to track cases as they are shared or to draw conclusions as necessary to inform policy changes.

Lack of Resources and Training for Stakeholders Involved

Financial institutions play a vital role ensuring the safety of their customers’ accounts and identifying potential cases of elderly financial exploitation. According to AARP’s Public Policy Institute, individuals 50 and older are particularly susceptible to fraud and financial exploitation as they own 67 percent of U.S. bank deposits.⁹

While recently enacted laws have contributed to increased awareness and reporting of suspicious activity by financial institutions, training for employees of financial institutions or law enforcement was not required. Financial exploitation cases can be complex, and many law enforcement agencies do not have experience, expertise, or adequate resources in dealing with cases of this nature. Providing standardized training and guidance for elder financial exploitation could significantly benefit those who are on the frontlines of preventing and investigating elder financial exploitation.

⁸ “Financial Exploitation of the Elderly in Tennessee” by the Office of Research and Education and Accountability, Tennessee Comptroller of the Treasury, September 2020. <https://comptroller.tn.gov/content/dam/cot/orea/advanced-search/2020/ElderFinancialExploitationFullReport.pdf>

⁹ “Financial Exploitation Research and Statistics: Bank Safe,” AARP, <https://www.aarp.org/ppi/banksafe/financial-exploitation-research/>

Unlicensed Facilities

The Department of Health (TDH), Department of Mental Health and Substance Abuse Services (TDMHSAS), the Department of Intellectual and Developmental Disabilities (DIDD) all regulate types of residential facilities. The Department of Human Services (DHS) regulates adult day services. For each of the Departments which regulate licensed facilities, state law indicates that operation of an unlicensed facility is a Class B misdemeanor. *See* Tenn. Code Ann. § 68-11-213(h), 68-102-117, 33-2-405, and 33-2-417. Despite these prohibitions, for many years, the Departments have received complaints that indicate unlicensed facilities in Tennessee may be flourishing.

Investigating unlicensed facilities poses a challenge. Each agency has jurisdictional limitations, that include, but are not limited to, specific numbers of residents who must be found in a facility before an agency can investigate; specific services provided, such as medication administration or nursing services; or the types of benefits received by residents. Data also cannot be freely shared between agencies which would allow cases to be linked.

Elderly and vulnerable adults residing in unlicensed facilities are especially vulnerable to financial exploitation. Most of the residents found in these unlicensed facilities were over age 60 and not able to live independently but were not yet eligible for Medicare or Medicaid. Many of these residents were low income, but most did not receive Supplemental Security Income (SSI).

From January 2021 to July 2021, the Tennessee Bureau of Investigation calculated that it had received 64 complaints of unlicensed facilities. In March 2021, multiple agencies became involved in an unlicensed facility; due to a mixed population of residents, no single agency alone had absolute jurisdiction. Many of the residents found in this unlicensed home were elderly; several had mental health diagnoses; one had a traumatic brain injury; and several were bedbound and required skilled nursing care.

In response, the state stakeholders involved developed a strike force team to create a set of protocols to address unlicensed facilities. Presently, the strike force team works together through biweekly calls to address scenarios involving unlicensed facilities across the state's 95 counties. Most of the residents found in these unlicensed facilities were not able to live independently. Some of the residents found in the unlicensed facilities lacked capacity and had to be taken into custody by Adult Protective Services. Some residents even entered TCAD's State Public Guardianship for the Elderly program.

As Tennessee's population continues to age, this issue will grow exponentially. By 2040, 2,088,906 Tennesseans will be over the age of 60. In 2070, 2,559,725 residents will be over the age of 60.

Recommendations

Following a convening of the Task Force and discussions with stakeholders, policy recommendations to address issues within the regulatory system for combating financial exploitation as a form of elder abuse were developed. This section details policy options for consideration and further study.

Strengthen Adult Protective Services Investigative Authority

As mentioned earlier in this report and detailed in the Comptroller's OREA report, APS's current criteria for elder financial exploitation investigations are too narrow. Presently, APS may only investigate "the improper use by a caretaker of funds that have been paid by a governmental agency" for an investigation to commence. Today it is common for individuals to co-mingle their finances and alleged perpetrators are not always caretakers.

In a 2016 report to the General Assembly, the Tennessee Commission on Aging and Disability discussed the narrow definition of elder financial exploitation in the law that limits APS's authority.¹⁰ During Task Force discussions, District Attorneys advocated that they believe the mandate given to APS should be expanded to include non-governmental funds. Additionally, including all types of alleged perpetrators rather than just caregivers would likely lead to a discovery of more cases.

As noted in the OREA report, "as the number of reports [to APS] increased, the number of allegations investigated by APS did not increase."¹¹ Given the foregoing, the statute regarding these criteria may need to be revised.

Create a Sole Source for Reporting and Data Collection

A theme across each of the issues discovered during conversations and meetings of the Task Force is the absence of data regarding financial exploitation against the elderly.

Although APS can track the cases it investigates; cases that are forwarded from APS to other agencies are unable to be tracked. This leads to difficulties in identifying, investigating, and prosecuting elder financial exploitation.

While financial institutions have improved tools to report cases when aging Tennesseans are exploited financially, the Task Force and stakeholders have also discussed concerns that financial institutions do not always have clarity on how to report incidents of suspected activity or whom to report them to.

At the Task Force's meeting, Tennessee Bureau of Investigation (TBI) Director David Rausch stated that conversations are ongoing to explore establishing a 1-800 hotline within TBI to report instances of financial exploitation. Representatives of financial institutions have indicated they believe a central location to call would provide clarity for reporting and a hub to then dispatch information to the proper authority to investigate. Director Rausch described this effort as a "9-1-1 for financial institutions." This effort is necessary, as presently some instances of financial exploitation may be screened out as a civil matter. Director Rausch noted that one in 10 elders is a victim of financial exploitation, although only one in 14 elders ever report such a loss. TBI has

¹⁰ Tennessee Commission on Aging and Disability, Senate Joint Resolution 678: Study on Financial Exploitation of Vulnerable Adults in Tennessee, Final Report, Nov. 1, 2016, p. 17.

¹¹ "Financial Exploitation of the Elderly in Tennessee" by the Office of Research and Education and Accountability, Tennessee Comptroller of the Treasury, September 2020. <https://comptroller.tn.gov/content/dam/cot/orea/advanced-search/2020/ElderFinancialExploitationFullReport.pdf>

experienced increasing numbers of financial exploitation cases, and such a hotline is necessary to arm financial institution employees and other stakeholders involved with the skills to act and appropriately engage to prevent financial exploitation.

The Tennessee District Attorneys General Conference worked with Adult Protective Services in 2017 and 2018 to create a database exclusively for elder abuse cases. According to the OREA report, the database was almost completed but was never implemented due to lack of funding. The report states, “the estimated cost of the database was \$63,000...with an annual estimated cost of \$14,000 for technology staff support and resources.”¹² Such a database would be helpful to track these often difficult cases.

Legislative Solution for Unlicensed Residential Facilities

TCAD was tasked by the Governor’s Office to study the issue of unlicensed facilities as TCAD is the designated state unit on aging and is mandated to provide leadership relative to aging issues on behalf of older persons in the state.

Solutions to the unlicensed facility problem may include a standing “strike force” with specific protocols for the external stakeholders that could be codified. Operation of an unlicensed facility in the State of Tennessee is a Class B misdemeanor; increasing criminal penalties for chronic operators of unlicensed facilities to a Class D felony could be a deterrent. Education for the general public about unlicensed facilities will also be a key component, along with dedicated webpages with links to each facility type and how to apply. Semi-independent living services, like those provided by the Department of Intellectual and Developmental Disabilities, could be expanded. Tiny homes may be an additional option, as the Fire Marshal’s Office now regulates permanent construction of tiny homes. Residential homes for the aged, currently licensed by the Department of Health, could become a certificate instead of a license and placed with a non-medical entity among state government as a program to be expanded on for addressing the need of this population in a way that does not compete with the skilled healthcare facility industry unnecessarily.

TCAD holds the belief that empowering the community to care for the elderly via non-medical facilities within residential settings can be a solution to mitigate the growing issue where aging adults are at greater risk of financial exploitation by their caretakers.

Conclusion

Financial exploitation is a multifaceted problem affecting an increasingly large portion of Tennessee’s elder population. Victims of financial exploitation often face extreme economic hardship. Some estimates put the national financial impact from \$2.9 billion¹³ to \$36 billion¹⁴ per

¹² “Financial Exploitation of the Elderly in Tennessee” by the Office of Research and Education and Accountability, Tennessee Comptroller of the Treasury, September 2020. <https://comptroller.tn.gov/content/dam/cot/orea/advanced-search/2020/ElderFinancialExploitationFullReport.pdf>

¹³ The MetLife Study of Elder Financial Abuse Crimes of Occasion, Desperation, and Predation Against America’s Elders, June 2011, <https://ltcombudsman.org/uploads/files/issues/mmi-elder-financial-abuse.pdf>

¹⁴ The True Link Report on Elder Financial Abuse, Jan. 2015, <http://documents.truelinkfinancial.com/True-Link-Report-On-Elder-Financial-Abuse-012815.pdf> (accessed Nov. 19, 2019).

year. As Tennessee's aging population grows from retirees moving into the state and the current population aging, so too will the occurrence of financial exploitation.

The Elder Abuse Task Force serves an important role in combatting elder and vulnerable adult abuse by increasing education and awareness, proposing solutions for elder abuse prevention, and informing the public of these signs of abuse.

We appreciate the General Assembly's willingness to give us the opportunity to further study this very important issue. The Task Force is confident that any potential legislation arising from our work will positively impact the ongoing fight against elder and vulnerable abuse, neglect, and exploitation and make a difference for our most vulnerable Tennesseans.

Appendix A



State of Tennessee

PUBLIC CHAPTER NO. 464

SENATE BILL NO. 304

By Briggs, Massey, Gilmore, Reeves, Yarbro

Substituted for: House Bill No. 345

By Carr, Griffey, Weaver, Carringer, Hazlewood, Crawford

AN ACT to amend Tennessee Code Annotated, Title 71, Chapter 6, Part 1, relative to adult protection.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 71-6-126, is amended by deleting the section and substituting the following:

- (a) There is created the elder abuse task force.
- (b) The task force is to consist of the following members:
 - (1) The executive director of the Tennessee commission on aging and disability or the executive director's designee;
 - (2) The commissioner of human services, or the commissioner's designee with knowledge of the responsibilities of the adult protective service program;
 - (3) The commissioner of health or the commissioner's designee;
 - (4) The commissioner of financial institutions or the commissioner's designee;
 - (5) The commissioner of commerce and insurance or the commissioner's designee;
 - (6) A district attorney general selected by the district attorneys general conference;
 - (7) The director of the Tennessee bureau of investigation or the director's designee;
 - (8) A representative of the Tennessee Bankers Association;
 - (9) A representative of the Tennessee Credit Union League; and
 - (10) A representative of the Tennessee Health Care Association.
- (c)(1) The task force shall:
 - (A) Assess the current status of elders and other vulnerable adults covered by the Tennessee Adult Protection Act related to financial exploitation, compiled in this part;
 - (B) Examine the existing barriers, services, and resources addressing the needs of these elder persons and vulnerable adults; and
 - (C) Develop recommendations to address problems associated with the financial exploitation of these elder persons and vulnerable adults.

(2) The task force shall include an examination of the following in its assessment and recommendations:

(A) A determination of the economic and human impact of financial exploitation of elder persons and vulnerable adults in Tennessee;

(B) A review of the remedies to reduce the number of individuals suffering such abuse;

(C) Legislative remedies for consideration in the 112th general assembly; and

(D) Needed state policies or responses, including directions for the provision of clear and coordinated services and support to protect and assist such persons.

(d) Members of the task force serve without compensation or reimbursement for any expenses incurred while participating in the business of the task force.

(e) The appointing authorities shall strive to be inclusive in selecting persons to serve on the task force to best reflect the racial, gender, geographic, urban and rural, and economic diversity of the state.

(f) The executive director of the Tennessee commission on aging and disability shall call the first meeting of the task force, at which time the members shall elect a chair and vice chair.

(g) The commission on aging and disability shall provide necessary administrative support for the task force. The chair of the task force may call on appropriate state agencies for reasonable assistance relating to the work of the task force.


(h) The task force shall hold public meetings and utilize technological means, such as webcasts, to gather feedback on the recommendations from the general public and from persons and families affected by poverty.

(i) The task force shall submit its findings and recommendations to the governor and the general assembly in the form of a state plan to combat the abuse of elder persons and other vulnerable adults no later than January 15, 2022, at which time the task force terminates and this section is repealed.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 304

PASSED: May 3, 2021


RANDY McNALLY
SPEAKER OF THE SENATE


CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 18th day of May 2021


BILL LEE, GOVERNOR

Appendix B

**Elder Abuse Taskforce
October 13, 2021
10:00 am – 12:15 pm CST**

**Cordell Hull State Office Building
Senate Hearing Room I
425 5th Ave N, Nashville, TN 37243**

- I.** 10:00-10:05 **Welcome** – James Dunn, Chair
- II.** 10:05-10:10 **Roll Call**
- III.** 10:10-10:20 **Election of New Taskforce Chair and Vice Chair**
- IV.** 10:20-10:35 **Presentation – Financial Fraud: 1-800 Hotline**, *David Rausch, Director, Tennessee Bureau of Investigation*
- V.** 10:35-10:50 **Presentation – Federal Response to Financial Exploitation**, *Robert Blancato, National Coordinator, National Elder Justice Coalition*
- VI.** 10:50-11:05 **Presentation – Financial Exploitation Models from a DAs Perspective**, *Dave Clark, District Attorney General, 7th Judicial District*
- VII.** 11:05-11:20 **Presentation – Unlicensed Facilities**, *Caroline Tippens, Chief of Staff, Tennessee Commission on Aging and Disability*
- VIII.** 11:20-11:50 **Presentation – Review of Comptroller’s Report on Financial Exploitation of the Elderly in Tennessee**, *Cassie Stinson, Legislative Research Analyst, Office of Research & Education Accountability, Tennessee Comptroller of the Treasury*
- IX.** 11:50-12:05 **Presentation – Potential Dangers of Timeshare Exit Companies**, *Elizabeth Baker, Vice President and Robert Clements, Vice President, American Resort Development Association*
- X.** 12:05-12:10 **Announcements**
- XI.** 12:10-12:15 **Adjournment**

Should you have any questions, please contact Mason Devers, Director of Communications & Legislative Liaison, mason.devers@tn.gov or 615-253-4315.