



When is a Person A Vulnerable Adult?

Scott D. Ehlfeldt
Elder Justice Director
Prosecuting Attorneys Association of Michigan



Where to Begin?

- The applicable statutory definition of a vulnerable adult is set forth in MCL 750.145m.
- Three basic alternatives
 - An individual age 18 or over who, because of age, developmental disability, mental illness, or physical disability requires supervision or personal care or lacks the personal and social skills required to live independently.
 - An adult as defined in section 3(1)(b) of the adult foster care licensing act, which is found at MCL 400.703.
 - An adult as defined in section 11(b) of the social welfare act, found at MCL 400.11.

Option 1 – age/disability/mental illness

- “An individual age 18 or over who, because of age, developmental disability, mental illness, or physical disability requires supervision or personal care or lacks the personal and social skills required to live independently” MCL 750.145m(u)(i).
- Medical testimony is NOT required to establish this.
 - *See People v Loomis*, unpublished Court of Appeals, Docket No. 334693, October 2017.
- Lack of cognitive decline is not required.
 - *See People v Haynes*, _____ Mich App _____ (2021). Published case from 2021.

Option 2 - Adult Foster Care Facility Licensing Act

- This is a person that is placed in an adult foster care home or small group home pursuant to MCL 722.115.
 - Meaning, if they are placed in the home under this authority, they qualify as a vulnerable adult.
- Read this section carefully, and take great caution if you have a situation involving this particular definition.

Option 3- Adult under the Social Welfare Act

- This is a vulnerable adult age 18 or older who is ***suspected*** of being or ***believed to be*** abused, neglected, or exploited. . .
 - ***Vulnerable*** means a condition in which the adult is unable to protect himself or herself from abuse, neglect, or exploitation because of a mental or physical impairment or because of advanced age.
 - ***Neglect*** means harm to the adult's health or welfare by the inability to respond to a harmful situation.
 - Includes things like failure to provide adequate food, clothing, shelter, or medical care.
 - ***Exploited*** means an action that involved the misuse of an adult's funds, property, or a person's dignity by another.
- Tread carefully . . .

SO, a vulnerable adult is

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- Taken together, the definition is somewhat inclusive as to who qualifies as a vulnerable adult, and can be established with many different pieces of evidence.
 - Recent decision from Michigan Court of Appeals makes this clear.
 - However, it is not without limitations:
 - For example, a person who makes bad financial decisions does not qualify.
 - *See In re Townsend Conservatorship, 293 Mich App 182 (2011).*

People v Gary Edward Haynes


- Recent case out of Muskegon decided by the Court of Appeals dealing with embezzlement from a vulnerable adult.
- Key Takeaways
 - Published case offering guidance on who qualifies as a vulnerable adult.
 - Victim qualified even though she did not suffer any cognitive decline.
 - Also serves as a cautionary tale, because the suspect was initially able to convince the officer this was all a civil dispute.
 - These cases can be complex, and require some time to go through the records. It's okay to bring in assistance if needed.

Some Guiding Principles. . .

- Don't get caught up looking only the mental state of the victim, look to the physical as well.
 - A person can be a vulnerable adult even if they are perfectly fine from a cognitive perspective.
- If on scene, document everything. Look for and note any signs that the victim may not be able to successfully live or operate on their own.
 - You may not know it is important until later.
- Discussing the victim with his/her neighbors, friends, and family can also offer insight as to whether they qualify as a vulnerable adult.
- Utilize the Vulnerable Adult Incident Form

Remember the Vulnerable Adult Incident Report Form

Vulnerable Adult Incident Report

| | | | | |
|---|---------------|---|-------------------|-------|
| NAME | AGE | DOB | EMERGENCY CONTACT | PHONE |
| DATE REPORTED | TIME REPORTED | DATE AND TIME INCIDENT OCCURRED | FILE NO: | |
| INCIDENT LOCATION | | | REPORTING OFFICER | |
| VULNERABLE + HARM = MANDATORY Reporting to Adult Protective Services at (855) 444-3911 | | | | |
| WHEN ABUSE/NEGLECT/EXPLOITATION IS SUSPECTED | | | | |
| 1. <input type="checkbox"/> Determine if the victim is a Vulnerable Adult (VA) 4. <input type="checkbox"/> Determine whether you are required to report to APS or others 2. <input type="checkbox"/> Determine whether the VA can see, hear and communicate ideas. 5. <input type="checkbox"/> Evidence and forms for collection 3. <input type="checkbox"/> Determine harm, if any to the VA 6. <input type="checkbox"/> Crimes and elements | | | | |
| Is the victim a vulnerable Adult? (Documenting lack of ability is important) <input type="checkbox"/> Over 18 <input type="checkbox"/> 65 years or older <input type="checkbox"/> Victim needs assistance with ADLs (Activities of Daily Living): <input type="checkbox"/> Walking <input type="checkbox"/> Sitting <input type="checkbox"/> Eating <input type="checkbox"/> Cooking <input type="checkbox"/> Getting Water <input type="checkbox"/> Getting Dressed <input type="checkbox"/> Bathing <input type="checkbox"/> Getting out of bed <input type="checkbox"/> Transportation <input type="checkbox"/> Taking medication <input type="checkbox"/> Doctor visits <input type="checkbox"/> Banking/Financial affairs <input type="checkbox"/> Unable to protect self from abuse, neglect or exploitation (Vulnerable Adult MCL 750.145m(u)) Comments (if the victim is not vulnerable, continue with normal investigation): | | Activities of Daily Living (ADL'S) Ability to Care for Self (bathing, grooming, transportation, walking, toileting etc.) Level of Function: <input type="checkbox"/> Independent <input type="checkbox"/> Needs Assistance <input type="checkbox"/> Total Care Describe: _____ Instrumental Activities of Daily Living (IADL'S) Financial Decision-Making (bills, donations, investments, real estate, wills, protect assets, resist fraud etc.) Level of Function: <input type="checkbox"/> Independent <input type="checkbox"/> Needs Assistance <input type="checkbox"/> Total Care Describe: _____ Medical Decision-Making (express a choice and understand, appreciate reason about health info, etc.) Level of Function: <input type="checkbox"/> Independent <input type="checkbox"/> Needs Assistance <input type="checkbox"/> Total Care Describe: <input type="checkbox"/> Guardian <input type="checkbox"/> Conservator Doctor Name and contact information: _____ | | |
| PHYSICAL RISK ASSESSMENT | | | | |
| <input type="checkbox"/> If the adult is vulnerable, is there harm? <input type="checkbox"/> Abuse <input type="checkbox"/> Neglect <input type="checkbox"/> Financial Provide explanation as needed in narrative | | | | |
| <input type="checkbox"/> Soiled bedding <input type="checkbox"/> Lock on victim's door <input type="checkbox"/> Narcotic medication <input type="checkbox"/> Unusual physical signs <input type="checkbox"/> Soiled Bandages <input type="checkbox"/> Bilateral grip marks <input type="checkbox"/> Evidence of cleaning prior to arrival <input type="checkbox"/> Filthy living conditions for victim, including common areas <input type="checkbox"/> Victim is in pain <input type="checkbox"/> Foul Smell <input type="checkbox"/> Stopped seeing doctor <input type="checkbox"/> Inconsistent explanation of care <input type="checkbox"/> No sign of pain reliever (aspirin etc.) <input type="checkbox"/> Dehydrated <input type="checkbox"/> Lack of access to mobility <input type="checkbox"/> Lack of food/malnutrition | | | | |
| Medical Treatment following incident <input type="checkbox"/> None <input type="checkbox"/> Will seek own doctor <input type="checkbox"/> First Aid <input type="checkbox"/> EMT* EMT at scene <input type="checkbox"/> Yes <input type="checkbox"/> No Name(s): _____ <input type="checkbox"/> Hospital ** Name: _____ Attending Physician: _____ <input type="checkbox"/> Refused Medical Aid Obtain Medical Release Form from victim? <input type="checkbox"/> Yes <input type="checkbox"/> No Obtain Medical Release Form from Guardian or Conservator? <input type="checkbox"/> Yes <input type="checkbox"/> No Crime victim information given to victim? <input type="checkbox"/> Yes <input type="checkbox"/> No Protective Services Referral completed? <input type="checkbox"/> Yes <input type="checkbox"/> No | | Residence Type? (When victim is found) <input type="checkbox"/> Private <input type="checkbox"/> Public Housing <input type="checkbox"/> Assisted Living <input type="checkbox"/> Licensed Nursing Home <input type="checkbox"/> Hospital <input type="checkbox"/> Homeless <input type="checkbox"/> Unknown <input type="checkbox"/> AFC Home (Licensed or not) <input type="checkbox"/> Other: _____ | | |
|  <p>Body Image Diagram Describe injury (redness, bruising etc.) Older adults can experience bruising in dotted areas - Note anything unusual or outside the area.</p> | | _____ _____ _____ _____ _____ | | |

If the adult is vulnerable and has been harmed, consent is often an issue. Ask Questions to assess:

Confusion Possible Intimidation Possible Infection or fever

Possible questions include:

Are you in pain? Would you like to be cleaned up? When was the last time you ate?
 Are you thirsty? Would you like salve for your wound? Would you like to see a doctor?

****If the adult has open wounds and is refusing to see the doctor it may be because they have been told the caregiver will go to jail and the adult will be in a nursing home. See Parasitic Living**

FINANCIAL HARM -- APS also accepts reports of financial harm to vulnerable adults

| | |
|--|---|
| <input type="checkbox"/> Parasitic Living: "Caregiver's" sole source of income is the victim <input type="checkbox"/> Caregiver/suspect controls the money, no audit/no 2 nd look <input type="checkbox"/> Poor or no care being given to the victim <input type="checkbox"/> Not providing adequate care to the victim because it would require "caregiver" to pay for care instead of spending money on the "caregiver's" desires or needs <input type="checkbox"/> "Caregiver" may fail to seek adequate medical attention to avoid criminal charges of vulnerable adult abuse/neglect <input type="checkbox"/> List of all services performed by suspect/amount of pay for the services <input type="checkbox"/> Income claimed on suspect's taxes Other Financial Harm Controlled by <input type="checkbox"/> Victim <input type="checkbox"/> Other: _____ Bank Account (institution): _____ Bank Account Number: _____ | <input type="checkbox"/> Ownership of property damages (deeds, car titles, accts) <input type="checkbox"/> Misuse of legal documents (DPOA, guardianship, conservatorship - depleting Vulnerable Adult's assets) <input type="checkbox"/> New friend/person helping with finances - church, grocery store, estranged family member <input type="checkbox"/> Requested records/receipts for expenditures by suspect <input type="checkbox"/> Power of Attorney - Since 2012 a POA requires a signed acknowledgment to keep receipts and prohibits joint accounts & gifts-to-self unless explicitly allowed in the POA <input type="checkbox"/> Second mortgage or reverse mortgage <input type="checkbox"/> Quit Claim deed <input type="checkbox"/> New auto the victim does not drive <input type="checkbox"/> New or missing credit cards <input type="checkbox"/> Missing valuables or antiques |
|--|---|

COGNITION is not an all or nothing matter. Current research shows that financial savvy may decline in every human brain after the age of 60 regardless of how smart you are. Ask questions that help you find out if the person understands the consequences of their actions.

| | | |
|--|---|--|
| Referral to Adult Protective Services: <input type="checkbox"/> The matter has been reported to APS <input type="checkbox"/> APS has determined the victim is an adult in need of assistance <input type="checkbox"/> An APS case worker is assigned <input type="checkbox"/> Contact information for APS case worker provided: _____ | Evidence: <input type="checkbox"/> A copy of all purportedly legal documents obtained <input type="checkbox"/> A copy of financial statements obtained <input type="checkbox"/> Vehicles owned by victim <input type="checkbox"/> Vehicles owned by person in charge of the money <input type="checkbox"/> Photographs of living conditions, wounds, evidence destruction, locks, location of mobility devices, victim injuries <input type="checkbox"/> Release of medical records by victim or by conservator/guardian <input type="checkbox"/> Photographs taken by: _____ | Lethality Assessment <input type="checkbox"/> Intimidation by threats, yelling <input type="checkbox"/> Suspect has used or threatened to use a weapon <input type="checkbox"/> Suspect abuses Alcohol/Drugs <input type="checkbox"/> Victim is unable / not allowed to perform Activities of Daily Living (ADLs) <input type="checkbox"/> Victim has opened / untreated wounds, lack of ADLs <input type="checkbox"/> Suspect controls finances of the victim <input type="checkbox"/> Victim isolated from friends, relatives, activities <input type="checkbox"/> Victim's physical condition poor / declining <input type="checkbox"/> Victim's mental conditions poor / declining <input type="checkbox"/> Victim living conditions poor / substandard <input type="checkbox"/> Prior incidents involving APS/Law Enforcement |
|--|---|--|

Describe: Add name and contact information for APS and the date an oral referral was made to APS.

APS Centralized Intake
1-855-444-3911


At the Death Scene of An Older Adult

What would you see at the scene if the victim was 20 instead of 87?
 Who was the last person to see the deceased?
 Who would benefit from death? Is there obvious neglect?
 Was the person responsible for the care in a parasitic living arrangement with the victim?

STATUTES TO KNOW

| | |
|--------------------------------------|--|
| Embezzlement of Vuln. Adult 750.174a | Embezzlement 750.174 |
| Obtaining a False Signature 750.273 | Fraud / False Pretenses 750.218 |
| Racketeering 750.750.1591 | Embezzlement of Joint Account 750.181 |
| Identity Theft 445.65 | Caregiver Co-mingling 750.145p |
| Vuln. Adult Abuse 750.145n | Improperly Licensed Facility Causing Death of Vuln. Adult 750.145o |

Source: Emerson, C. & Painter, R. - Prosecuting Attorneys Association of Michigan
 Teter, S. - Michigan Attorney General's Office



POSSIBLE ACTIONS TO BE TAKEN

- In emergency medical situations call an ambulance
- Report to APS as required (1-855-444-3911)
- When necessary, ask APS to freeze assets in Probate Court
- Evidence of spending may be the motive for physical abuse, obtain consent or search warrants when necessary to obtain financial evidence
- Give all information to medical examiner (request autopsy)

WHERE TO REPORT HEALTH CARE FRAUD OF MICHIGAN'S OLDER ADULTS

Attorney General's Health Care Fraud Division Hotline:
 1-800-24-ABUSE or 1-800-242-2873

FEDERAL TRADE COMMISSION

(Telemarketing, collection agencies, money scams, fraud)
 1-877-987-3728

THANK
YOU!

If you have any questions, please feel free to email or give me a call.

Scott Ehlfeldt

Elder Justice Director

Prosecuting Attorneys Association of Michigan

(517) 881-0533

ehlfeldts@michigan.gov