

MANDATED REPORTING OF ELDER ABUSE: AN EVALUATION AND CALL TO ACTION

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This Article explores the impact of mandatory elder abuse reporting laws, a core component of the U.S. response to elder abuse. It finds that there is little evidence that these requirements improve outcomes for older adults, and reason for concern about the costs that such requirements create for the individuals and systems involved. Drawing on literature on trauma-informed care and family violence, it provides a roadmap for research to inform the design and use of mandatory reporting and calls for law reform to encourage more tailored and useful approaches to addressing elder abuse.

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I. Introduction

As the U.S. population ages, increasing numbers of older adults are at risk of abuse. An estimated eleven percent of adults aged sixty and older living in the community without substantial cognitive impairment experience abuse in any given year.¹ Among older adults with dementia—a population that is rapidly growing²—the rates appear to be substantially higher.³

The human and economic costs of this abuse are enormous. Elder abuse—a term that includes physical, sexual, and psychological abuse as well as neglect and financial exploitation⁴—is associated with reduced quality of life and increased mortality, illness, and injury.⁵ Financial exploitation alone has been estimated to cost older Americans over \$28 billion each year.⁶

Adult Protective Services (APS) programs exist in every state to investigate and respond to reports of elder abuse and neglect.⁷ Anyone—family, friends, service providers, or older adults themselves—

1. Ron Acierno, Melba A. Hernandez, Ananda B. Amstadter, Heidi S. Resnick, Kenneth Steve, Wendy Muzzy & Dean G. Kilpatrick, *Prevalence and Correlates of Emotional, Physical, Sexual, and Financial Abuse and Potential Neglect in the United States: The National Elder Mistreatment Study*, 100 AM. J. PUB. HEALTH 292, 294 (2010).

2. Some evidence indicates that incidence of dementia is decreasing; however, as the total number of older adults increases in the U.S., the total number of adults experiencing dementia is projected to increase substantially. See Vicki A. Freedman, Judith D. Kasper, Brenda C. Spillman & Brenda L. Plassman, *Short-Term Changes in the Prevalence of Probable Dementia: An Analysis of the 2011-2015 National Health and Aging Trends Study*, 73 JS. GERONTOLOGY SERIES B: PSYCH. SCIS. & SOC. SCIS. 48, 49 (2018).

3. See XinQi Dong, Ruijia Chen & Melissa A. Simon, *Elder Abuse and Dementia: A Review of the Research and Health Policy*, 33 HEALTH AFF. 642, 643 (2014) (reviewing research on incidence of elder abuse among people with dementia).

4. There is an active debate over whether self-neglect should also be considered as a form of elder abuse. Many states, as part of their mandatory reporting statutes, require reporting of self-neglect.

5. Marc S. Lachs, Christianna S. Williams, Shelley O'Brien, Karl A. Pillemer & Mary E. Charlson, *The Mortality of Elder Mistreatment*, 280 JAMA 428, 428 (1998) (“Reported and corroborated elder mistreatment and self-neglect are associated with shorter survival after adjusting for other factors associated with increased mortality in older adults.”).

6. Jilene Gunther, *The Scope of Elder Financial Exploitation: What It Costs Victims*, AARP (June 27, 2023), <https://doi.org/10.26419/ppi.00194.001> [<https://perma.cc/46QK-HXH6>].

7. For a detailed analysis of how APS programs function, see *National Process Evaluation of the Adult Protective Services System*, NAT'L ADULT PROTECTIVE SERVS. TECH. ASSISTANCE RES. CTR. 1 (2023), https://pfs2.acl.gov/strapib/assets/APSTARC_Evaluation_Long_7315e2724d.pdf [<https://perma.cc/GR9L-QVB9>] [hereinafter *National Process Evaluation*].

may *voluntarily* make a report to APS or law enforcement if they suspect that an older adult is being abused.⁸ To encourage such reporting, states have enacted statutes *mandating* that certain service providers and members of the public report suspected abuse of older adults under certain circumstances.⁹ Typically, these reports must be made to APS, and thus such reports serve as a mechanism for funneling concerns to authorities who may be able to intervene and prevent future harm.¹⁰

When states began adopting mandatory reporting statutes, many voices questioned this approach. Some pointed out that pilot studies looking at the efficacy of public agency responses had not shown benefits.¹¹ Others warned that mandating reports could unintentionally put older adults at greater risk of abuse by discouraging victims or their caregivers to seek help.¹² Many expressed concerns that such laws would infringe on older adults' civil rights, especially to the extent that the laws required reporting of confidential information about cognitively intact adults.¹³

Over the past two decades, however, these concerns have largely faded into the background, with state mandatory reporting laws

8. *See id.* at 28.

9. *Id.*

10. *Id.*

11. Dyana Lee, *Mandatory Reporting of Elder Abuse: A Cheap but Ineffective Solution to the Problem*, 14 FORDHAM URB. L.J. 723, 728–29 (1985–1986) (analyzing findings from the 1983 Alliance/Elder Abuse Project pilot study in New York and concluding that mandatory reporting failed to demonstrate meaningful benefits for older adults).

12. *See, e.g.*, Elizabeth Capezuti, Barbara L. Brush & William T. Lawson, *Reporting Elder Mistreatment*, J. GERONTOLOGICAL NURSING 24, 26 (1997) (“Since there is no guarantee that reporting will result in successful APS intervention, nurses may actually place reporting elders in a more vulnerable position” if they comply with reporting duties.); Seymour Moskowitz, *Saving Granny from the Wolf: Elder Abuse and Neglect—The Legal Framework*, 31 CONN. L. REV. 77, 107–09 (1998) (setting forth four arguments that have been advanced against mandatory elder abuse reporting: (1) that it undermines self-determination in an ageist manner, (2) that it violates confidential relationships, (3) that it is counter-productive because it will discourage victims from seeking help, and (4) that existing systems are ill-equipped to handle the resulting reports); Ruthann M. Macolini, *Elder Abuse Policy: Considerations in Research and Legislation*, 13 BEHAV. SCI. & L. 349, 359 (1995) (surveying criticisms of mandatory elder abuse reporting); Lawrence R. Faulkner, *Mandating the Reporting of Suspected Cases of Elder Abuse: An Inappropriate, Ineffective and Ageist Response to the Abuse of Older Adults*, 16 FAM. L.Q. 69, 89 (1982) (laying out concerns with mandatory reporting laws).

13. *See generally* Nina A. Kohn, *Outliving Civil Rights*, 86 WASH. U. L. REV. 1053, 1065–66 (2009).

increasingly treated as a given.¹⁴ To the extent that states have amended their mandatory reporting laws, it has primarily been to expand the range of people required to report.¹⁵

It is in this environment that this Article seeks not only to revive the question of whether mandatory reporting should be a central governmental response to elder abuse,¹⁶ but also to prompt a discussion of how reporting requirements can be structured to best support the safety and well-being of older adults. In doing so, it focuses on one discrete aspect of the public response to elder abuse. However, as mandatory reporting is the gateway to systems that respond to abuse, understanding its impact is critical to designing effective policy responses to elder abuse.

This conversation is timely. With the older population rapidly growing, it is imperative to consider whether the systems that the U.S. has developed to address elder abuse are effectively supporting older adults' safety and well-being, and what improvements might be made. With many states actively developing or considering multisector plans for aging,¹⁷ there may be new opportunities for legislative action to strengthen responses to elder abuse.

Part II begins with a concise landscape of mandatory reporting laws by describing their goals, designs, and legal consequences. Part III then surveys the empirical literature on the impact of mandatory requirements. It shows that, despite decades of experience, there is a lack of evidence that mandatory reporting laws actually increase the safety

14. Cf. *Mandated Reporting of Abuse of Older Adults & Adults with Disabilities*, NAT'L ADULT PROTECTIVE SERVS. ASS'N 8, https://www.napsa-now.org/wp-content/uploads/2024/01/NCEA_NAPSA_MandatedReportBrief.pdf [<https://perma.cc/2E8E-F7UV>] (last visited Mar. 25, 2025) (recognizing the limited evidence of mandatory reporting's efficacy but noting that "APS professionals for the most part are strongly in support of mandatory reporting").

15. See, e.g., S.B. 311, 2018 Leg. § 1 (Kan. 2018) (expanding the list of mandatory reporters of abuse, neglect, exploitation, or need of protective services to include emergency medical services attendants).

16. This Article grew out of a conference hosted by the Solomon Center for Health Law and Policy at Yale Law School in 2024, which brought together leading experts on elder abuse for a one-day conference on elder exploitation and abuse. At the end of the event, the experts came together to discuss what they could do to advance the legal response to elder abuse. One refrain was heard over and over: It was time to revisit mandatory elder abuse reporting. This Article is the result of that conversation.

17. See generally *MPA Activity Across States*, MULTISECTOR PLAN FOR AGING, <https://multisectorplanforaging.org/> [<https://perma.cc/QF76-84U5>] (last visited Mar. 25, 2025) (providing a map of states' efforts in this regard).

or well-being of older adults. Part IV explores the benefits and costs of mandatory reporting laws in light of the evidence. It suggests that it is difficult to justify sweeping reporting requirements given the paucity of evidence of positive impact and concerns that such laws could place older adults at greater risk of harm in certain situations. Finally, Part V proposes a two-pronged path forward. First, it argues that new research is needed to understand if or when mandatory reporting of elder abuse serves the interests of older adults and maps key research needs. Second, it argues that, in the absence of stronger evidence of efficacy, mandatory abuse reporting requirements should be refined to reduce risk of unintended harm to older adults.

The Article concludes by placing the problems with mandatory elder abuse reporting laws within a broader discussion of the role of health care professionals and social service providers in sharing information about vulnerable individuals with government entities. In doing so, it echoes calls by advocates for children and families (especially those concerned with racial and ethnic equity) to reform protection systems to prevent those systems from undermining the well-being of those they are supposed to protect.

II. The U.S. Response to Elder Abuse and the Role of Mandatory Reporting Laws

While elder abuse has occurred throughout history, the modern legal response to it began in the late 1970s.¹⁸ Mandatory reporting of elder abuse, a response largely modeled on mandatory reporting of child abuse,¹⁹ rapidly became a central part of that response. Between 1977 and 1980, sixteen states adopted mandatory reporting statutes for elder abuse.²⁰ By 1990, forty-two states and the District of Columbia had done so.²¹ Today, mandatory reporting laws form the cornerstone of America's response to elder abuse. This Part describes those laws and their legal effect.

18. Thomas J. Hierl, *The Prevention, Identification and Treatment Act of 1987: Is It a Proper Federal Response to Elder Abuse?*, 6 N.Y.L. SCH. J. HUM. RTS. 383, 384 (1989).

19. See Nina A. Kohn, *Second Childhood: What Child Protection Systems Can Teach Elder Protection Systems*, 14 STAN. L. & POL'Y REV. 175, 182 (2003) (discussing the origin of mandatory elder abuse reporting laws and how they were adapted from mandatory child abuse reporting laws).

20. See Moskowitz, *supra* note 12, at 85.

21. *Id.* This may, in turn, lead to other beneficial interventions, such as drug treatment for perpetrators, or orders of protection or restitution for victims.

A. The Role of Mandatory Reporting

Across the country, states have adopted statutes that require individuals to inform a state agency of suspected abuse of an older adult. Such reports typically trigger an investigation by a state-operated agency (commonly Adult Protective Services or “APS”).²² As APS agencies are frequently administered at the county or city level, procedures vary both within and between states.²³ As a general matter, once a report is received, APS will typically screen the report to determine whether the report indicates that the state’s criteria for investigation are satisfied (e.g., does the alleged victim fall within the scope of the agency’s authority) and whether referral to another agency is in order.²⁴ The majority of reports (approximately sixty-two percent in 2020) are accepted for further investigation and an investigator is assigned.²⁵ At that point, an investigation is conducted to determine if abuse has occurred, whether the individual is at risk, and what interventions might be appropriate.²⁶ As part of the investigation process, services may be offered to victims or care providers.²⁷ If abuse (including neglect) is found, the report is deemed to have been “substantiated.”²⁸ This process can lead to a referral to law enforcement if the abuse involves a potential crime, services being offered to the victim, and the creation of

22. *See id.* at 14.

23. *See* ADULT PROTECTIVE SERVS. TECH. ASSISTANCE RES. CTR., AN OVERVIEW OF INTRASTATE VARIATION IN APS PRACTICE 2 (Apr. 2024), https://pfs2.acl.gov/strapib/assets/Intrastate_Practice_Variation_Brief_6246eb4122.pdf [<https://perma.cc/5LSE-V66A>].

24. ADULT PROTECTIVE SERVS. TECH. ASSISTANCE RES. CTR., INTAKE: THE GATEWAY INTO APS 1–2, <https://apstarc.acl.gov/getattachment/Education/Toolkits/Intake-FORMATTED.pdf.aspx?lang=en-US> [<https://perma.cc/AFU7-X7AC>] (last visited Mar. 25, 2025).

25. U.S. DEP’T OF HEALTH & HUM. SERVS., ADMIN. FOR CMTY. LIVING, ADULT MALTREATMENT DATA REPORT 2020 11 (2021) (reporting that 62.3% of APS reports were accepted for investigation).

26. APS investigatory approaches vary significantly, with different APS programs using different approaches or tools to assess victims’ abilities and needs, and to arrive at investigatory findings, to determine if services are needed, and to create service plans. *See* ADULT PROTECTIVE SERVS. TECH. ASSISTANCE RES. CTR., OVERVIEW OF THE USE OF TOOLS IN APS PRACTICE 3 (2023), https://pfs2.acl.gov/strapib/assets/Tools_Brief_227cf6791e.pdf [<https://perma.cc/EC92-GZZC>] (reporting on this variability).

27. *See id.* at 6.

28. *See* U.S. DEP’T OF HEALTH & HUM. SERVS., *supra* note 25, at 12–13 (explaining that “if an allegation is found to be valid,” it is “considered ‘substantiated’”).

a service plan.²⁹ Victims who have the cognitive capacity to refuse services, however, are usually permitted to refuse services.³⁰

Thus, a report—whether mandated or permissive—can trigger an investigation which then can lead to interventions designed to stop or reduce the abuse, and to help the victim access resources or supports to address the consequences of that abuse.³¹ It may also result in law enforcement taking action to punish, deter, or incapacitate the suspected perpetrator, with the aim of preventing future abuse.³²

The primary stated goal of mandatory reporting statutes is to increase the safety and well-being of older adults by encouraging those who are aware of mistreatment to report it to authorities who can intervene in cases that might otherwise go unaddressed.³³ Such reports may be particularly valuable where abuse victims lack the ability to self-report, or do not realize that the mistreatment they are experiencing is impermissible or that it may lead to harm.³⁴ However, the value of the report ultimately depends on the efficacy of the systems that respond to reports, most notably, APS.

Individuals and entities can voluntarily report abuse and exploitation even if not mandated to do so.³⁵ However, they might choose not to report for various reasons. For example, would-be reporters might wish to avoid additional work, harming a relationship with the suspected victim or suspected perpetrator, entanglement in legal matters, and subjecting victims to responses that the reporter may (rightly or wrongly) perceive as unhelpful or even harmful. A key reason for adopting mandatory reporting requirements is to overcome such

29. See *National Process Evaluation*, *supra* note 7, at 52.

30. *Id.* at 13.

31. *Id.* at 41.

32. To facilitate that enforcement, many states have created new crimes designed to make it easier to hold perpetrators of abuse accountable when abuse is substantiated. See generally Nina A. Kohn, *Elder (In)Justice: A Critique of the Criminalization of Elder Abuse*, 49 AM. CRIM. L. REV. 1, 2 (2012) (describing this criminal justice system response to elder abuse).

33. Michael A. Rodríguez, Steven P. Wallace, Nicholas H. Woolf & Carol M. Mangione, *Mandatory Reporting of Elder Abuse: Between a Rock and a Hard Place*, 4 ANNALS OF FAM. MED. 403, 407 (2006) (“The intent behind mandatory reporting laws is to bring abused elders and their abusers to the attention of appropriate authorities, such as an adult protective services agency.”).

34. See Mary C. Sengstock & Brenda I. Marshall, *Adult Protective Service Workers Assess the Effectiveness of Mandatory Reporting of Elder Maltreatment in Michigan*, 7 J. APPLIED SOC. SCI. 220, 223 (2013).

35. See *National Process Evaluation*, *supra* note 7, at 28.

hesitations by creating a stronger incentive for those who suspect abuse, or have knowledge of actual abuse, to alert authorities.³⁶

At the federal level, there are no general requirements for reporting elder abuse that occurs outside institutional settings.³⁷ However, the federal Bank Secrecy Act requires financial institutions to report certain forms of suspicious activity to the federal government,³⁸ which means that some forms of elder exploitation must be reported under federal law. In addition, the Senior Safe Act of 2018³⁹ provides immunity from liability to financial institutions and their eligible employees who make a good faith report of suspected financial exploitation of individuals aged sixty-five or older.⁴⁰

36. Even without a mandate, however, reporters may have an incentive to report. For example, a hospital social worker who believes an individual needs a guardian to be safely discharged from in-patient care, but who does not want to spend hospital resources to pursue guardianship, could report the individual to APS and hope that APS would pursue guardianship instead. *Cf.* Sengstock & Marshall, *supra* note 34, at 226 (reporting that APS workers in Michigan “viewed some hospitals as using APS as a mechanism for avoiding annoying dimensions of case management”, including the need to petition a court to have a guardian appointed for a patient whom workers believed was in need of a guardian).

37. By contrast, reporting may be required where abuse occurs in an institutional setting. Nursing homes that accept Medicare or Medicaid funds must report abuse of their residents. *See* 42 C.F.R. § 483.13(c) (2024).

38. *See* 31 U.S.C. § 5311.

39. Senior Safe Act of 2018, Pub. L. No. 115-174, § 303, 132 Stat. 1296, 1334–36 (codified at 12 U.S.C. § 3423).

40. The Financial Industry Regulatory Authority (FINRA), a self-regulatory organization overseeing brokerage firms and their registered representatives, encourages its members to go one step further: authorizing member firms to place a temporary stop of the disbursement of funds or securities from the account of an older adult if the firm reasonably believe financial exploitation is occurring, has occurred, or will occur. In many cases, parallel immunity may be provided by state statutory law. FIN. INDUS. REGUL. AUTH., <https://www.finra.org/> [<https://perma.cc/QU67-V5BW>] (last visited Mar. 25, 2025).

B. Overview of State Mandatory Reporting Statutes

All states have enacted statutes that require elder abuse to be reported in certain situations,⁴¹ and most states have enacted statutes that require elder abuse to be reported in a wide variety of situations. Such mandatory elder abuse reporting (MEAR) laws, however, vary significantly from state to state.

First, they vary in who must report. Sixteen states require all or nearly all individuals to report suspected elder abuse,⁴² as do Guam

41. New York is often classified as the exception to this rule. This is because in most situations, elder abuse reporting in New York is permissive only. *Cf.* N.Y. SOC. SERV. LAW § 473-b (McKinney 2024) (providing immunity from civil liability for “any person who in good faith believes that a person eighteen years of age or older may be an endangered adult or in need of protective or other services . . . reports or refers such person to the department, office for the aging, or any local social services district office or designated area agency on aging, law enforcement agency”). However, certain professionals are required to report abuse of individuals who live in certain residential care settings. Specifically, law enforcement personnel are required to report abuse and, for individuals who live in state operated, licensed or certified facilities, programs, agencies, human service professionals, medical/clinical professionals, education professionals are also required to report abuse. *See* N.Y. SOC. SERV. L. §§ 488, 491–92 (McKinney 2024).

42. *See* DEL. CODE ANN. tit. 31, § 3910(a)(1) (2024) (“A person . . . having reasonable cause to believe that an adult who is impaired or an adult who is incapacitated and is in need of protective services shall report the information supporting reasonable cause . . .”); FLA. STAT. § 415.1034(1)(a) (2024) (“Any person . . . who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited must immediately report such knowledge or suspicion . . .”); IND. CODE § 12-10-3-9(a) (2024) (“An individual who believes or has reason to believe that another individual is an endangered adult shall make a report . . .”); KY. REV. STAT. ANN. § 209.030(2) (2024) (“Any person . . . having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made . . .”); LA. STAT. ANN. § 15:1504(A) (2024) (“Any person . . . having cause to believe that an adult’s physical or mental health or welfare has been or may be further adversely affected by abuse, neglect, or exploitation shall report . . .”); MISS. CODE ANN. § 43-47-7(1)(a) (2023) (“Except as otherwise provided by [statutory provisions governing care facilities and the state’s ombudsman program], any person . . . who knows or suspects that a vulnerable person has been or is being abused, neglected or exploited shall immediately report . . .”); MO. REV. STAT. § 192.2405(1)–(2) (2024) (requiring “[a]ny person having reasonable cause to suspect that an eligible adult presents a likelihood of suffering serious physical harm, or bullying . . ., and is in need of protective services” to “report or cause a report to be made, with the exception of “a duly ordained minister, clergy, religious worker, or Christian Science practitioner while functioning in his or her ministerial capacity” in certain situations); N.H. REV. STAT. ANN. § 161-F:46 (2024) (“Any person . . . suspecting or believing in good faith that any adult who is or who is suspected to be vulnerable, at the time of the incident, has been subjected to abuse, neglect, self-neglect, or exploitation or is, or was living in hazardous conditions shall report or cause a report to be made . . .”); N.M. STAT. ANN. § 27-7-30(A) (2024) (“Any

and Puerto Rico.⁴³ Of states without such “universal” or “near universal” reporting requirements, thirty-two,⁴⁴ plus the District of

person, including financial institutions, having reasonable cause to believe that an incapacitated adult is being abused, neglected or exploited shall immediately report that information”); N.C. GEN. STAT. § 108A-102(a) (2024) (“Any person having reasonable cause to believe that a disabled adult is in need of protective services shall report such information”); OKLA. STAT. tit. 43A, § 10-104A (2024) (“Any person having reasonable cause to believe that a vulnerable adult is suffering from abuse, neglect, or exploitation shall make a report”); 42 R.I. GEN. LAWS § 42-66-8(a) (2024) (“Any person who has reasonable cause to believe that any person sixty (60) years of age or older has been abused, neglected, or exploited, or is self-neglecting, shall make an immediate report”); S.C. CODE ANN. § 43-35-25(A) (2024) (“Any . . . person who has actual knowledge that a vulnerable adult has been abused, neglected, or exploited shall report the incident”); TENN. CODE ANN. § 71-6-103(b)(1), (2) (2024) (“Any person . . . having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made”); TEX. HUM. RES. CODE ANN. § 48.051(a) (West 2023) (“[A] person having cause to believe that an elderly person . . . is in the state of abuse, neglect, or exploitation shall report”); UTAH CODE ANN. § 26B-6-205(1), (4) (2024) (requiring immediate reporting by “an individual [who] has reason to believe that a vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation” but making certain exceptions for members of the clergy and attorneys); WYO. STAT. ANN. § 35-20-103(a) (2024) (“Any person or agency who knows or has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, exploited, intimidated or abandoned or is committing self-neglect shall report”).

43. See 10 GUAM CODE ANN. § 21003(a) (2024); P.R. LAWS ANN. tit. 8, §§ 346j, 346k (2024).

44. Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Jersey, North Dakota, Ohio, Oregon, South Dakota, Vermont, Virginia, Washington, West Virginia, and Wisconsin lack universal mandatory reporting but require healthcare professionals to report abuse. ALA. CODE § 38-9-8 (2024); ALASKA STAT. § 47.24.010 (2024); ARIZ. REV. STAT. ANN. § 46-454 (2024); ARK. CODE ANN. § 12-12-1708 (2024); CAL. WELF. & INST. CODE § 15630 (West 2024); COLO. REV. STAT. § 18-6.5-108 (2024); CONN. GEN. STAT. § 17b-451 (2024); GA. CODE ANN. § 30-5-4 (2024); HAW. REV. STAT. § 346-224 (2024); IDAHO CODE § 39-5303 (2024); 320 ILL. COMP. STAT. 20/2, 20/4 (2024); IOWA CODE § 235B.3 (2024); KAN. STAT. ANN. § 39-1431 (West 2024); ME. STAT. tit. 22, § 3477 (2024); MD. CODE ANN., FAM. LAW § 14-302 (West 2024); MASS. GEN. LAWS ch. 19A, § 15 (2024); MICH. COMP. LAWS § 400.11a (2024); MINN. STAT. §§ 626.557, .5572 (2024); MONT. CODE ANN. § 52-3-811 (2023); NEB. REV. STAT. § 28-372 (2024); NEV. REV. STAT. § 200.5093 (2024); N.J. STAT. ANN. § 52:27D-409 (2024); N.D. CENT. CODE § 50-25.2-03 (2024); OHIO REV. CODE ANN. § 5101.63 (West 2024); OR. REV. STAT. §§ 124.050, .060 (2024); S.C. CODE ANN. § 43-35-25 (2024); S.D. CODIFIED LAWS §§ 22-46-9, -10 (2024); VT. STAT. ANN. tit. 33, § 6903 (2024); VA. CODE ANN. § 63.2-1606 (2024); WASH. REV. CODE §§ 74.34.020, .035 (2024); W. VA. CODE § 9-6-9 (2024); WIS. STAT. § 46.90(4) (2025).

Columbia⁴⁵ and the Virgin Islands,⁴⁶ require healthcare professionals to report abuse.⁴⁷ In addition, most states without universal or near-universal reporting requirements nevertheless require caregivers,⁴⁸ social workers,⁴⁹ and law enforcement officers to report abuse.⁵⁰ Most also

45. D.C. CODE § 7-1903(b) (2024) (exempting, however, “a social worker or licensed health professional who has as a client or patient, or is employed by a lawyer representing, a third person who is allegedly responsible for the abuse or neglect”)

46. V.I. CODE ANN. tit. 34, §§ 452–53 (2024).

47. Healthcare professionals include physicians, nurses, residents, interns, mental health counselors, EMTs, pharmacists, psychologists, therapists, other licensed medical professionals, hospital staff or administrators, and some states explicitly include dentists. *See, e.g.*, GA. CODE ANN. § 30-5-4 (2024).

48. In Connecticut, Idaho, Illinois, Iowa, Minnesota, Montana, Nevada, New Jersey, Ohio, Oregon, South Dakota, Vermont, Virginia, and Washington, this duty extends only to those caregivers who are paid. *See* ALA. CODE § 38-9-8 (2024); ALASKA STAT. § 47.24.010 (2024); ARIZ. REV. STAT. ANN. § 46-454 (2024); CAL. WELF. & INST. CODE § 15630 (West 2024); CONN. GEN. STAT. § 17b-451 (2024); IDAHO CODE § 39-5303 (2024); 320 ILL. COMP. STAT. 20/2, 20/4 (2024); IOWA CODE § 235B.3 (2024); ME. STAT. tit. 22, § 3477 (2024); MINN. STAT. §§ 626.557, .5572 (2024); MONT. CODE ANN. §§ 52-3-803, -811 (West 2023); NEB. REV. STAT. § 28-372 (2024); NEV. REV. STAT. § 200.5093 (2024); N.J. STAT. ANN. § 52:27D-409 (West 2024); N.D. CENT. CODE § 50-25.2-03 (2024); OHIO REV. CODE ANN. § 5101.63 (West 2024); OR. REV. STAT. §§ 124.050, .060 (2024); S.D. CODIFIED LAWS §§ 22-46-9, -10 (2024); VT. STAT. ANN. tit. 33, § 6903 (2024); VA. CODE ANN. § 63.2-1606 (2024); WASH. REV. CODE §§ 74.34.020, .035 (2024).

49. Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Jersey, North Dakota, Ohio, Oregon, South Carolina, South Dakota, Vermont, Virginia, Washington, West Virginia, Wisconsin, D.C., and the Virgin Islands require social workers to report elder abuse. *See* ALASKA STAT. § 47.24.010 (2024); ARIZ. REV. STAT. ANN. § 46-454 (2024); ARK. CODE ANN. § 12-12-1708 (2024); CAL. WELF. & INST. CODE § 15630 (West 2024); COLO. REV. STAT. § 18-6.5-108 (2024); CONN. GEN. STAT. § 17b-451 (2024); GA. CODE ANN. § 30-5-4 (2024); HAW. REV. STAT. § 346-224 (2024); IDAHO CODE § 39-5303 (2024); 320 ILL. COMP. STAT. 20/2, 20/4 (2024); IOWA CODE § 235B.3 (2024); KAN. STAT. ANN. §§ 39-1402, -1431 (West 2024); ME. STAT. tit. 22, § 3477 (2024); MD. CODE ANN., FAM. LAW § 14-302 (West 2024); MASS. GEN. LAWS ch. 19A, § 15 (2024); MICH. COMP. LAWS § 400.11a (2024); MINN. STAT. §§ 626.557, .5572 (2024); MONT. CODE ANN. § 52-3-811 (2023); NEB. REV. STAT. § 28-372 (2024); NEV. REV. STAT. § 200.5093 (2024); N.J. STAT. ANN. §§ 52:27D-407, -409 (West 2024); N.D. CENT. CODE § 50-25.2-03 (2024); OHIO REV. CODE ANN. § 5101.63 (West 2024); OR. REV. STAT. §§ 124.050, .060 (2024); S.C. CODE ANN. § 43-35-25 (2024); S.D. CODIFIED LAWS § 22-46-9 (2024); VT. STAT. ANN. tit. 33, § 6903 (2024); VA. CODE ANN. § 63.2-1606 (2024); WASH. REV. CODE §§ 74.34.020, .035 (2024); W. VA. CODE § 9-6-9 (2024); WIS. STAT. § 46.90(4) (2024); D.C. CODE § 7-1903 (2024); V.I. CODE ANN. tit. 34, §§ 452-53 (2024).

50. Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Jersey, North Dakota, Ohio, Oregon, South Carolina, South Dakota, Vermont, Virginia, Washington, West Virginia, D.C., and the Virgin Islands require law enforcement officers to report elder abuse.

require financial institutions or their agents to report abuse,⁵¹ although they differ in how broad a range of financial actors they include.⁵² Likewise, most states require a variety of service providers to report abuse.⁵³

ALASKA STAT. § 47.24.010 (2024); ARIZ. REV. STAT. ANN. § 46-454 (West 2024); ARK. CODE ANN. § 12-12-1708 (2024); CAL. WELF. & INST. CODE § 15630 (West 2024); COLO. REV. STAT. § 18-6.5-108 (2024); CONN. GEN. STAT. § 17b-451 (2024); GA. CODE ANN. §§ 30-5-4, 19-7-5 (2024) (incorporating child abuse reporters by reference); HAW. REV. STAT. § 346-224 (2024); IDAHO CODE § 39-5303 (2024); 320 ILL. COMP. STAT. 20/2, 20/4 (2024); IOWA CODE § 235B.3 (2024); KAN. STAT. ANN. §§ 39-1402, 1431 (West 2024); ME. STAT. tit. 22 § 3477 (2024); MD. CODE ANN., FAM. LAW § 14-302 (West 2024); MASS. GEN. LAWS ch. 19A, § 15 (2024); MICH. COMP. LAWS § 400.11a (2024); MINN. STAT. §§ 626.557, .5572 (2024); MONT. CODE ANN. § 52-3-811 (2023); NEB. REV. STAT. § 28-372 (2024); NEV. REV. STAT. § 200.5093 (2024); N.J. STAT. ANN. § 52:27D-409 (West 2024); N.D. CENT. CODE § 50-25.2-03 (2024); OHIO REV. CODE ANN. § 5101.63 (West 2024); OR. REV. STAT. §§ 124.050, .060 (2024); S.C. CODE ANN. § 43-35-25 (2024); S.D. CODIFIED LAWS § 22-46-9 (2024); VT. STAT. ANN. tit. 33, § 6903 (2024); VA. CODE ANN. § 63.2-1606 (2024); WASH. REV. CODE §§ 74.34.020, .035 (2024); W. VA. CODE § 9-6-9 (2024); D.C. CODE § 7-1903 (2024); V.I. CODE ANN. tit. 34, §§ 452-53 (2024).

For updates regarding reporting obligation of financial institutions and their agents, readers may wish to consult the resources maintained online by EverSafe, see *National Reporting Chart for Suspected Exploitation of Senior and/or Vulnerable Persons*, EVERSAFE, <https://www.eversafe.com/pwmreporting/> [https://perma.cc/94FF-BGNX] (last visited Mar. 25, 2025).

51. Alabama, Alaska, Arizona, Arkansas, California, Colorado, D.C., Georgia, Hawaii, Illinois, Kansas, Maine, Maryland, Nevada, New Jersey, North Dakota, Ohio, Oregon, South Carolina, Vermont, Virgin Islands, and West Virginia require financial institutions or other financial actors to report financial exploitation. ALA. CODE §§ 8-6-171 to 172 (2024); ALASKA STAT. § 45.56.430 (2024); ARIZ. REV. STAT. ANN. § 46-454 (2024); ARK. CODE ANN. § 12-12-1708 (West 2024); CAL. WELF. & INST. CODE §§ 15630.1-.2 (West 2024); COLO. REV. STAT. §§ 18-6.5-108, 11-51-1002-03 (2024); D.C. CODE § 7-1903 (2024); GA. CODE ANN. § 30-5-4 (2024); HAW. REV. STAT. §§ 412:3-114.5, 485A-801 to 802 (2024); 320 ILL. COMP. STAT. 20/2, 20/4 (2024); KAN. STAT. ANN. § 39-1431 (West 2024); ME. STAT. tit. 32, §§ 16801-2 (2024); MD. CODE ANN., FIN. INST. § 1-306 (West 2024); MD. CODE ANN., CORPS. & ASS'NS § 11-307 (West 2024); NEV. REV. STAT. §§ 657.290, 90.614 (2024); N.J. STAT. ANN. §§ 49:3-85-86 (West 2024); N.D. CENT. CODE § 10-04-08.5 (2024); OHIO REV. CODE ANN. §§ 5101.63, 1707.49 (West 2024); OR. REV. STAT. §§ 59.480, .485 (2024); S.C. CODE ANN. § 43-35-87 (2024); 21-030-001 VT. CODE R. §§ 1-2, 8-4 (2024); W. VA. CODE § 32-6-603 (2024); V.I. CODE ANN. tit. 34, §§ 452-53 (2025).

52. Compare CAL. WELF. & INST. CODE §§ 15630.1-.2 (West 2024) (requiring “all officers and employees of financial institutions” and “broker-dealer or an investment adviser” to report financial abuse), with S.C. CODE ANN. § 43-35-87 (2024) (requiring “any financial institution that declines or places on hold a transaction . . . to report the incident”). Where states have narrower categories, a common approach is to require reporting by broker-dealers, investment advisors, and their supervisors. See, e.g., VT. CODE R. §§ 1-2, 8-4 (requiring reporting by “[a]ny broker-dealer agent, investment adviser representative or person who serves in a supervisory, compliance, or legal capacity for a broker-dealer or investment adviser”).

53. Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Georgia, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota,

These requirements include those that apply to broad swaths of workers (such as “any human service worker”⁵⁴) and those that enumerate a series of highly specific categories of service workers (such as fire control personnel⁵⁵ or animal control officers⁵⁶).

A substantial minority of states without universal or near-universal reporting requirements require coroners and medical examiners⁵⁷ or clergy and religious leaders⁵⁸ to report abuse. In addition, a few states

Montana, Nebraska, Nevada, New Jersey, North Dakota, Ohio, Oregon, South Carolina, Vermont, Virginia, Washington, West Virginia, and the Virgin Islands require other service providers to report elder abuse. ALASKA STAT. § 47.24.010(a)(4), (11), (16) (2024); ARIZ. REV. STAT. ANN. § 46-454(A) (2024); ARK. CODE ANN. § 12-12-1708(a)(1) (2024); CAL. WELF. & INST. CODE § 15630(a) (West 2024); COLO. REV. STAT. § 18-6.5-108(1)(b) (2024); CONN. GEN. STAT. § 17b-451(a) (2024); GA. CODE ANN. § 30-5-4(a)(1)(A) (2024); HAW. REV. STAT. § 346-224 (2024); 320 ILL. COMP. STAT. 20/2(f-5) (2024); IOWA CODE § 235B.3(2) (2024); KAN. STAT. ANN. § 39-1431(a)(1) (West 2024); ME. STAT. tit. 22, § 3477(1)(A)–(D) (2024); MD. CODE ANN., FAM. LAW § 14-302(a)(1) (West 2024); MASS. GEN. LAWS ch. 19A, § 15(a) (2024); MICH. COMP. LAWS § 400.11a(1) (2024); MINN. STAT. § 626.5572 (16) (2024); MONT. CODE ANN. § 52-3-811(2) (2023); NEB. REV. STAT. § 28-372(1) (2024); NEV. REV. STAT. § 200.5093(1)–(4) (2024); N.J. STAT. ANN. § 52:27D-409(a) (West 2024); N.D. CENT. CODE § 50-25.2-03(1) (2024); OHIO REV. CODE ANN. § 5101.63(A)(2) (West 2024); OR. REV. STAT. § 124.050(9) (2024); S.C. CODE ANN. § 43-35-25(A) (2024); VT. STAT. ANN. tit. 33, § 6903(a) (2024); VA. CODE ANN. § 63.2-1606(A)(5) (2024); WASH. REV. CODE § 74.34.020(13) (2024); W. VA. CODE § 9-6-9(a) (2024); V.I. CODE ANN. tit. 34, § 452(r) (2024).

54. See, e.g., MD. CODE ANN., FAM. LAW § 14-302(a)(1) (West 2024).

55. See, e.g., ARIZ. REV. STAT. ANN. § 46-454A (2024).

56. See, e.g., ARK. CODE ANN. § 12-12-1708(a)(1) (2024).

57. Arizona, Arkansas, Colorado, Connecticut, Georgia, Hawaii, Idaho, Illinois, Iowa, Maine, Massachusetts, Michigan, Minnesota, Montana, Nevada, North Dakota, Ohio, South Carolina, and Washington require coroners or medical examiners to report elder abuse. ARIZ. REV. STAT. ANN. § 46-454 (West 2024); ARK. CODE ANN. § 12-12-1708 (2024); COLO. REV. STAT. § 18-6.5-108 (2024); CONN. GEN. STAT. § 17b-451 (2024); GA. CODE ANN. § 30-5-4 (2024); HAW. REV. STAT. § 346-224 (2024); IDAHO CODE § 39-5303 (2024); 320 ILL. COMP. STAT. 20/2, 20/4 (2024); IOWA CODE § 235B.3 (2024); ME. STAT. tit. 22 § 3477 (2024); MASS. GEN. LAWS ch. 19A, § 15 (2024); MICH. COMP. LAWS § 400.11a (2024); MINN. STAT. §§ 626.557, 626.5572 (2024); MONT. CODE ANN. § 52-3-811 (2023); NEV. REV. STAT. § 200.5093 (2024); N.D. CENT. CODE § 50-25.2-03 (2024); OHIO REV. CODE ANN. § 5101.63 (West 2024); S.C. CODE ANN. § 43-35-25 (2024); WASH. REV. CODE §§ 74.34.020, .035 (2024).

58. As noted in the parentheticals, some of these states make exceptions for information received in confidence or subject to privilege. See ALASKA STAT. § 47.24.010 (2024); ARK. CODE ANN. § 12-12-1708 (2024) (exempting would-be reporters who “acquired knowledge of suspected maltreatment through communications required to be kept confidential pursuant to the religious discipline of the relevant denomination or faith; or [r]eceived the knowledge of the suspected maltreatment from the offender in the context of a statement of admission”); CAL. WELF. & INST. CODE § 15630 (West 2024) (exempting a “clergy member who acquires knowledge or reasonable suspicion of elder or dependent adult abuse during a

without universal or near-universal reporting require lawyers⁵⁹ and accountants⁶⁰ to report abuse.

By contrast, two states have very narrow reporting requirements. New York only requires social services officials who have reason to believe that a criminal offense has been committed against a person receiving (or who will receive) services to report.⁶¹ Pennsylvania only requires reporting by administrators or employees of home health care agencies, adult day care centers, and long-term care nursing facilities, and limits mandatory reporting to situations involving physical abuse or sexual abuse, or neglect by a caretaker.⁶²

Second, states vary as to the individuals about whom abuse must be reported.⁶³ As set forth in Appendix A, a substantial minority of states require reports to be made when the suspected victim is above a certain age, regardless of whether that suspected victim has any disability or other limiting condition.⁶⁴ The majority of states, however, mandate reporting only when the suspected victim has some sort of disability or other limiting condition;⁶⁵ of these, two require the suspected victim to both be older and be experiencing such a condition.⁶⁶ Notably, a third of those that do not explicitly make older age a basis for reporting—that is, that only require reporting of individuals with

penitential communication” unless “acting in the capacity of a care custodian, health practitioner, or employee of an adult protective services agency”); COLO. REV. STAT. § 18-6.5-108 (2024) (exempting persons who suspect abuse because of certain confidential communications); CONN. GEN. STAT. § 17b-451 (2024); GA. CODE ANN. § 30-5-4 (2024); 320 ILL. COMP. STAT. 20/2, 20/4 (2024); ME. STAT. tit. 22, § 3477 (2024); N.D. CENT. CODE § 50-25.2-03 (2024) (exempting clergy from reporting suspicions “derived from information received in the capacity of spiritual adviser”); OHIO REV. CODE ANN. § 5101.63 (West 2024); OR. REV. STAT. §§ 124.050, .060 (2024) (exempting clergy from reporting certain privileged information); S.C. CODE ANN. § 43-35-25 (2024); WASH. REV. CODE §§ 74.34.020, .035 (2024); W. VA. CODE § 9-6-9 (2024); V.I. CODE ANN. tit. 34, §X 455 (2024).

59. Arizona, Montana, Ohio, and Oregon require lawyers to report elder abuse. ARIZ. REV. STAT. ANN. § 46-454 (West 2024); MONT. CODE ANN. § 52-3-811 (2023); OHIO REV. CODE ANN. § 5101.63 (West 2024); OR. REV. STAT. §§ 124.050, .060 (2024).

60. Arizona, Illinois, and Ohio require accountants to report elder abuse. ARIZ. REV. STAT. ANN. § 46-454 (West 2024); 320 ILL. COMP. STAT. 20/2, 20/4 (2024); OHIO REV. CODE ANN. § 5101.63 (West 2024).

61. N.Y. SOC. SERV. LAW § 473 (McKinney 2024).

62. 35 PA. CONS. STAT. §§ 10225.103, .701 (2024).

63. This individual is sometimes referred to as a “protected party.”

64. See states listed as category B in Appendix A. Of these, most also require reporting of suspected victims with limiting conditions. See states marked both category A and B in Appendix A.

65. See states listed as category A in Appendix A.

66. See states listed as category C in Appendix A.

limitations—list “infirmities of aging” or difficulties associated with “advanced age” as limitations that would trigger reporting duties.⁶⁷ Thus, in approximately half of the states, older adults may become the subject of mandatory reporting requirements based simply on their age or age-related challenges.

Third, some states have created exceptions to the duty to report. Some exempt people from reporting because of the way they learned about the suspected abuse or their relationship to the suspected abuser. The District of Columbia exempts social workers and licensed health professionals who have the alleged abuser as a client or patient.⁶⁸ Virginia exempts medical facilities inspectors of the Department of Health while conducting federal inspections of nursing facilities.⁶⁹ Similarly, Kansas exempts employees of domestic violence centers.⁷⁰

Two states have notably unique exemptions. Oregon exempts psychiatrists, psychologists, clergy members, and attorneys if the communication is privileged by law.⁷¹ Oregon’s mandatory reporting statute also specifies that “an attorney is not required to make a report under this section by reason of information communicated to the attorney in the course of representing a client if disclosure of the information would be detrimental to the client.”⁷² As the Oregon State Bar General Counsel’s Office has noted, this exception “limited the reporting exception to information that would be detrimental (not merely embarrassing) to the client if disclosed,” thus “mere embarrassment to a client is not sufficient justification for the lawyer to ignore elder abuse.”⁷³ This exception, added in 2013,⁷⁴ parallels an exception that Oregon had added to its mandatory child abuse reporting scheme twelve years

67. See states listed with the notation “A*” in Appendix A.

68. D.C. CODE § 7-1903(b) (2024).

69. VA. CODE. ANN. § 63.2-1606(A) (2024).

70. KAN. STAT. ANN. § 39-1431(a)(2) (West 2024).

71. OR. REV. STAT. § 124.060 (2024).

72. *Id.* § 124.060(3). Notably, the state makes a parallel exception for mandatory reporting of child abuse. In Oregon, “an attorney is not required to make a report under [the child abuse statute] by reason of information communicated to the attorney in the course of representing a client if disclosure of the information would be detrimental to the client.” OR. REV. STAT. § 419B.010 (2024).

73. OR. STATE BAR GEN. COUNS. OFF., *Questions and Answers About Mandatory Elder Abuse Reporting for Lawyers* (Mar. 2016), <https://www.courts.oregon.gov/programs/jcip/EducationMaterials/Documents/ElderAbuseReportQA.pdf> [https://perma.cc/94YY-LEJB].

74. H.R. 2205, 77th Leg. Assemb., Reg. Sess. (Or. 2013).

earlier.⁷⁵ Like the child abuse exception,⁷⁶ it was designed to address attorney concerns that mandatory reporting obligations might conflict with their obligation to maintain client confidences.⁷⁷

Wisconsin's exception is broader and more flexible. It does not require reporting if the reporter believes a report would not be in the best interest of the older adult at risk, provided they document the reason for this belief.⁷⁸ Guidance in Wisconsin's APS manual explains that this requires would-be reporters to make a professional judgment call, and suggests they consider (1) the autonomy and expressed preferences of a vulnerable adult, (2) the importance of maintaining trust of the vulnerable adult, and (3) the risk the report might be ineffective, increase risk, or produce emotional harm that is "not justified by whatever increased protection might result."⁷⁹ The manual further states that a "request by the individual that the [reporter] not report (and the reasons for that request) would necessarily be part of a best interests determination about whether to report over the individual's objection."⁸⁰ The manual also discusses the option for a reporter to consult the individual at risk, noting the importance of a victim's dignity, cooperation, anxiety, and federal confidentiality laws.⁸¹

Under Wisconsin's approach, a professional's judgment that reporting is not in the best interest of the individual is not subject to administrative oversight.⁸² However, Wisconsin also recognizes that if a professional unreasonably determines that reporting is not in the best

75. S. 384, 71st Leg. Assemb., Reg. Sess. (Or. 2001).

76. VAL HOYLE & VIC GILLIAM, PROTECTING OREGON'S SENIORS: HB 2205-5 AMENDMENTS, olis.oregonlegislature.gov/liz/2013R1/Downloads/CommitteeMeetingDocument/15543 [<https://perma.cc/CR9Q-DLAX>] (last visited Mar. 25, 2025) (indicating that the elder abuse exception was based on the prior child abuse exception).

77. See OR. STATE BAR GEN. COUNS. OFF., *supra* note 73 (describing the exception as honoring "a lawyer's ethical obligation to protect confidential client information" under RPC 1.6(a)).

78. WIS. STAT. § 46.90(4) (2024) (requiring such documentation be made "in the case file that the person maintains on the elder adult at risk").

79. Ch. 55: *Application of Wisconsin Adult Protective Services Law and Adults-At-Risk Related Statutes*, WIS. DEP'T. OF HEALTH & HUM. SERVS. 22 (Oct. 2007), www.dhs.wisconsin.gov/areaadmin/aps-intrv-ies-pp-w-ch55.pdf [<https://perma.cc/QN99-MKJN>].

80. *Id.* at 12.

81. *Id.* at 22.

82. *Id.* ("There is no provision under which anyone else has power to review the belief as to best interests to determine whether it was reasonable or justified, although a professional might face civil liability for a judgment not to report that was outside the range of reasonable professional judgment.").

interest of an individual and harm results, the professional may face civil liability.⁸³

Despite the variation in other regards, states overwhelmingly agree on one key issue: they mandate reporting of suspected past abuse even when there is no ongoing risk to the older adult or likelihood of further harm.⁸⁴ Thus, a report is required even where the alleged perpetrator is deceased or is otherwise unable to continue to access or endanger the suspected victim.

C. Consequences of Failure to Report

When reporting of abuse is mandatory, failure to report abuse has the potential to have multiple implications for would-be reporters. First, it can lead to professional discipline, including but not limited to the loss of professional licenses.⁸⁵ The likelihood of professional discipline for failure to report, however, appears to be vanishingly small.⁸⁶ This may reflect that failures to report typically do not come to the attention of disciplinary bodies, perhaps because failure to report is not always seen as culpable conduct. Second, in some states it may also result in criminal liability.⁸⁷ However, cases of individuals being prosecuted for failure to report appear to be quite rare.⁸⁸ Third, in some states, failure to report can give rise to tort liability. Specifically, in some states, mandatory reporting statutes create a private right of action that allow victims to hold would-be reporters liable for harms that could have been avoided by timely reporting. For example, Minnesota's elder

83. *Id.* at 26 (observing that reporters have “a good defense to a lawsuit, if the determination is within the range of accepted practice”).

84. The abuse may, however, need to be recent. Illinois specifies that the abuse should have occurred within the past twelve months. *See, e.g.*, 320 ILL. COMP. STAT. 20/4 (2024).

85. *See, e.g., id.* § 20/4(e).

86. In surveying the author group, no author was personally aware of a case in which an individual lost a professional license because of a failure to account.

87. Lori A. Stiegel, *Legal Issues Related to Elder Abuse: A Pocket Guide for Law Enforcement*, AM. BAR ASS'N COMM'N ON L. & AGING 1, 14 (2014).

88. *Cf.*, Jeanette M Daly, Yinghui Xu & Gerald J. Jogerst, *Iowa Dependent Adult Abuse Prosecutions From 2006 Through 2015: Health Care Provider's Concern*, 8 J. PRIMARY CARE COMM. HEALTH 153, 154, 157 (2017) (finding four charges of failure to report dependent adult abuse from 2006–2016 in Iowa; three cases were dismissed and one resulted in a fine; Iowa did not specify whether the victims were elderly).

abuse statute expressly authorizes a vulnerable adult⁸⁹ to bring a claim against mandated reporters who negligently or intentionally fail to report the vulnerable adult's abuse.⁹⁰

Even without an explicit cause of action, courts may recognize an implied cause of action for failure to report. In *Kim v. Lakeside Adult Family Home*, the Washington Supreme Court held that the elder abuse statute created an implied cause of action for a failure to report abuse.⁹¹ The court reasoned that the state's decision to statutorily provide immunity from civil liability for those who acted in good faith implied that "civil liability can exist in the first place."⁹²

In addition, under the common law doctrine of negligence per se, failure to report may be treated as a breach of duty to the victim and give rise to liability if the victim suffers foreseeable harm that probably would have been avoided had the report been made as legally required.⁹³ That said, some states' statutes explicitly bar this application of negligence per se.⁹⁴

89. In *Grozdanich v. Leisure Hills Health Ctr.*, a nurse brought a negligence per se claim against her employer, alleging that the employer failed to report elder abuse, and this failure proximately caused her assault by another nurse. 25 F. Supp. 2d 953, 984 (D. Minn. 1998). The court held that the nurse was not a vulnerable adult and could not establish "an express, or an implied right of action" and "seek damages arising from the failure to report." *Id.*

90. MINN. STAT. § 626.557 (2024). Other states do not recognize this cause of action. For example, the Alaska Supreme Court also held that Alaska's elder abuse statute does not create a private right of action. *See Hymes v. DeRamus*, 222 P.3d 874, 889 (Alaska 2010).

91. *Kim v. Lakeside Adult Fam. Home*, 374 P.3d 121, 125 (Wash. 2016).

92. *Id.* at 543 (quoting *Beggs v. Dep't of Soc. & Health Servs.*, 247 P.3d 421, 425 (Wash. 2011)).

93. *See* RESTATEMENT (THIRD) OF TORTS: PHYSICAL AND EMOTIONAL HARM § 14 (AM. L. INST. 2010).

94. For example, California's mandatory reporting statute does not provide a private right of action against a financial institution for failure to report but rather states that the reporting duty does not "limit, expand, or otherwise modify any civil liability or remedy." CAL. WELF. & INST. CODE § 15630.1(g)(2) (2024). In *Das v. Bank of America*, the court interpreted this provision to prohibit the use of the reporting duty "for use as a duty of care or standard of care within a negligence claim." 112 Cal. Rptr. 3d 439, 449 (Cal. Ct. App. 2010); *see also Santucci v. Citizens Bank of R.I.*, 799 A.2d 254, 257 (R.I. 2002) (holding that the state's elder abuse statute does not give rise to a new duty of care flowing from a bank that failed to report to an elderly bank account holder that could form a claim for negligence).

III. Impact of Mandatory Reporting Requirements

To understand the impact of mandatory reporting laws to date, the authors conducted a comprehensive literature review.⁹⁵ Specifically, we sought to identify and review all studies that used empirical methods (qualitative, quantitative, or both) to determine the relationship between MEAR laws in the United States and key metrics of the impact of mandatory reporting on systems receiving reports, subjects of reports, and reporters.

A. Impact on Reporting Rate

Studies on the impact of MEAR laws on elder abuse reporting rates have yielded mixed results. Of the five studies identified,⁹⁶ three indicated no significant effect of MEAR laws on reporting rates,⁹⁷ and

95. We conducted the search using the Yale University Library System's Summon database, branded Articles+, which includes the content of bibliographic databases licensed by Yale, covering medicine, public health, social sciences, law, and humanities. An additional layer of research was conducted through a recommendation engine, Research Rabbit, and no additional articles were discovered. Studies were included if they explicitly examined the relationship between mandatory reporting laws and specified metrics. Research that focused on reporting, investigation, substantiation, or referral rates without empirically linking these outcomes to the presence or absence of mandatory reporting laws were excluded.

96. In addition to these studies, we identified a report by the North American Securities Administrators Association (NASAA), which reports that "many of the first states" to adopt a version of the organization's model act to protect older adults from financial exploitation have seen a "drastic increase in use of these statutes and the number of reports of potential financial exploitation from firms." N. AM. SEC. ADMIN. ASS'N, 2019 ENFORCEMENT REPORT 9 (2019). The model act requires "any agent, investment adviser representative or person who serves in a supervisory, compliance, or legal capacity for a broker-dealer or investment adviser" who "reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the qualified individual shall promptly notify Adult Protective Services and the commissioner of securities." *NASAA Model Legislation or Regulation to Protect Vulnerable Adults from Financial Exploitation*, N. AM. SEC. ADMIN. ASS'N (Jan. 22, 2016), <https://www.nasaa.org/wp-content/uploads/2011/07/NASAA-Model-Seniors-Act-adopted-Jan-22-2016.pdf> [<https://perma.cc/RR86-QZJ6>]. It also provides immunity for reporting. *Id.* Unfortunately, the 2019 report did not share the underlying data or information on all states enacting such law, or indicate whether this result could be attributed to mandatory reporting aspects of legal changes. Thus, it is hard to draw a conclusion about the impact of mandatory reporting requirements from it.

97. Jeanette M. Daly, Gerald J. Jogerst, Margaret F. Brinig & Jeffrey D. Dawson, *Mandatory Reporting: Relationship of APS Statute Language on State Reported Elder Abuse*, 15 J. ELDER ABUSE & NEGLECT 1, 1–21 (2003); Catherine Carey, Jacob Hodges & John K. Webb, *Changes in State Legislation and the Impacts on Elder Financial Fraud*

two suggested that MEAR laws were associated with an increase in reporting rates,⁹⁸ but both had notable limitations.⁹⁹

Specifically, both Fredriksen (1989)¹⁰⁰ and Jogerst et al. (2003)¹⁰¹ found a correlation between the existence of MEAR laws and increased reporting rates of elder abuse. Fredriksen compared elder abuse cases in Washington state before and shortly after the mandatory reporting statute took effect in July 1985, and observed an increase in reported cases following enactment.¹⁰² However, the author cautioned that because data were collected immediately after the law's enactment, the study may simply have observed an initial boost rather than a sustained increase.¹⁰³ Similarly, Jogerst et al. (2003) found that MEAR requirements correlated with increased reporting but suggested that this effect may have reflected, at least in part, accompanying public education on elder abuse and specific training for professionals.¹⁰⁴ Given that there is now more widespread education and awareness of elder

and Exploitation, 30 J. ELDER ABUSE & NEGLECT 309, 309–11 (2018); Carolyn Lea Clark-Daniels, R. Steven Daniels & Lorin A. Baumhover, *Abuse and Neglect of the Elderly: Are Emergency Department Personnel Aware of Mandatory Reporting Laws?*, 19 ANNALS OF EMERG. MED. 970, 970–72 (1990).

98. Karen I. Fredriksen, *Adult Protective Services: Changes with the Introduction of Mandatory Reporting*, 1 J. ELDER ABUSE & NEGLECT 59 (1989); Gerald J. Jogerst, Jeanette M. Daly, Margaret F. Brining, Jeffrey Dawson, Gretchen A. Schmuck & Jerry G. Ingram, *Domestic Elder Abuse and the Law*, 93 AM. J. PUB. HEALTH 2131 (2003) [hereinafter Jogerst et al., *Domestic*].

99. See *supra* notes 103, 105 and accompanying text.

100. Fredriksen, *supra* note 98, at 59.

101. Jogerst et al., *Domestic*, *supra* note 98, at 2131.

102. Fredriksen, *supra* note 98, at 60–66. As Fredriksen explained, in 1984, the Washington state legislature passed an elder abuse mandatory reporting law which became effective July 1, 1985. Post-MEAR data were gathered from July 1, 1985, to Jan. 1, 1986. These data were compared with pre-MEAR data gathered from July 1984 to Jan. 1985.

103. *Id.* at 66–68. Notably, this type of initial spike in reports has been observed in the child abuse context. See Ben Mathews, Xing Ju Lee & Rosana E. Norman, *Impact of a New Mandatory Reporting Law on Reporting and Identification of Child Sexual Abuse: A Seven Year Time Trend Analysis*, 56 CHILD ABUSE & NEGLECT 62 (2016), which noted an initial spike in reports following the implementation of mandatory child abuse reporting laws in Western Australia, with reporting rates tripling between 2008 and 2010. However, by 2010, reporting rates had plateaued, remaining steady through 2012. This pattern suggests that while MEAR laws can prompt a significant initial increase in reporting, the effect does not necessarily persist over the long term. See Rachel Rosenberg, Sarah Catherine Williams, Valerie Martinez & Ja'Chelle Ball, *Mandated Reporting Policies and the Detection of Child Abuse and Neglect*, 159 CHILD. & YOUTH SERVS. REV. 1, 9 (2024).

104. See Jogerst et al., *Domestic*, *supra* note 98, at 2135.

abuse,¹⁰⁵ it remains an open question whether such an effect would be seen today if a state were to add such a requirement.

By contrast, the three other studies identified, Daly et al. (2003),¹⁰⁶ Carey et al. (2018),¹⁰⁷ and Clark-Daniels et al. (1990),¹⁰⁸ found no significant impact of MEAR laws on elder abuse reporting rates. Daly et al. compared elder abuse reporting rates between states with and without MEAR laws and found no significant difference, indicating that the presence of such laws does not necessarily lead to increased reporting.¹⁰⁹ Carey et al. focused on elder financial exploitation and analyzed data from across fifty states and the District of Columbia.¹¹⁰ They found that, despite the implementation of MEAR laws during the period studied, there was no significant increase in reporting rates for this form of abuse.¹¹¹

We were unable to identify any articles directly studying whether MEAR laws' impact on reporting rate varies by reporter type, but a study by Clark-Daniels et al. (1990) of reporting behavior among emergency department professionals in Alabama hospitals suggests it may.¹¹² While the study design did not allow the researchers to infer the impact of MEAR laws, it found that reporting rates varied significantly by provider type.¹¹³ Specifically, licensed practical nurses told researchers they had witnessed more cases of mistreatment than either physicians or registered nurses said they had witnessed. Yet, unlike the physicians or registered nurses studied, these licensed practical nurses did not report any cases to public authorities despite being mandatory reporters.¹¹⁴

105. *See id.*

106. Daly et al., *supra* note 97, at 1.

107. Catherine Carey, Jacob Hodges & John K. Webb, *Changes in State Legislation and the Impacts on Elder Financial Fraud and Exploitation*, 30 J. ELDER ABUSE & NEGLECT 309, 309 (2018).

108. Carolyn Lea Clark-Daniels, R. Steven Daniels & Lorin A. Baumhover, *Abuse and Neglect of the Elderly: Are Emergency Department Personnel Aware of Mandatory Reporting Laws?*, 19 ANNALS OF EMERG. MED. 970 (1990).

109. *See* Daly et al., *supra* note 97, at 1.

110. Carey et al., *supra* note 107, at 309, 315.

111. *Id.*

112. Clark-Daniels et al., *supra* note 108, at 970.

113. *Id.*

114. *Id.* (attributing this gap in reporting to institutional barriers, including the need to report through supervisors, concerns over lengthy court appearances, and dissatisfaction with authorities' responses to abuse reports).

Notably, the studies suggesting a lack of impact on reporting rates are consistent with findings about the impact of mandatory child abuse reporting statutes. Rosenberg et al. (2024) found no statistical correlation between state mandatory reporting policies of child abuse and the rate of reported or substantiated cases of child abuse, suggesting that legal mandates alone may not be sufficient to increase reporting rates.¹¹⁵

B. Impact on Entities Receiving Reports

1. INVESTIGATION RATE

When a report of elder abuse is made to APS, an investigation may be opened to examine the alleged abuse and determine what, if any, intervention is appropriate.¹¹⁶ The one study we found that directly studied the impact of MEAR laws on APS investigation rate, Daly et al. (2003), found that, compared to states without MEAR laws, states with MEAR laws had higher investigation rates.¹¹⁷

2. SUBSTANTIATION RATE

Substantiation rate refers to the percentage of reported cases that are confirmed following an investigation.¹¹⁸ Evidence from the only four studies directly addressing this issue indicates that MEAR laws do not significantly impact substantiation rates. That is, even if MEAR laws increase the rate of investigation, they do not appear to result in a proportional increase in the percentage of cases that are substantiated relative to those that are determined to be unfounded or not verified.¹¹⁹

Daly et al. (2003) compared states with and without MEAR laws and found no significant difference in substantiation rates between the two types of states.¹²⁰ Similarly, Fredriksen (1989) observed that while

115. Rosenberg et al., *supra* note 103, at 9–11.

116. See ADULT PROTECTIVE SERVS. TECH. ASSISTANCE RES. CTR., THE IMPORTANCE AND USE OF PERSON-CENTERED PRINCIPLES IN ADULT PROTECTIVE SERVICES 10 (July 2024), https://pfs2.acl.gov/strapib/assets/Person_Centered_Brief_f14fc7f75b.pdf [<https://perma.cc/9AUU-FX6F>] [hereinafter APS TARC, *Use of Person-Centered Principles*].

117. Daly et al., *supra* note 97, at 1 (studying all states in the U.S., with forty-four states and the District of Columbia having mandatory reporting laws for elder abuse at the time of the study).

118. U.S. DEP'T OF HEALTH & HUM. SERVS., *supra* note 25, at 12–13 (defining substantiated allegations as those supported after investigation).

119. See Fredriksen, *supra* note 98, at 62–66.

120. See Daly et al., *supra* note 97, at 7.

MEAR laws in Washington State led to more reports, they did not correspondingly increase the rate of substantiated cases.¹²¹

Jogerst et al. (2003) further supported these findings, noting that while MEAR laws increased investigation rates, substantiation rates remained unaffected.¹²² Similarly, Jogerst et al. (2003) found that mandatory reporting education, which is paired with MEAR requirements in the state studied (Iowa), did not lead to significant changes in substantiation rates before and after implementation.¹²³

Additionally, Mosqueda et al. (2016) found significant variability in substantiation rates across fifty-eight counties in California, despite all operating under the same MEAR laws.¹²⁴ This suggests that the manner in which MEAR laws are implemented, not merely their existence, influences case outcomes.¹²⁵ Mosqueda et al. identified inconsistent guidelines, uneven APS worker training, and differing county resources as factors that contributed to this variability.¹²⁶

3. RATE OF REFERRAL TO LAW ENFORCEMENT

One rationale sometimes offered for mandatory reporting laws is that they unearth criminal behavior which can then be prosecuted.¹²⁷ This has the potential to deter (ideally, prevent) future abuse, punish the abuser, and facilitate restitution for the victim. Although experts have suggested that referral to law enforcement is not the norm,¹²⁸

121. Fredriksen, *supra* note 98, at 64–66. Fredriksen's study indicates that more than four-fifths (eighty-two percent) of combined pre- and post-MEAR cases were not substantiated for abuse. When comparing pre- and post-MEAR cases sample, the investigators found no significant change in the substantiation rate, with a slight (statistically insignificant) increase of two percent in the non-substantiation rate.

122. Jogerst et al., *Domestic*, *supra* note 98, at 2136.

123. Gerald J. Jogerst, Jeanette M. Daly, Jefferey D. Dawson, Margaret F. Brinig & Gretchen A. Schmuck, *Required Elder Abuse Education for Iowa Mandatory Reporters*, 15 J. ELDER ABUSE & NEGLECT 59 (2003) [hereinafter Jogerst et al., *Required*].

124. See Laura Mosqueda, Aileen Wiglesworth, Alison A. Moore, Annie Nguyen, Melanie Girona & Lisa Gibbs, *Variability in Findings from Adult Protective Services Investigations of Elder Abuse in California*, 13 J. EVID. & INFO. SOC. WORK 34, 35 (2016).

125. See *id.* at 8–9.

126. *Id.*

127. Joel M. Geiderman & Catherine A. Marco, *Mandatory and Permissive Reporting Laws: Obligations, Challenges, Moral Dilemmas, and Opportunities*, 1 J. AM. COLL. EMERGENCY PHYSICIANS OPEN 38, 38 (2020).

128. See Tony Rosen, Stephen Hartgarten, Neal E. Flomenbaum & Timothy F. Platt-Mills, *Identifying Elder Abuse in the Emergency Department: Toward a Multidisciplinary Team-Based Approach*, 68 ANNALS OF EMERGENCY MED. 378, 380 (2016)

Wisconsin's publicly available data suggests referrals to law enforcement may be common.¹²⁹ For instance, in 2022, such referrals were made in four percent of cases in which a report of elder abuse was made to Wisconsin's APS.¹³⁰

4. INSTITUTIONAL CAPACITY

One concern sometimes raised about MEAR laws is that they will put undue strain on APS resources by encouraging mandated reporters to report situations that do not actually involve mistreatment, or that would not benefit from public intervention.¹³¹ This concern reflects, in part, the fact that reporting mandates are often not accompanied by corresponding increases in funding for APS agencies, which are chronically underfunded.¹³² In addition, such mandates may not be accompanied by the funding needed to educate mandated reporters about their responsibilities.¹³³

There is evidence that MEAR laws do increase APS workloads. Shortly after the enactment of MEAR laws in Washington state, Fredriksen (1989) observed that the rate of reporting almost doubled, which significantly added demands on APS, at least initially, including by increasing the volume of reports that lacked merit.¹³⁴ Specifically, Fredriksen reported a fifty-six percent increase in the rate of cases deemed not appropriate or resulting in lost contact, as well as a thirty-eight percent increase in cases where clients were no longer at risk or were handled by other agencies.¹³⁵ This suggests that many additional reports

(suggesting that one reason may be that reporters perceive the threshold for criminal justice intervention as high).

129. WIS. DEP'T OF HEALTH SERVS., STATEWIDE ELDER ADULTS AT RISK AND ADULTS AT RISK INCIDENT REPORTS, 2013–2022 (2025), https://www.dhs.wisconsin.gov/library/collection/p-02449?order=field_title&sort=desc [<https://perma.cc/DW3K-J23M>] (last visited Mar. 25, 2025) (Row 352 list refers to law enforcement for incident reports from 2013-2022).

130. *Id.*

131. See Fredriksen, *supra* note 98, at 59–70, (finding that MEAR laws led to a surge in APS referrals, including cases in which older adults presented no psychosocial or physical problems and cases resulting in no service outcome, thereby straining limited APS resources).

132. See Kathy Greenlee, *Our National Shame: Little or No Funding for Elder Abuse Prevention & Response*, 44 GENERATIONS J. 117, 118–21 (2020) (discussing the causes of this underfunding).

133. See *id.*

134. Fredriksen, *supra* note 98, at 67.

135. *Id.*

did not lead to actionable interventions, yet they consumed valuable time and resources for entities receiving reports.¹³⁶

C. Impact of Mandatory Reporting on Subjects of Reports

1. IMPACT ON WELL-BEING, SAFETY AND SUPPORT

The authors were unable to find direct evidence that MEAR increases the safety or well-being of subjects of reports.

However, a potential indirect indicator of whether MEAR increases safety is whether MEAR increases the number or percentage of older adults accepting services offered to them by APS. As APS commonly offers services designed to reduce abuse or remedy its impact, acceptance of services might well correlate with improvements in safety. However, this is perhaps a limited indicator. Sometimes services may be accepted even if the older adult does not want those services.¹³⁷ Some services can be provided without the adult's consent (perhaps because the individual lacks capacity to consent) and not all older adults "accepting" services fully understand to what they are agreeing.¹³⁸ Moreover, it is hard to know how helpful services are without knowing what those services are or what the consequences of that acceptance are.¹³⁹

Evidence of the impact of MEAR on acceptance of services is limited and inconclusive. The Fredriksen (1989) study in Washington State found an eight percent reduction in the rate of service refusal immediately following the implementation of MEAR laws, suggesting that MEAR laws may encourage greater acceptance of assistance among older adults facing abuse.¹⁴⁰ Contrasting with Fredriksen's findings, data from Wisconsin's APS indicate that, from 2013 to 2022, the number of investigations "not accepted" by clients increased by a factor of 2.6.¹⁴¹ That could potentially indicate a growing resistance to interventions, or

136. *Id.*

137. *See National Process Evaluation, supra* note 7, at 13.

138. *See id.*

139. For example, one service APS might offer is information about other services (e.g., a Medicaid application). The fact that someone accepts that information seems little indication of whether they are safer.

140. Fredriksen, *supra* note 98, at 65 (noting that the study was not able to indicate whether this effect was sustained over time).

141. WIS. DEP'T OF HEALTH SERVS., *supra* note 129.

that APS did not have the capacity to invest time in building rapport with the older adult and encouraging service acceptance.

2. IMPACT ON SUBJECT'S RIGHTS AND SELF-DETERMINATION

Critics of mandatory reporting have raised concerns that it may undermine older adults' privacy and self-determination.¹⁴² APS data on investigation outcomes support the proposition that investigations triggered by MEAR have the potential to substantially limit victims' autonomy and self-determination. First, anecdotal reports suggest that guardianship is a common intervention recommended by APS,¹⁴³ and when a guardianship is granted over a person, that person loses the right to make some or nearly all decisions for themselves.¹⁴⁴ However, whether guardianship is, in fact, a common intervention remains unknown.¹⁴⁵ Wisconsin's publicly available data shows that guardianship referrals occurred in response to seven percent of cases in which a report of abuse was made.¹⁴⁶

Second, there is some evidence that institutionalization is a common intervention offered by APS. Wisconsin's data indicate that for 2022, protective services placements were the second most frequent intervention, representing 5% of reports.¹⁴⁷ This aligns with findings from

142. See, e.g., Kohn, *supra* note 13, at 1067; Stephen Crystal, *Social Policy and Elder Abuse*, in *ELDER ABUSE: CONFLICT IN THE FAMILY* 331 (Karl A. Pillemer & Rosalie S. Wolf eds., Auburn House Pub. Co. 1986) (warning that lack of clarity and variation in state statutory definitions for MEAR can lead to actions that extend beyond the intended protective scope); Faulkner, *supra* note 12, at 74–78 (indicating that overly broad definitions risk an “unethical, if not unconstitutional,” invasion of the older adult’s independence); Hierl, *supra* note 18, at 388 (discussing the intrusive nature of interventions); Karl A. Pillemer & J. Jill Suito, *Elder Abuse*, in *HANDBOOK OF FAMILY VIOLENCE* 425 (Vincent B. Van Hasselt et al. eds., Plenum Press 1988) (discussing how intervention affects older adults’ privacy interests, including the interests of those not experiencing abuse).

143. For the purposes of this Article, we use the term guardianship to refer to an arrangement in which a court appoints someone else to make decisions for an individual whom the court has determined lacks capacity to make those decisions. Sometimes, states will refer to this process as conservatorship.

144. See NINA A. KOHN, *ELDER LAW: PRACTICE, POLICY, & PROBLEMS* 171, 193 (3d ed. 2024) (discussing the rights removed when guardianship is imposed).

145. This reflects not only a deficit in data on APS interventions, but also a deficit in data on guardianship more broadly. See Nina A. Kohn & David A. English, *Protective Orders & Limited Guardianships: Legal Tools for Sidelining Plenary Guardianship*, 72 *SYRACUSE L. REV.* 225, 236–38 (2022) (discussing the limitations on data about guardianship).

146. This data is made available through the Wisconsin Incident Tracking Systems (WITS). See WIS. DEP’T OF HEALTH SERVS., *supra* note 129.

147. *Id.*

Heath et al. (2005), who conducted a retrospective cohort study involving 211 APS clients in two counties in central New Jersey and found that 74 (35%) were institutionalized following interventions, with placements including nursing homes (52), assisted living facilities (16), and other congregate living settings (6).¹⁴⁸ Similarly, older research from Connecticut found that between January and April 1981, out of 120 individuals placed in short-term care following mandated reports of suspected elder abuse, 72 (60%) were expected to be placed in institutional settings.¹⁴⁹

If guardianship and institutional placement are indeed common outcomes of mandatory reporting, then there is reason for concern that MEAR may lead to outcomes misaligned with the preferences of older adults.¹⁵⁰ Such interventions are problematic in situations where less restrictive alternatives could meet older adult's identified needs. However, given the limited available data, it is not possible to ascertain the extent to which less restrictive alternatives might have met victims' needs.

D. Impact on Mandated Reporters

1. REPORTERS' PERCEPTION OF IMPACT

Research has found that healthcare providers express concern about how MEAR laws may impact their relationship with patients,¹⁵¹ although such reports are typically confidential. For example, Daniels et al. (1989) surveyed 336 Alabama physicians and found that twenty-nine percent believed that their relationship with patients would be damaged as a result of reporting.¹⁵² A subsequent study of twenty Alabama physicians, Rodriguez et al. (2006), found physicians could identify potential benefits of mandatory reporting but half worried that it

148. See John M. Heath, Merle Brown, Fred A. Kobylarz & Susan Castaño, *The Prevalence of Undiagnosed Geriatric Health Conditions Among Adult Protective Service Clients*, 45 GERONTOLOGIST 820, 820–23 (2005).

149. See Faulkner, *supra* note 12, at 84–85.

150. R. Steven Daniels, Lorin A. Baumhover & Carolyn L. Clark-Daniels, *Physicians' Mandatory Reporting of Elder Abuse*, 29 GERONTOLOGIST 321, 322–23, 325 (1989) (observing that limited post-report services often result in “draconian” choices—either no intervention or institutional placement—potentially contrary to many older adults' wishes).

151. *Id.* at 324–25.

152. *Id.*

would negatively impact their relationship with patients.¹⁵³ However, we were unable to identify research directly examining whether MEAR laws increase or decrease professionals' reluctance to report.

2. IMPACT ON AWARENESS OF ELDER ABUSE

We found no research measuring whether implementation of MEAR laws impacted awareness of elder abuse either on mandated reporters or the public more broadly. However, we identified one study by Roger and Ursel (2009) that found limited impact on awareness of elder abuse despite the presence of MEAR laws in the province studied (Manitoba, Canada).¹⁵⁴

IV. Assessment of the Costs and Benefits of Mandatory Reporting

The previous Part described the current state of knowledge regarding the impact of MEAR statutes. In this Part, we draw on that research to provide an assessment of the key benefits and costs of MEAR statutes as currently implemented.

A. Benefits of Mandated Reporting

As discussed in Section II(A), the central benefit theoretically offered by mandatory reporting requirements is that it can prevent physical, psychological, and financial harm by creating a stronger incentive for would-be reporters to alert authorities about victims and their situations, enabling authorities to intervene in situations in which they otherwise might not. We find a lack of evidence that MEAR achieves this goal. There is evidence that MEAR increases the rate of reports and investigations, at least initially.¹⁵⁵ The long-term impact, however, is unclear. Research on the impact of introducing mandatory reporting for child abuse in Australia suggests that mandatory reporting statutes

153. Rodríguez et al., *supra* note 33, at 403–05 (interviewing 20 physicians in Alabama; subjects identified costs and benefits of MEAR, including concerns about mandatory reporting on their patients and their relationship with patients).

154. Kerstin Stieber Roger & Jane Ursel, *Public Opinion on Mandatory Reporting of Abuse and/or Neglect of Older Adults in Manitoba, Canada*, 21 J. ELDER ABUSE & NEGLECT 115, 120–21 (2009).

155. Jogerst et al., *Domestic*, *supra* note 98, at 2132.

may spur a short-term rise in reports,¹⁵⁶ but not a sustained impact.¹⁵⁷ The short-term impact may reflect the benefits of training associated with the introduction of reporting requirements.

Even if adopting MEAR causes a persistent increase in reports and investigations, it will not necessarily improve older adults' well-being. A key reason is that there is a lack of evidence that MEAR increases the number of substantiated cases of elder abuse,¹⁵⁸ and we could not identify any empirical evidence that outcomes for older adults improve when the rate of investigations that do not result in substantiation increases. Of course, it could be that investigations have value for older adults, whether substantiated or not. For example, it might be that the investigatory process results in information or resources being shared that are advantageous to older adults and their caregivers. However, investigation without substantiation might have little benefit or even endanger the subject of the report. For example, such investigations might scare older adults into not disclosing future abuse, might encourage abusers to hide future abuse, and might encourage older adults and caregivers to sever advantageous relationships with suspected reporters. There is, however, a lack of research examining this issue.¹⁵⁹

The lack of evidence that MEAR increases substantiation rates should not, perhaps, be surprising. MEAR statutes often mirror child abuse reporting statutes, and many states modeled their approaches on pre-existing child abuse reporting statutes.¹⁶⁰ In the child abuse context, research has found that mandated reporting policies were generally not

156. Frank Ainsworth, *Mandatory Reporting of Child Abuse and Neglect: Does It Really Make a Difference?*, 7 CHILD & FAM. SOC. WORK 57, 61 (2002).

157. Ben Mathews, Xing Ju Lee & Rosana E. Norman, *Impact of a New Mandatory Reporting Law on Reporting and Identification of Child Sexual Abuse: A Seven Year Time Trend Analysis*, 56 CHILD ABUSE & NEGLECT 62, 68–69 (2016) (finding that there was an association between the rate of mandated reporting and introduction of mandated reporting laws, but the increased rate leveled off after a few years).

158. See *supra* Section III.A (noting that while MEAR laws appear to increase reporting and investigation rates, existing research has not established a corresponding increase in substantiated cases).

159. The authors were unable to find research studying the impact of investigations that do not result in substantiation; however, some authors reported that they believed—based on their personal experience with reporting—that such benefits can occur.

160. See John B. Breaux & Orrin G. Hatch, *Confronting Elder Abuse, Neglect, and Exploitation: The Need for Elder Justice Legislation*, 11 ELDER L.J. 207, 213–16 (2003).

associated with increased reporting rates or a higher likelihood of substantiation of reports once made.¹⁶¹

However, even if MEAR laws do not improve older adults' safety and well-being, such laws might still have utility. One potential benefit is that such laws might help those required to make reports. Although reporters are generally subject to some degree of immunity for good faith reports even in the absence of a mandate, a legal requirement to report offers additional "cover" for a reporter. For example, a reporter might explain to an upset victim or family member that the reporter "had no choice" but to report. Yet, the limited evidence on MEAR statutes' impact on reporters suggests that reporters nevertheless are concerned about *negative* impacts MEAR may have on them and their relationship with subjects.

Another set of potential benefits may flow from MEAR increasing the volume of reported abuse cases. More reports may help APS and potentially researchers obtain a clearer view of the incidence of abuse in the community and enhance the visibility of elder abuse. Similarly, additional reports forwarded to law enforcement can lead to more criminal proceedings, which could help victims obtain justice and disrupt perpetrators' access to other potential targets, although the evidence here is limited.

Finally, MEAR laws may have expressive and educational value. Mandating reporting of elder abuse is a way for the state to educate victims, abusers, and the general public that abuse is not simply a "private matter," but also a serious societal issue—one in which the state has an interest in providing protection and accountability. Similarly, it may encourage professional organizations to provide training about elder abuse and how to report, which might result in professionals being more likely to respond to suspicions of abuse in ways that benefit victims. That said, here too, we lack empirical support demonstrating such benefits.

161. Rosenberg et al., *supra* note 103, at 9; Grace W.K. Ho, Deborah A. Gross & Ami Bettencourt, *Universal Mandatory Reporting Policies and the Odds of Identifying Child Physical Abuse*, 107 AM. J. PUB. HEALTH 709, 712 (2017).

B. Costs of Mandated Reporting

Although mandatory reporting statutes are commonly viewed as helpful to older adults or, at worst, benign, mandating reporting of elder abuse comes at a cost. First, MEAR statutes can strain the resources of responders. The existing research indicates that MEAR increases the number of reports of abuse, as well as the number of investigations, but does not increase the rate of substantiated cases.¹⁶² This may suggest that either the additional reports may tend to lack merit, that responders may lack the additional resources needed to substantiate valid claims, or both. Thus, there is reason to be concerned that one impact of MEAR statutes may be that they strain APS resources with reports of questionable value, and that sifting through these reports strains an already underfunded system.

Second, there is a lack of evidence that MEAR laws increase the extent to which victims of elder abuse obtain assistance that they want, and some evidence that they increase the risk of unwanted interventions. Not only is there a lack of evidence that MEAR laws increase acceptance of services, but services, even if accepted, may not improve victim satisfaction or safety.¹⁶³ As the APS data we reviewed suggests, the types of services offered to victims can result in outcomes older adults typically wish to avoid: institutionalization and the loss of decision-making rights (e.g., through imposition of a guardianship).¹⁶⁴

Third, there are costs to being the subject of a report. Some individuals will be subject to intrusive and stressful investigations when

162. See Daly et al., *supra* note 97, at 7 (concluding that investigation rates increase but substantiation rates are not significantly impacted by MEAR, suggesting many investigations do not confirm abuse).

163. Raphael Gaeta, Anne Leopol, Mary Twomey, Zach Gassoumis & Peter Lovegrove, *The Impact of Adult Protective Services on Client Outcomes: Findings from a Multi-State Study*, NAT'L ADULT PROTECTIVE SERVS. ASS'N (Feb. 2023), <https://www.napsa-now.org/wp-content/uploads/2023/02/NAPSA-R2P-Brief-Final.pdf> [<https://perma.cc/H4ZA-9RBH>] (reporting that of the elder abuse victims that received services from APS, nearly half did not report feeling any safer after accepting APS intervention, nearly half did not perceive an improved life, and roughly thirty percent did not report feeling satisfied after receiving services).

164. Mark S. Lachs, Christianna S. Williams, Shelley O'Brien & Karl Pillemer, *Adult Protective Service Use and Nursing Home Placement*, 42 GERONTOLOGIST 734, 737 (2002) (reporting that APS referrals for self-neglect and elder mistreatment were the strongest predictors of institutionalization). See also Shelly L. Jackson & Thomas I. Hafemeister, *APS Investigation Across Four Types of Elder Maltreatment*, 14 J. ADULT PROT. 82 (2012) (finding that a substantial proportion of older adults who received APS services would have preferred that APS not investigate their cases).

they are not actually victims of abuse.¹⁶⁵ Factors other than actual mistreatment may trigger reports, disrupting the lives of older adults already facing challenges.¹⁶⁶ Poverty-related challenges like inadequate housing or limited access to food might be mistaken for neglect, even when older adults are making reasonable choices.¹⁶⁷ Even when reports correctly identify abuse, the report may be a source of trauma and harm. Investigations often involve intrusive questioning and actual or perceived threat of loss of autonomy (including nursing home placement), which can retraumatize older adults who have already experienced abuse.¹⁶⁸ Moreover, mandatory reporting laws may discourage families from seeking needed help and social services out of fear that a perceived shortcoming could result in reports and potential family separation.¹⁶⁹ This reluctance could limit access to valuable resources and support that could improve older adults' well-being. Thus, MEAR laws may be especially likely to cause unintended harm to older adult experiencing poverty or family caregiving challenges.

A fourth potential cost is that MEAR laws may stymie reporters' ability to take the type of action that they believe is appropriate to help suspected victims. Would-be reporters express concern that once a report is made, they may lose the trust of the victim, abuser or others within the victim's circle, with the result that the reporter becomes unable to help the victim, or reduce the risk posed by the abuser.¹⁷⁰ For example, although reports are typically confidential, the subject of a

165. See Daly et al., *supra* note 97, at 7 (concluding that investigation rates increase but substantiation rates are not significantly impacted by MEAR, suggesting many investigations do not confirm abuse); see also Hierl, *supra* note 18, at 388 (discussing the intrusive nature of interventions); Pillemer & Suito, *supra* note 142, at 422 (discussing how intervention affects older adults' privacy interests, including the interests of those not experiencing abuse).

166. See Mark S. Lachs, *Risk Factors for Reported Elder Abuse and Neglect: A Nine-Year Observational Cohort Study*, 37 GERONTOLOGIST 469, 469–74 (1997).

167. See *id.* at 473–74.

168. Hierl, *supra* note 18, at 391.

169. Robert M. Gordon & Susan Tomita, *The Reporting of Elder Abuse and Neglect: Mandatory or Voluntary?*, 38 CAN. MENTAL HEALTH 1, 3 (1990) (discussing how older adults may avoid revealing abuse due to fear of intrusive investigations and unwanted interventions).

170. See Rodríguez et al., *supra* note 33, at 405 (finding that fifty percent of physicians studied reported they were concerned about the impact that reporting elder abuse would have on “patient report,” explaining “physicians who built strong rapport over the years believed that their patients might feel deceived and let down if a report were made. . . . ‘Once I step across the line, saying, ‘I’m going to report you,’ I lose all rapport with that family, my relationship with the patient is going to be altered forever’”).

report may well figure out who made it. Thus, some have warned that physicians who report might find their relationship with patients terminated, leaving them unable to provide further support that would help address factors contributing to the abuse or treat the harms associated with abuse.¹⁷¹ This could be especially problematic if the report did not result in the victim receiving help. Thus, the cost to the relationship may be less justifiable when it is likely that APS is unable to provide services (e.g., in situations in which the victim has capacity to refuse services and will not consent to intervention).

However, the existing research does not indicate whether MEAR laws actually undermine reporters' ability to act to the benefit of victims. Given that MEAR laws are rarely enforced against mandated reporters,¹⁷² it may be that mandated reporters routinely do not make a report in situations where they believe it would be harmful, even though legally required to do so. Moreover, it is possible that reporting strengthens relationships between the suspected victims and reporters. For example, a patient might feel safer or better supported by a physician if that physician reported the patient's abuse to an authority that could help address it.

V. A Path Forward

As noted previously, when states adopted MEAR requirements, they typically looked to their states' child abuse reporting requirements and, in large part, copied them.¹⁷³ Child abuse reporting laws tend to be very broad (e.g., defining abuse broadly and creating broad categories of reporters)¹⁷⁴ in part because children are often unable to protect themselves and in part because children are not entitled to make many of the life choices that adults are legally entitled to make.

Given the lack of evidence that MEAR laws improve elder safety or well-being and the significant potential costs of reporting mandates, it is difficult to justify broad reporting requirements. Like mandatory child abuse reporting laws, support for MEAR laws has been grounded in concerns that abuse victims might be unable or afraid to reveal their victimization, so others must be mandated to do so. This reflects a

171. *Id.* at 406.

172. *See supra* notes 107–12 and accompanying text.

173. *See Kohn, supra* note 19, at 176 (discussing the origin of MEAR laws and how they were adapted from mandatory child abuse reporting laws).

174. *Id.* at 187–88.

recognition that the older adults with cognitive disabilities are both at greater risk of being victimized and more likely to have impaired judgment that prevents them from understanding that risk. The reality, however, is that most older adults do not have any substantial cognitive impairment,¹⁷⁵ and nearly all retain the legal right to make decisions about their own lives.¹⁷⁶ For this reason, and because there is no evidence that mandatory reporting laws do more good than harm, strong justification should be required before undermining older adults' self-determination or intruding on their confidential relationships.

Much as the U.S. Preventive Services Task Force declined to recommend routine screening for elder abuse and neglect due to insufficient evidence that such screening benefits older adults,¹⁷⁷ there is insufficient evidence to recommend states adopt mandatory reporting for elder abuse. The reality, however, is that states have already adopted mandatory reporting laws and are highly unlikely to repeal them. These laws are central to how states respond to elder abuse, and they are politically popular.¹⁷⁸ As a practical matter, therefore, it makes sense to focus on improving these laws, rather than repealing them. This Part therefore outlines how additional research could inform and support this improvement, as well as ideas for reforms that could be undertaken even in the absence of further research.

A. Research

As our literature review¹⁷⁹ shows, there is a profound lack of data directly speaking to whether mandatory reporting improves safety or well-being. Further research is needed to determine whether

175. Jo Mhairi Hale, Daniel C. Schneider, Neil K. Mehta & Mikko Myrskylä, *Cognitive Impairment in the U.S: Lifetime Risk, Age at Onset, and Years Impaired*, 11 SSM POPULATION HEALTH 1, 4 (2020) (analyzing data on U.S. adults aged fifty and over from the Health and Retirement Study and reporting that roughly seventy-five percent of older adults in the sample displayed no cognitive impairment, and another seventeen percent had only mild impairment).

176. Individuals can be stripped of their right to make their own decisions by a court as part of a guardianship or conservatorship proceeding. Best estimates suggest that approximately 1.5 million Americans are subject to guardianship, and that many of these are younger adults with disabilities. See Kohn & English, *supra* note 145. Thus, most older adults retain decision-making rights.

177. U.S. Preventive Servs. Task Force, *Screening for Intimate Partner Violence, Elder Abuse, and Abuse of Vulnerable Adults: US Preventive Services Task Force Final Recommendation Statement*, 320 JAMA 1678, 1680–82 (2018).

178. See discussion *supra* Part II.

179. See discussion *supra* Part III.

mandatory reporting schemes can be created that will, on balance, improve the lives of older adults, and which approaches to mandatory reporting would yield the most significant positive impact.

A first line of inquiry should be to examine the impact that reporting of abuse, both mandatory and permissive, has on older adults' safety and well-being. To that end, researchers should seek to understand the outcomes for individuals who have been the subject of a report compared to a control group. Thus, researchers might ask to what extent being the subject of a report correlates (either positively or negatively) with proxy indicators of well-being, such as reduced mortality, morbidity, hospitalization, institutionalization, loss of decision-making rights, or the direct indicator of self-reported well-being or satisfaction. Ideally, outcomes for individuals subject to a report would be compared to outcomes for individuals who experience similar abuse but are not the subject of a report. For example, to understand the impact of mandatory reporting on financial exploitation, it would be helpful to know whether individuals who are victimized and whose exploitation is reported experience superior financial outcomes relative to those whose exploitation is not reported. Perhaps they are less likely to have assets dissipated, more likely to qualify for public benefits, or more likely to avoid further exploitation or other adverse outcomes such as bankruptcy, institutionalization, or guardianship.

The many varied laws enacted in different states could provide naturally occurring opportunities for comparative analyses of different approaches to mandatory reporting. The National Bureau of Economic Research (NBER) conducted one such study during the roll-out of a FINRA rule allowing brokers to temporarily freeze transactions they believed might result in financial exploitation.¹⁸⁰ In comparing outcomes in jurisdictions where the rule was in force with those where it was not, NBER researchers found that the rule resulted in a reduction of fraud and personal bankruptcies of about five percent.¹⁸¹ Researchers should consider similar opportunities to understand MEAR.

A second, related line of inquiry would be to explore whether certain factors are associated with reports of elder abuse having positive or negative outcomes. It might be that the type of reporter is a predictor of outcomes, with reports made by certain categories of reporters

180. Bruce I. Carlin, Tarik Umar & Hanyi Yi, *Deputization* 1–4 (Nat'l Bureau of Econ. Rsch., Working Paper No. 27224, 2020).

181. *Id.* at 12–15.

producing greater benefit. Similarly, it could be that reports of certain types of abuse (e.g., physical abuse or financial exploitation) are more likely to result in improved victim outcomes than reports of other types of abuse. Victim characteristics, such as age or cognition, might also be predictive. For example, individuals who have limited cognitive capacity may be more likely to benefit from reports because they are less capable of looking out for their own interests. Such research on the factors associated with positive or negative report outcomes could provide valuable insight into how to tailor mandatory reporting laws so that mandates only apply to types of abuse or categories of victims for which they are statistically likely to improve victim outcomes.

Of course, such research will provide only limited insight into the impact of *mandated* reporting unless it compares situations involving mandated reports with those involving permissive reports. One way to gain insight into the impact of mandates would be to compare outcomes of reports from mandated reporters to outcomes of reports by those not under a legal obligation to report.

A third area ripe for inquiry is to investigate the effectiveness of mandatory reporting in holding perpetrators accountable. While MEAR laws are often justified on the grounds that they expose criminal behavior,¹⁸² little is known about whether they actually increase prosecution rates, lead to meaningful consequences for abusers, deter future abuse, or result in restitution for victims. Studies should examine whether reports lead to criminal charges, financial restitution, or protective actions, and whether victims whose cases are reported experience a reduction in future exploitation compared to those whose cases are not reported. Without a clearer understanding of perpetrator accountability, it remains uncertain whether mandatory reporting laws serve as an effective deterrent to elder abuse.

A fourth research focus could compare outcomes among states with significantly different reporting requirements. Outcomes in Wisconsin, which has the most person-centered approach to their law,¹⁸³ could be compared to another state such as Rhode Island that has broad reporting requirements as to the types of mandated reporters and the

182. See *supra* Section II.A.

183. See *supra* Section III.A.

criteria for mandated reports,¹⁸⁴ and compared to a state such as New York that has very narrow reporting requirements.¹⁸⁵

In addition, given the concerns that have been raised about bias impacting reporting behavior, research into the role that stereotypical thinking or bias may play in reporting practices is warranted. For example, research should examine whether implicit biases influence reporting decisions, how reports vary by demographic and socioeconomic factors, and whether certain communities face a higher risk of unnecessary intervention. If reporters disproportionately report suspicions of certain populations, including low-income older adults, racial minorities, and individuals with disabilities, it might contribute to systemic inequities in elder protection systems. On the other hand, mandating reporting of all suspected victims—rather than leaving the decision to report to the discretion of reporters—might counteract bias.

For each of these areas of inquiry, it will be important for researchers to engage with older adults who have experienced mistreatment to understand their experiences and what they have found helpful or harmful. Researchers could, for example, work with focus groups of older adults who have been the subject of such reports to learn from them. Similarly, researchers could work with focus groups of older adults who are at risk for, or have experienced abuse or exploitation, but who have not been the subject of a report and learn from them as well. Since many victims have some degree of cognitive impairment, it would be helpful to include—to the extent feasible—older adults who have cognitive impairments.

Notably, much of the research we suggest will necessarily involve research into APS systems and their efficacy, as it is most typically APS that responds to reports of elder abuse. Studying reporting thus has the potential to help generate better insight into the working and efficacy of APS. This would be valuable as there is currently limited data about APS efficacy. Currently, many APS agencies do not keep granular data on either outcomes or interventions. For example, many agencies simply track whether services were accepted after a report of abuse is substantiated.¹⁸⁶ However, knowing whether services are accepted

184. R.I. GEN. LAWS 42-66 (2024).

185. N.Y. SOC. SERV. LAW § 473 (McKinney 2024).

186. To facilitate this, the federal government could further improve the National Adult Maltreatment Reporting System (NAMRS) to encourage APS agencies

reveals little about how the state intervened in response to a report, as there is a wide range of services that might be offered and implemented.¹⁸⁷

B. Law Reform

Research along the lines of that outlined in the previous subsection would enable states to engage in evidence-based law reform, improving the effectiveness of elder abuse interventions. However, even without that research, states should consider reforming their existing laws to balance likely costs and benefits. This might mean shifting to permissive reporting in certain situations where mandates now exist, such as cases where the victim does not have diminished cognitive capacity or is not at risk of serious further harm. It might also mean adding exceptions to existing mandatory requirements where reporters have good cause not to report.

In reforming existing mandates, states would benefit from embracing a trauma-informed approach to mandatory reporting.¹⁸⁸ A trauma-informed approach is one that recognizes that individuals, even when faced with similar experiences or challenges, respond

to collect and report data regarding specific interventions used and outcomes for clients. For more information about NAMRS, see *National Adult Maltreatment Reporting System (NAMRS)*, ADMIN. FOR CMTY. LIVING, <https://acl.gov/programs/elder-justice/national-adult-maltreatment-reporting-system-namrs> [https://perma.cc/4CBR-7Q96] (last visited Mar. 25, 2025).

187. Consider the range of services that might be implemented in response to a report of financial exploitation. Some services might be voluntary. The victim might simply be given information that they never act on. Or they might receive information that prompts them to engage in helpful financial planning or self-protective activity. For example, they might discover that they can designate a caregiver or professional fiduciary to receive alerts on their accounts to assist them in keeping an eye on their hard-earned savings, or work with a financial planner to manage their assets in a safer way. If they were exploited by an agent under a power of attorney, they might authorize a new person to assist and pursue legal action to get funds returned. Other services might be involuntary. For example, they might be placed under conservatorship to protect their funds from further depletion, or they might be placed in an institution that would manage their affairs for them. Thus, the impact of a report of financial exploitation cannot be ascertained simply by whether APS offers services in response. It will depend on what services are offered, and whether those services are accepted or imposed—which may itself depend on whether the individual faces barrier to service utilization.

188. Our recommendation builds upon broader calls for integrating trauma-informed principles into systems designed to address elder abuse and neglect. See, e.g., J.S. Ernst & Tina Maschi, *Trauma-Informed Care and Elder Abuse: A Synergistic Alliance*, 30 J. ELDER ABUSE & NEGLECT 354 (2018).

differently based on their personal histories, contexts, and resiliency.¹⁸⁹ As such, proponents of trauma-informed care tend to recommend intervention approaches that can be individualized rather than uniformly applied protocols.

A trauma-informed approach to reporting would recognize that reporting is not always in the interest of the subject of the report. Advocates for trauma-informed approaches to child abuse reporting have, for example, actively discouraged reporting all cases of children exposed to interpersonal violence on the grounds that it may have unintended consequences, including discouraging victims from seeking help.¹⁹⁰

Likewise, a trauma-informed approach would be responsive to the dynamics of abusive relationships and seek to avoid furthering harmful dynamics or directly precipitating harm. It would, for example, recognize that perpetrators may use the threat of a report, or manipulate service providers, to further the power and control dynamic associated with abuse. It would also recognize that coercive interventions can not only further these existing power-and-control dynamics, but may mirror them, subjecting victims to additional trauma or re-traumatization.¹⁹¹

States would also benefit from embracing a person-centered approach to elder abuse reporting. A person-centered approach is one which prioritizes interventions that are consistent with the preferences, values, and goals of the individual who is at risk.¹⁹² It is increasingly embraced by those working in the elder protection field. Indeed, person-centered approaches are at the heart of the new federal regulations

189. The concept was introduced by Harris and Fallot in 2001. *See* MAXINE HARRIS & ROGER D. FALLOT, USING TRAUMA THEORY TO DESIGN SERVICE SYSTEMS *passim* (2001); LUCY BOND & STEF CRAPS, TRAUMA 43, 55–57 (2020).

190. *See, e.g.,* Sarah Fathallah, Anna Myers & Veronica Caridad Rabelo, *Adding Friction to Mandatory Reporting: The Case for Survivor-Centered Research*, EPIC, <https://www.epicpeople.org/adding-friction-to-mandatory-reporting-survivor-centered-research/> [<https://perma.cc/AX58-VQ9L>] (last visited Mar. 25, 2025) (arguing that mandatory reporting requirements are a barrier to trauma-informed research approaches).

191. *Cf.* SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION (SAMHSA), SAMHSA'S CONCEPT OF TRAUMA AND GUIDANCE FOR A TRAUMA-INFORMED APPROACH 2–3 (2014), <https://library.samhsa.gov/product/samhsas-concept-trauma-and-guidance-trauma-informed-approach/sma14-4884> [<https://perma.cc/8C8T-A8PA>] (discussing the core principles behind trauma informed care).

192. *See* APS TARC, *Use of Person-Centered Principals*, *supra* note 116.

for APS released by the Administration for Community Living in 2024 and embraced by the National Protective Service Association's Code of Ethics.¹⁹³

In the context of reporting, a person-centered approach would take an individual's preferences, values, and goals into account in determining when a report must be made. This might, for example, mean amending existing mandates to excuse reporting in situations where the suspected victim has the cognitive ability to understand and appreciate their risk and does not wish to have suspicions reported.

Wisconsin's approach is a potential model for states seeking a trauma-informed, person-centered approach to elder abuse reporting.¹⁹⁴ Wisconsin's law strikes a balance between preserving older adults' dignity and autonomy while still leaving room for professional judgment in ensuring the elder's safety and well-being is prioritized.¹⁹⁵ Unless the subject of the report has requested a report be made, Wisconsin limits reporting duties to situations where the reporter has reasonable cause to believe that the subject of the report is "at imminent risk of serious bodily harm, death, sexual assault, or significant property loss and is unable to make an informed judgment about whether to report the risk" or where another person is at risk of such harms from the suspected perpetrator.¹⁹⁶ In addition, as discussed previously, Wisconsin exempts would-be reporters from filing a report if they believe reporting would not be in the best interest of the victim.¹⁹⁷ Thus, states would be well-advised to consider Wisconsin's approach, and research examining its impacts should be prioritized.

C. A Larger Conversation

The concerns we raise about MEAR requirements, and our call for states to tailor reporting requirements to better balance likely costs and benefits, are ultimately part of a larger conversation about the role of government in responding to abuse and the desirability of government

193. *Id.*

194. *Accord* Kohn, *supra* note 13, at 1085 (commending Wisconsin for mitigating key privacy concerns associated with mandatory reporting, noting "Wisconsin limits mandatory reporting to situations in which the government's interest in receiving reports of mistreatment is especially great, and also minimizes the extent to which reporting burdens individuals' privacy interests").

195. *See id.*

196. WIS. STAT. § 46.90(4) (2025).

197. *Id.*

enlisting health care professionals, social service providers, and private citizens in monitoring unlawful conduct. Concerns about the negative impacts of enlisting health care professionals to monitor abuse of vulnerable persons also have been raised in the context of domestic violence and child abuse.¹⁹⁸ Increasingly, such concerns are also being raised about enlisting health care professionals and other service providers to report a broader range of suspected legal violations by their patients or consumers, from unlawful reproductive health choices to immigration law violations.¹⁹⁹

Accordingly, when considering how to improve responses to elder abuse, it could be valuable to engage with this larger conversation about the consequences of commandeering health care workers and other social service providers to monitor vulnerable populations and report suspected abuse.

Perhaps most immediately, it is important to learn from the growing conversation about child protection systems. Recent years have witnessed growing discontent with mandatory child abuse reporting laws.²⁰⁰ Such laws have long required certain professionals, commonly teachers, healthcare workers, and social workers, to report suspicions of child abuse or neglect to state authorities.²⁰¹ As with elder abuse reporting laws, the goal is to protect subjects of the report—in this case children—from harm.²⁰² Yet, scholars and advocates for children and families have begun making a powerful case that child abuse reporting systems can harm the children they are designed to protect.²⁰³ The key concern is not the mandatory reporting requirements themselves, but rather the programs into which those reports funnel children and families.²⁰⁴

Central to the growing critique of mandatory child abuse reporting is a growing concern that such mandates exacerbate economic

198. See, e.g., Stephanie A. Wolfson, *Screening for Violence and Abuse Through the Lens of Medical Ethics*, 11 DEPAUL J. HEALTH CARE L. 1, 7–9 (2007) (discussing concerns that mandatory domestic violence screening will lead victims to forgo healthcare and disclosure of abuse).

199. See *id.* at 6, 10.

200. See Kristin Jones, *States Find a Downside to Mandatory Reporting Laws Meant to Protect Children*, NPR (Apr. 25, 2024, 7:00 AM), <https://www.npr.org/sections/health-shots/2024/04/25/1247021109/states-find-a-downside-to-mandatory-reporting-laws-meant-to-protect-children> [<https://perma.cc/AXN8-RLVW>].

201. See *id.*

202. See *id.*

203. See *id.*

204. See *id.*

disadvantages, because low-income families are more likely to be subject to reports,²⁰⁵ and racial inequality, as Black and brown families are also disproportionately the subject of such reports.²⁰⁶ Most prominently, Dorothy Roberts has described mandatory reporting as part of a fundamentally racist child welfare system that harms Black families by breaking them apart in the name of protection.²⁰⁷ Calling for the ending mandated reporting of child abuse,²⁰⁸ Roberts has argued:

Mandated reporting . . . drives parents from the very service providers that are most likely to support them. Enlisting service providers in [Child Protective Services or] CPS surveillance deters families from seeking needed assistance and ruins their relationship with families, thereby weakening their capacity to improve children's welfare. Providing services within a punitive family policing system thwarts the potential for schools, health care clinics, and social programs to be caring hubs of community engagement that non-coercively help families meet their material needs.²⁰⁹

Consistent with these concerns, some states have made efforts to amend mandatory child abuse reporting laws so as not to require reports to be made when the risk a child is experiencing is due to economic disadvantage.²¹⁰ For example, California amended its statute to

205. See *"If I Wasn't Poor, I Wouldn't Be Unfit": The Family Separation Crisis in the US Child Welfare System*, HUM. RTS. WATCH (Nov. 17, 2022), <https://www.hrw.org/report/2022/11/17/if-i-wasnt-poor-i-wouldnt-be-unfit/family-separation-crisis-us-child-welfare> [https://perma.cc/W3B6-6E8R].

206. *Id.* It is unclear what the cause of this difference is. A recent empirical study suggests that reporters may actually be more likely to report conduct by non-Hispanic white parents against non-Hispanic white children than by Black parents against Black children. See Ian Ayres, Sonia Qin & Pranjal Drall, *Racial and Gender Bias in Child Maltreatment Reporting Decisions: Results of a Randomized Vignette Experiment*, 21 UC L.J. RACE & ECON. JUST. 183, 216 (2024) (in a vignette study, finding that "respondents who saw non-white parent and child names in a vignette were significantly less likely to report the parent for child maltreatment than respondents who saw non-Hispanic white parent and child names in a vignette"). Observing that this result was at odds with the literature suggesting that racial stereotyping leads to mandatory reporting disproportionately disadvantaging Black families, the authors observed that "because Black and brown communities are subject to over-policing and over-surveillance, the high levels of reporting they experience may simply be because reporters are seeing more instances of potential maltreatment than they are seeing in white communities." *Id.* at 217.

207. DOROTHY E. ROBERTS, *SHATTERED BONDS: THE COLOR OF CHILD WELFARE* 29–30, 47–50 (2002).

208. See Dorothy E. Roberts, *How I Became a Family Policing Abolitionist*, 11 COLUM. J. RACE & L. 455, 465 (2021) (urging "work to end mandated reporting").

209. *Id.* at 459–60.

210. See Jones, *supra* note 200.

clarify that “general neglect” does not include a parent’s economic disadvantage.²¹¹

This type of work already being done in the child protection space may help inform efforts in the elder protection space.²¹²

VI. Conclusion

Mandatory reporting has long been central to the U.S. response to elder abuse, but such requirements may have significant costs for older adults, those required to report, and the institutions tasked with investigating and responding to reports. Yet, as this Article has shown, there is limited evidence that MEAR requirements achieve their primary goal: increasing older adults’ safety and well-being. Accordingly, it is time for states to reassess and refine their mandatory reporting requirements, with the goal of adopting approaches that are more respectful of the rights of older adults and more responsive to the diverse needs of this heterogeneous population. This Article has laid out a series of research questions and approaches that could inform such efforts and offer insight into how reporting obligations might be tailored to better align costs and benefits. However, even without further research, states should seek to reform their mandatory elder abuse laws to provide a better balance between likely costs and benefits. Otherwise, legal obligations designed to protect older adults may instead expose them to increased and unnecessary risk.

211. Assemb. B. 2085 ch. 770, 2021–2022 Reg. Sess. (Cal. 2022); a parallel effort was defeated in Montana. H.B. 37 68th Leg., Reg. Sess. (Mont. 2023).

212. Similar discussions are also happening in the domestic violence space, with concerns being raised about the consequences of state’s responses to domestic violence. See, e.g., *Moment of Truth*, VIOLENCE FREE COLO. (June 2020), <https://violence-freecolorado.org/moment-of-truth-a-message-from-our-executive-director-and-board-of-directors/> [<https://perma.cc/RW85-7KUF>] (urging those working on sexual assault and domestic violence issues to embrace a Black Lives Matter perspective that would focus on community-based solutions and deemphasize criminal justice responses).

Appendix A: Subjects of Mandated Reports by State

Key to statutory categories:

- Category A: requires reports be made about adults who have a limiting condition;
- Category B: requires reports be made about older adults (regardless of whether they have a limiting condition);
- Category C: requires reports about individuals only if they are both older and have a limiting condition.
- * Indicates state considers "advanced age" or "infirmities of aging" as potential limiting conditions.

State	Category	Statutory citation	Subjects of mandatory reporting
Alabama	A	ALA. CODE § 38-9-2(18) (2024)	"[P]ersons with a neurodegenerative disease, persons with intellectual disabilities and developmental disabilities, or any person 18 years of age or older . . . who is mentally or physically incapable of adequately caring for himself or herself and his or her interests without serious consequences to himself or herself or others."
Alaska	A*	ALASKA. STAT. § 47.24.900(21) (2024)	"[A] person 18 years of age or older who, because of incapacity, mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, fraud, confinement, or disappearance, is unable to meet the person's own needs or to seek help without assistance."
Arizona	A	ARIZ. REV. STAT. ANN. § 46-451(A)(12) (West 2024)	"[A]n individual who is eighteen years of age or older and who is unable to protect himself from abuse, neglect or exploitation by others because of a physical or mental impairment."

Arkansas	A	ARK. CODE. ANN. § 12-12-1703(6), (10)(A) (2024)	Those eighteen or older “in a situation or condition that poses a danger to himself or herself” and “lack [the] capacity to comprehend the nature and consequences of remaining in that situation or condition” or “who as a result of mental or physical impairment” cannot protect themselves from abuse
California	A, B	CAL. WELF. & INST. CODE §§ 15610.23, .27 (West 2024)	“[A]ny person . . . 65 years of age or older” and “a person . . . between the ages of 18 and 64 years who resides in this state and who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights”
Colorado	A, B	COLO. REV. STAT. § 18-6.5-102(2), (2.5) (2024)	“[A] person who is eighteen years of age or older and is a person with an intellectual and developmental disability” and “any person who is seventy years of age or older.”
Connecticut	B	CONN. GEN. STAT. § 17b-450(1) (2024)	“[A]ny resident of Connecticut who is sixty years of age or older.”
Delaware	A	DEL. CODE ANN. tit. 31, § 3902(3) (2024)	“[A]n individual 18 or older who, because of physical or mental disability is substantially impaired in the ability to provide adequately for the individual’s own care and custody.”
District of Columbia	A	D.C. CODE § 7-1901(2)(A) (2024)	“[A]n individual 18 years of age or older who: (i) [i]s highly vulnerable to abuse, neglect, self-neglect, or exploitation because of a physical or mental impairment, self-neglect, or incapacity; (ii) [h]as recently been or is being abused, neglected, or exploited by another or meets the criteria for self-neglect; and (iii) [h]as no one willing and able to provide adequate protection.”

Florida	A*	FLA. STAT. § 415.102(28) (2024)	"[A] person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging."
Georgia	A, B	GA. CODE ANN. § 30-5-3 (2024)	"Disabled adults" and those sixty-five years of age or older
Guam	A, B	10 GUAM CODE ANN. § 21002 (2024)	"Adult with a [d]isability" and any "person age sixty (60) years or older"
Hawaii	A	HAW. REV. STAT. § 346-222 (2024)	"[A] person eighteen years of age or older who, because of mental, developmental, or physical impairment, is unable to: (1) [c]ommunicate or make responsible decisions to manage the person's own care or resources; (2) [c]arry out or arrange for essential activities of daily living; or (3) [p]rotect oneself from abuse"
Idaho	A*	IDAHO CODE § 39-5302(1)(dd) (2024)	"[A]n adult who is unable to protect himself from maltreatment because of: (i) a mental, physical, or developmental disability; (ii) a degenerative brain disease; (iii) an inability to communicate or implement decisions regarding his person; or (iv) other infirmities of aging in an older adult."
Illinois	A, B	320 ILL. COMP. STAT. 20/2(a-6), (e) (2024)	"[A]n adult with disabilities aged 18 through 59 or a person aged 60 or older"

Indiana	A	IND. CODE § 12-10-3-2(A) (2024)	"[A]n individual who is: (1) at least eighteen (18) years of age; (2) incapable by reason of mental illness, intellectual disability, dementia, habitual drunkenness, excessive use of drugs, or other physical or mental incapacity of managing or directing the management of the individual's property or providing or directing the provision of self-care; and (3) harmed or threatened with harm as a result of: (A) neglect; (B) a battery offense . . . ; or (C) exploitation of the individual's personal services or property."
Iowa	A	IOWA CODE § 235B.2 (2024)	"[A] person eighteen years of age or older who is unable to protect the person's own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another, or as defined by departmental rule."
Kansas	A	KAN. STAT. ANN. § 39-1430(b)(1) (West 2024)	Persons "18 years of age or older alleged to be unable to protect such person's own interest and who is harmed or threatened with harm, whether financial, mental or physical in nature, through action or inaction by either another individual or through such person's own action or inaction"
Kentucky	A	KY. REV. STAT. ANN. § 209.020(4) (West 2024)	"[A] person eighteen (18) years of age or older who, because of mental or physical dysfunctioning, is unable to manage his or her own resources, carry out the activity of daily living, or protect himself or her-self from neglect, exploitation, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services"

Louisiana	A*	LA. STAT. ANN. § 15:1503(3) (West 2024)	"[A]ny individual eighteen years of age or older . . . who, due to a physical, mental, or developmental disability or the infirmities of aging, is unable to manage his own resources, carry out the activities of daily living, or protect himself from abuse, neglect, or exploitation."
Maine	A	ME. STAT. tit. 22 § 3472 (2024)	"[A]n adult who is unable to receive and evaluate information or make or communicate informed decisions to such an extent that the adult lacks the ability to meet essential requirements for physical health, safety or self-care, even with reasonably available appropriate technological assistance" and "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."
Maryland	A	MD. CODE ANN., FAM. LAW § 14-101(q) (West 2024)	"[A]n adult who lacks the physical or mental capacity to provide for the adult's daily needs."
Massachusetts	B	MASS. GEN. LAWS CH. 19A, § 14 (2024)	"[A]n individual who is sixty years of age or over" (a.k.a. an "elderly person")
Michigan	A*	MICH. COMP. LAWS §§ 400.11(b), (f) (2024)	Persons "unable to protect himself or herself from abuse, neglect, or exploitation because of a mental or physical impairment or because of advanced age."

Minnesota	A	MINN. STAT. § 626.5572 (2024)	"[A]ny person 18 years of age or older who . . . possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction: (i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and (ii) because of the dysfunction or infirmity and the need for care or services, the individual has an impaired ability to protect the individual's self from maltreatment."
Mississippi	A*	MISS. CODE ANN. § 43-47- 5(q) (2023)	"[A] person . . . whose ability to perform the normal activities of daily living or to provide for his or her own care or protection from abuse, neglect, exploitation or improper sexual contact is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging."
Missouri	A	MO. REV. STAT. § 192.2400(6) (2024)	"[A] person sixty years of age or older who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs or an adult with a disability . . . between the ages of eighteen and fifty-nine who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs . . ."

Montana	A, B	MONT. CODE ANN. § 52-3-803(11) (West 2023)	"[A] person who: (a) is 60 years of age or older; or (b) is 18 years of age or older and: (i) is a person with a physical or mental impairment that substantially limits or restricts the person's ability to provide for their own care or protection; or (ii) has a developmental disability"
Nebraska	A	NEB. REV. STAT. § 28-371 (2024)	"[A]ny person eighteen years of age or older who has a substantial mental or functional impairment"
Nevada	A, B	NEV. REV. STAT. §§ 200.5092(6), (8) (2024)	"[A] person who is 60 years of age or older" or "a person 18 years of age or older who: (a) [s]uffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or (b) [h]as one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living."
New Hampshire	A	N.H. REV. STAT. ANN. § 161-F:43(VII) (2024)	A person whose "physical, mental, or emotional ability [] is such that he or she is unable to manage personal, home, or financial affairs in his or her own best interest, or he or she is unable to act or unable to delegate responsibility to a responsible caretaker or caregiver."
New Jersey	A	N.J. STAT. ANN. § 52:27D-407 (West 2024)	"[A] person 18 years of age or older who resides in a community setting and who, because of a physical or mental illness, disability or deficiency, lacks sufficient understanding or capacity to make, communicate, or carry out decisions concerning his well-being and is the subject of abuse, neglect or exploitation."

New Mexico	A	N.M. STAT. ANN. § 27-7-16(L) (2024)	"[A]ny adult with a mental, physical or developmental condition that substantially impairs the adult's ability to provide adequately for the adult's own care or protection"
North Carolina	A	N.C. GEN. STAT. § 108A-101(D) (West 2024)	"[A]ny person 18 years of age . . . who is physically or mentally incapacitated due to an intellectual disability, cerebral palsy, epilepsy or autism; organic brain damage caused by advanced age or other physical degeneration in connection therewith; or due to conditions incurred at any age which are the result of accident, organic brain damage, mental or physical illness, or continued consumption or absorption of substances."
North Dakota	A	N.D. CENT. CODE § 50-25.2-01(17) (2024)	"[A]n adult who has a substantial mental or functional impairment" (a.k.a. a "vulnerable adult")
Ohio	C	OHIO REV. CODE ANN. § 5101.60(C) (West 2024)	"[A]ny person sixty years of age or older within this state who is disabled by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection"

Oklahoma	A	OKLA. STAT. TIT. 43A, § 10-103(5) (West 2024)	"[A]n individual who is an incapacitated person or who, because of physical or mental disability, including persons with Alzheimer's disease or other dementias, incapacity, or other disability, is substantially impaired in the ability to provide adequately for the care or custody of himself or herself, or is unable to manage his or her property and financial affairs effectively, or to meet essential requirements for mental or physical health or safety, or to protect himself or herself from abuse, verbal abuse, neglect, or exploitation without assistance from others."
Oregon	B	OR. REV. STAT. § 124.060(1) (2024)	"[A]ny person 65 years of age or older"
Puerto Rico	B	P.R. LAWS ANN. tit. 8, § 342(P) (2024)	"[A] person who is sixty (60) years of age or older" (a.k.a. an "elderly person")
Rhode Island	B	42 R.I. GEN. LAWS § 42-66-4.1(3) (2024)	"[A]ny person sixty (60) years of age or older"
South Carolina	A*	S.C. CODE ANN. § 43-35-10(11) (2024)	"[A] person eighteen years of age or older who has a physical or mental condition which substantially impairs the person from adequately providing for his or her own care or protection[;] [t]his includes a person who is impaired in the ability to adequately provide for the person's own care or protection because of the infirmities of aging including, but not limited to, organic brain damage, advanced age, and physical, mental, or emotional dysfunction."

South Dakota	A, B	S.D. CODIFIED LAWS § 22-46-1(1), (3) (2024)	"[A] person sixty-five years of age or older" or who is an "adult with a disability," defined as "a person eighteen years of age or older who has a condition of intellectual disability, infirmities of aging as manifested by organic brain damage, advanced age, or other physical dysfunctioning to the extent that the person is unable to protect himself or herself or provide for his or her own care"
Tennessee	A*	TENN. CODE ANN. § 71-6-102(2) (2024)	"[A] person eighteen (18) years of age or older who because of mental or physical dysfunctioning or advanced age is unable to manage such person's own resources, carry out the activities of daily living, or protect such person from neglect, hazardous or abusive situations without assistance from others and who has no available, willing, and responsibly able person for assistance and who may be in need of protective services" and defining "advanced age" as age 60 or older.
Texas	A, B	TEX. HUM. RES. CODE ANN. §§ 48.002(a)(1), (8) (West 2023)	"65 years of age or older" or a "person with a disability"
Utah	A, B	UTAH CODE ANN. § 26B-6-201(30) (West 2024)	"[A]n elder adult" or "a dependent adult who has a mental or physical impairment which substantially affects that person's ability to: (a) provide personal protection; (b) provide necessities such as food, shelter, clothing, or mental or other health care; (c) obtain services necessary for health, safety, or welfare; (d) carry out the activities of daily living; (e) manage the adult's own financial resources; or (f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation."

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Vermont	A*	VT. STAT. ANN. tit. 33, § 6902(34) (2024)	Any person 18 or older who “has a physical, mental, or developmental disability; infirmities as a result of brain damage or a mental condition; or infirmities of aging resulting in: (i) impairment of the individual’s ability to independently engage in activities of daily living or instrumental activities of daily living or to provide for some aspect of the adult’s own personal care without assistance; or (ii) some impairment of the adult’s ability to protect the adult from abuse, neglect, or exploitation.”
Virgin Islands	A, B	V.I. CODE ANN. tit. 34 § 452(j), (k) (2024)	Any person “60 years of age or older” or “any person between the ages of 18 to 59 who has physical or mental limitations that restrict the person’s ability to carry out normal activities or to protect a persons’ rights.”
Virginia	A, B	VA. CODE. ANN. § 63.2- 1603 (2024)	“[A]ny person 60 years of age or older, or any person 18 years of age or older who is incapacitated”
Washington	A, C	WASH. REV. CODE § 74.34.020(21) (2024)	Any person “[s]ixty years of age or older who has the functional, mental, or physical inability to care for himself or herself”, as well as persons with a developmental disability, and those receiving certain services
West Virginia	A	W. VA. CODE § 9-6-1(5) (2024)	“[A]ny person over the age of 18, or an emancipated minor, who by reason of physical or mental condition is unable to independently carry on the daily activities of life necessary to sustaining life and reasonable health and protection”
Wisconsin	B	WIS. STAT. § 46.90(1)(br) (2024)	“[A]ny person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation” (a.k.a. “an elder at risk”)

Wyoming	A*	WYO. STAT. ANN. § 35-20- 102(a)(xviii) (West 2024)	"[A]ny person eighteen (18) years of age or older who is un- able to manage and take care of himself or his money, assets or property without assistance as a result of advanced age or physi- cal or mental disability"
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