



Department of
Human Services

**Self Neglect and APS Legal Interventions/Court Action:
Alzheimer's Tennessee Symposium; November 13, 2025**

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WARNING: THIS PRESENTATION HAS GRAPHIC IMAGES

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Disclosure Statement of Financial Interest

I have no disclosures.

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**Some of the Laws for Protecting Vulnerable Adults
in TN**

Tennessee
Adult Protection
Act

Conservatorship
statutes

Criminal
statutes

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APS has a statutory mandate to investigate allegations of neglect, financial abuse and exploitation, self-neglect, and sexual abuse of vulnerable adults

A vulnerable adult is anyone 18 or older who has an impairment, so NOT just elderly adults

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Reported Elder Abuse in Tennessee:

- Most victims are female
- Self neglect accounts for roughly half of all investigations
- Nearly 3/4 of all perpetrators are related to the victim
- Almost 2/3 of victims are age 60 and older
- About half of all reported cases are determined to be valid

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APS statutory definitions

(2) "Adult" means 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...;

(3) "Advanced age" means sixty (60) years of age or older;

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- o Neglect by another person
- o Self-neglect (hoarding, failure to take medications, no food, etc.)
- o Abuse (physical or mental)
- o Financial abuse (private funds involved)
- o Financial exploitation (government funds involved)

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•Protective Services offered by APS:

- Homemakers
- In-home medical care
- Transportation
- Family members
- Financial assistance
- Medical care
- Food
- Paying for electricity, utilities, etc.
- Temporary housing
- Nursing homes
- Assisted living



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Self Neglect and APS

"Self-neglect" under Tennessee statutory law means an adult's inability, due to physical or cognitive impairment, including diminished capacity, to provide or obtain services, including medical services, necessary to maintain the adult's own health or welfare;

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What makes self-neglect cases so difficult?

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When/why APS cannot help an adult?

If the adult has "capacity" to make their own decisions, even if those decisions are not good ones and may harm the adult, then APS cannot force the adult to accept protective services



"Capacity to consent" [to protective services] means the mental ability to make a rational decision, which includes the ability to perceive, appreciate all relevant facts and to reach a rational judgment upon such facts.

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Signs of Self Neglect:

- Unusual weight loss, malnutrition, dehydration
- Untreated physical problems, such as bed sores
- Unsanitary living conditions: dirt, bugs, soiled bedding and clothes
- Not having prescribed medications or not taking properly
- Being dirty or not bathed
- Unsuitable clothing or covering for the weather
- Unsafe living conditions (no heat or running water; faulty electrical wiring, other fire hazards)

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Issues with Self-Neglect Cases

Adult may not have any family members who see what is happening	APS must receive a report to investigate	Issues with self-governance and self-determination
Must involve imminent danger for APS to investigate/act	Must at least be an indication of lack of capacity	Often, APS clients have capacity to understand their decisions, even if those are not decisions most people would make

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Right to Self-Determination

- Adults, regardless of age or condition, have a right and responsibility to direct their lives to the greatest extent possible.
- Every client will:
 - Be given every opportunity to make plans for themselves to the degree possible.
 - Be given as much information about the alternatives and options that are available to assist in making an informed decision.

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Self-Neglect

On May 1, 2023, a change to the law by TN legislature removed authority for APS to investigate self-neglect in most cases.

On February 28, 2024, the law was amended to restore APS's authority to investigate self-neglect.

Current legal definition of self neglect: "An adult's inability, due to physical or cognitive impairment, including diminished capacity, to provide or obtain services, including medical services, necessary to maintain the adult's own health or welfare."

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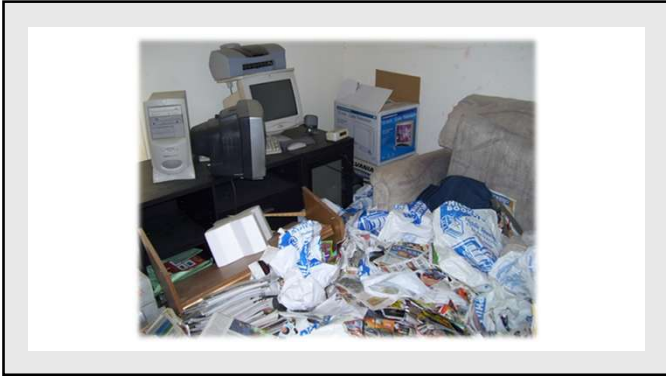
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**LEGAL TOOLS FOR APS TO
ASSIST IN SELF-NEGLECT
CASES**



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How these work in the real world

- Search Warrant**
 - Used when adult or caretaker won't let APS interview adult/alleged victim
- Order for forced medical/mental examination**
 - Usually to take adult to the hospital and/or for a mental examination
- Order for authorization to consent to protective services**
 - What is colloquially called "custody"
 - Allows APS to make placement decisions and limited medical decisions for adult
- Conservatorships**
 - Corporate conservators; the Public Guardian Program; rarely, family members
 - Conservators have full authority to do everything for Respondent/client

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Doctor's statement for court-ordered services for custody

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graph TD
    A[APS must have a medical professional, such as a physician, determine that a client lacks capacity and is in imminent danger in order for APS to seek court action] --> B[APS has a 2-page form for physicians to fill out to assist with this process]
    B --> C[Another medical professional (or anyone, really) can fill out the form, but it MUST be signed by a physician]
    C --> D[Sometimes, nurse practitioners sign the form and a physician will review and sign it, too]
    
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1. Imminent danger of responsible Physical or Mental Harm or death: The legal standard for imminent danger means conditions calculated to and capable of producing within a relatively short period of time, a reasonably strong probability of resultant irreparable physical or mental harm or the cessation of life, if such conditions are not removed or alleviated. <u>This patient is in imminent danger for the following reason(s):</u>	
and requires the following treatment and/or care:	
4. Helath is in need of the following services (Example : nursing home, medical follow-up, etc.):	
5. The prognosis for this patient without treatment is: (include time frames):	
6. The prognosis for this patient with the recommended treatment is: (include time frames):	
7. Discharge:	☐
• Print your name and specialty, if any: _____	
Signed: _____ Date: _____ Check if additional information is attached.	

Self Neglect: An APS Case Study

- Woman in McMinn County, TN needed assistance
- She was 78 and lived alone
- No spouse, and children were deceased
- Member of community called in the referral to APS
- Report said that she was wandering and likely suffered from dementia (this was during the winter months)
- Police had rescued her twice and returned her home
- Lived near a busy, dangerous road

[illegible][illegible]

Self Neglect: An APS Case Study, cont.

- APS tried to get her to go her PCP, to no avail
- APS tried to get her to go ED at local hospital, to no avail
- EMTs would not transport her to hospital
- APS thought that she lacked capacity because she was confused and said that her parents were still living and that "people were shooting shotguns through the floor" of her mobile home, among other issues
- She had no food and no running water in home (she was using outdoors as a bathroom)
- Huge holes in sides and floor of home
- Pet feces throughout home

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Self Neglect: An APS Case Study, cont.

- APS got a forced examination order for local ED
- Doctors said that she lacked capacity due to dementia
- APS got an order for custody/authorization to consent to protective services
- Client got an attorney ad litem appointed for her, and she wanted to go home
- She had very few medical conditions
- Trial judge decided that she needed 24-hour care and allowed APS to place her in a secure unit due to her tendency to wander

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When should a conservatorship be considered?

•A conservatorship proceeding should be considered when a potential petitioner reasonably believes that a person (the potential respondent) is **disabled** such that he or she cannot exercise his or her **personal autonomy**, requires the **assistance of the court** to make decisions on his or her behalf, and cannot be properly served by **less drastic alternatives** to the imposition of a conservatorship.

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Conservatorship Definitions

"Person with a disability" means any person eighteen (18) years of age or older determined by the court to be in need of partial or full supervision, protection, and assistance by reason of mental illness, physical illness or injury, developmental disability, or other mental or physical incapacity. Tenn. Code Ann. §34-1-101(14).

"Least restrictive alternatives" means techniques and processes that preserve as many decision-making rights as practical under the circumstances for the person with a disability. Tenn. Code Ann. §34-1-101(11).

"Clear and convincing evidence" is evidence that "leaves no serious or substantial doubt about the correctness of the conclusions drawn from the evidence." *Grindstaff v. State*, 297 S.W.3d 208, 221 (Tenn. 2009) (citing *Hodges v. S.C. Toof & Co.*, 883 S.W.2d 896, 901 (Tenn. 1992)).

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Who Can Be A Conservator?

Tenn. Code Ann. § 34-3-103. Priorities and preferences; appointments

Subject to the court's determination of what is in the best interests of the person with a disability, the court shall consider the following persons in the order listed for appointment of the conservator:

- 1 • The person or persons designated in a writing signed by the alleged person with a disability
- 2 • The spouse of the person with a disability
- 3 • Any child of the person with a disability
- 4 • Closest relative or relatives of the person with a disability
- 5 • A district public guardian as described by § 34-7-104
- 6 • Other person or persons

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Doctor's Declaration for Conservatorship for Court Action

- This is a document that must be filled out by a physician, psychologist or psychiatrist
- Required by law for filing a conservatorship
- 2 pages long
- Does NOT require a notary public to witness the signature if worded properly
- The examination of the patient has to be within 90 days of when the conservatorship petition is filed

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IN THE CHANCERY COURT FOR _____ COUNTY, TENNESSEE

IN THE CONSERVATORSHIP MATTER OF:)
)
 DOB:)
)
 A Person Over 18 Years of Age.)
)

DECLARATION OF MEDICAL PSYCHIATRIC/PSYCHOLOGICAL EXAMINATION
 REPORT FOR FUTURE GRANTING OF A CONSERVATORSHIP
 PER TENN. CODE ANN. § 34-3-101 AND ALL APPLICABLE LAW

STATE OF TENNESSEE
 COUNTY OF _____

I, _____, M.D., the undersigned
 physician/psychiatrist, declare, under the penalty of perjury, as follows:

1. I am a licensed physician engaged in the active practice of medicine/psychiatry in
 _____ County, Tennessee.

2. I understand that the statement I make is for the purpose of assisting the Court in
 determining if a Conservator should be appointed for _____, the Respondent.

3. I am personally familiar with the medical/psychiatric/psychological history and
 current condition of Respondent _____, and have personally examined him/her.
 The Respondent was last examined by me on _____, 2024.

4. Respondent's medical/psychiatric/psychological history is as follows: _____

5. A description of the nature and extent of the Respondent's disability due to the above
 condition(s) is as follows: _____

6. Because of the Respondent's medical/psychiatric/psychological history, and, based
 upon my examination, I believe that the Respondent should have a Conservator appointed for
 him/her for the following reasons: _____

Dated _____, 2024.

Physician/Psychiatrist Signature _____
 Printed Name of Physician/Psychiatrist _____
 Office address: _____
 Phone/email: _____

Per Rule 72 of the Tennessee Rules of Civil Procedure and all other applicable law, I
 declare under penalty of perjury that the foregoing statement and report is true and
 correct.

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So, what
can YOU do
to help
protect
vulnerable
adults?

1. Report **all** suspected abuse, etc. to APS
2. **EVERYONE** is a mandatory reporter of suspected abuse/neglect, etc. by law
3. Make an online report;
<https://reportadultabuse.dhs.tn.gov>
4. Call APS hotline: **1-888-APS-TENN (1-888-277-8366)**; available 24 hours a day/7 days a week
5. Be involved in the prevention of elder abuse community
6. Assist with required forms
7. Support legislation to help APS; please tell your legislators to support APS
8. Call me, Paul Helton, 865-230-1610 or email: paul.e.helton@tn.gov

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ALWAYS REMEMBER...

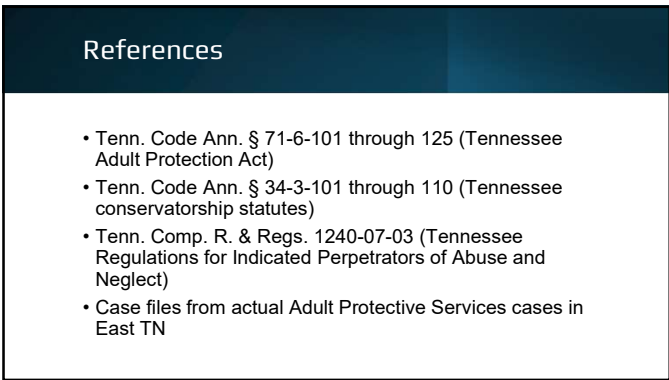
**YOU WILL BE
OLD SOMEDAY,
TOO.**



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