

ALABAMA DEPARTMENT OF HUMAN RESOURCES SOCIAL SERVICES DIVISION  
ADMINISTRATIVE CODECHAPTER 660-5-41  
PROTECTIVE SERVICES FOR ADULTS

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**660-5-41-.01      Purpose Of Protective Services.****Author:** Teresa Momon**Statutory Authority:** Code of Ala. 1975, §§38-2-6, 38-9-1 through -11; Title XX of the Social Security Act, 42 U.S.C. 1397.**History:** Effective June 29, 1983. Emergency amendment effective September 23, 1983. Permanent amendment effective December 9, 1983. Succeedent emergency amendment effective June 13, 1991. Succeedent permanent amendment effective September 10, 1991. Succeedent emergency amendment effective December 17, 1992. Succeedent permanent amendment effective March 11, 1993. Succeedent emergency effective July 16, 1993. **Amended:** Filed: September 3, 1993; effective October 8, 1993. **Amended:** Filed October 5, 1994; Succeedent permanent amendment effective November 9, 1994.**Amended:** Filed July 10, 2007; effective August 14, 2007.**Amended:** Published May 28, 2021; effective July 12, 2021.**660-5-41-.02      Definitions.**

The following definitions shall apply to this rule:

(a) "Adult in Need of Protective Services" is a person 18 years of age or older whose behavior indicates that he is mentally incapable of adequately caring for himself and his interests without serious consequences to himself or others, or who because of physical or mental impairment, is unable to protect himself from abuse, neglect or exploitation by others, and who has no guardian or relatives or other appropriate person able, willing and available to assume the kind and degree of protection and supervision required under the circumstances.

(b) "Caregiver" is an individual who has the responsibility for the care of the elderly or handicapped person as a result of family relationship or who has assumed the responsibility for the care of the person voluntarily, by contract or as a result of the ties of friendship.

(c) "Other Like Incapacities" are conditions incurred as the result of accident or mental or physical illness, producing a condition which substantially impairs an individual from adequately providing for his own care or protecting his own interests or protecting himself from physical or mental injury or abuse.

(d) "Neurodegenerative Disease" is relating to or being a progressive loss of neurologic function.

(e) "Abuse" is the infliction of physical pain, injury, or the willful deprivation by a caretaker or other person of services necessary to maintain mental and physical health.

(f) "Emotional Abuse" is the willful or reckless infliction of emotional or mental anguish or the use of a physical or chemical restraint, medication or isolation as punishment or as a substitute for treatment or care of any protected person.

(g) "Neglect" is the failure of a caretaker to provide food, shelter, clothing, medical services, and health care for the person unable to care for himself; or the failure of the person to provide these basic needs for himself when the failure is the result of the person's mental or physical inability.

(h) "Exploit" is the expenditure, diminution or use of the property, assets or resources of a person subject to protection under the provisions of Code of Ala. 1975, §§38-9-1 through -11, without the express voluntary consent of that person or his legally authorized representative.

(i) "Protected Person" is any person over 18 years of age subject to protection under the provisions of Code of Ala. 1975, §§38-9-2 through 22, or any person including but not limited to persons with neurodegenerative disease, persons with intellectual disabilities, and developmental disabilities or any person over 18 years of age that is mentally or physically incapable of adequately caring for himself or herself and his or her interests without serious consequences to himself, herself or others.

(j) "Protective Services" are those services whose objective is to protect an incapacitated person from himself and from others.

(k) "Department" is the Department of Human Resources of the State of Alabama.

(l) "Court" is the circuit court.

(m) "Physical Injury" is the impairment of physical condition or substantial pain.

(n) "Serious Physical Injury" is a physical injury which creates a risk of death, or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or the impairment of the function of any bodily organ.

(o) "Person" is any natural human being.

(p) "Intentionally." A person acts intentionally with respect to a result or to conduct described by a statute defining an offense, when his purpose is to cause that result or to engage in that conduct.

(q) "Recklessly." A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation. A person who creates a risk but is unaware thereof solely by reason of voluntary intoxication, as defined in subdivision (e)(2) of §13A-3-2, acts recklessly with respect thereto. (Acts 1977, No. 780, p. 1340, §2; Acts 1989, No. 89-825, §1.)

**Author:** Audrey Peterson

**Statutory Authority:** Code of Ala. 1975, §§38-2-6, 38-9-1 through -11.

**History:** Effective June 28, 1983. Succeedent permanent amendment effective September 7, 1990. Succeedent emergency amendment effective June 13, 1991. Succeedent permanent amendment effective September 10, 1991. Succeedent permanent emergency amendment effective July 21, 1994. Succeedent permanent amendment: Filed September 6, 1994; effective October 11, 1994. **Amended:** Filed December 10, 2018; effective January 24, 2019.

### **660-5-41-.03      Reporting.**

(1) The Department of Human Resources receives reports from any person, including but not limited to, any social worker, law enforcement officer, physician and other practitioners of the healing arts serving adults who have reasons to believe an individual has been subjected to abuse, neglect, or exploitation.

(2) The Department of Human Resources requires social workers in its employment to report cases of suspected abuse, neglect, or exploitation.

**Author:** Patricia Brooks

**Statutory Authority:** Code of Ala. 1975, §§38-2-6, 38-9-1 through -11.

**History:** Effective June 28, 1983. Succeedent emergency amendment effective December 17, 1992. Succeedent permanent amendment effective March 11, 1993.

#### **660-5-41-.04      Investigations.**

(1) All complaints and reports (including anonymous ones) about adults who, the reporter has reason to believe, have been subjected to abuse, neglect, or exploitation and who have no one able, willing, and available to assume the necessary care and protection shall be investigated by the County Department of Human Resources; or when a report is received from a mandatory reporter, the investigation is completed by the Department of Human Resources or the chief of police or county sheriff, whichever receives the report, and the investigation shall be conducted within seven days after receipt of the oral report. Reports of investigations made by law enforcement officials must be sent to the County Department within twenty-four hours and are to become a part of the client's case record. Such reports by law enforcement or the County Department must include a minimum of:

- (a) Name, age, and address of the person being reported on;
- (b) Nature and extent of injury of such person; and
- (c) Any other facts or circumstances known to the reporter which may aid in the determination of appropriate action.

(2) The County Department of Human Resources will investigate all reports within the following time frame:

- (a) Investigate, immediately, all reports of suspected abuse, neglect, or exploitation when the allegations indicate the adult may be in immediate danger.
- (b) Investigate, within seven days of receipt all reports of suspected abuse, neglect, or exploitation.

(3) The purpose of the investigation is to establish facts that will be useful in determining whether the adult reported on has been abused, neglected, or exploited and is in need of protective services. The focus of the investigation is on the client and his welfare. The assistance of law enforcement officials may be requested when necessary to complete the investigation. When there is no one else able, willing, and available to provide the

necessary care and protection, the Department of Human Resources will intervene.

**Author:** Patricia Brooks

**Statutory Authority:** Code of Ala. 1975, §§38-2-6, 38-9-1 through -11.

**History:** Effective June 28, 1983. Emergency amendment effective September 23, 1983. Permanent amendment effective December 9, 1983. Succeedent permanent amendment effective January 9, 1990. Succeedent permanent amendment effective September 7, 1990. Succeedent emergency amendment effective December 17, 1992. Succeedent permanent amendment effective March 11, 1993. Succeedent emergency amendment effective July 21, 1994. Succeedent permanent amendment: Filed September 6, 1994; effective October 11, 1994.

#### **660-5-41-.05      Services.**

(1) Protective services may include:

(a) Case management

1. assessing the need for services
2. case planning
3. arranging services such as medical care or other community services
4. reassessment/follow-up
5. monitoring on an ongoing basis the delivery of and need for services

(b) Investigating the situation;

(c) Provide diagnostic and evaluative services to clients and to others on their behalf;

(d) Transportation necessary for the worker to provide the service;

(e) Arrange appropriate alternative living arrangements;

(f) Arrange for appointment of guardians of the person;

(g) Arrange for appointment of conservator of the estate;

(h) Arrange for protective placement or providing advocacy to assure receipt of rights and entitlements due them;

(i) Emergency shelter care limited to 28 days per fiscal year.

- (j) Receiving and filing adult protective service reports;
  - (k) Making required reports to the court; (l) Information and Referral;
  - (m) Legal representation for the DHR; and
  - (n) Arrange for mental health counseling.
- (2) Limitations in the provision of services:
- (a) Fees or payments will not be made by the DHR for room, board or care except for emergency shelter care which is limited to 28 days per fiscal year. This is true even though the DHR is obligated to cooperate with the court in securing resources for the client when the court has ordered an evaluation of the client or that protective placement be provided.
  - (b) Other services cannot be provided until eligibility criteria for those specific services has been established.
  - (c) Payment for care in a court-ordered protective setting is to be made from client's income and/or resources, and also for any part of a court-ordered evaluation that is not available without cost.
  - (d) If the client does not have income or resources to pay for services and the services needed are not available through the DHR, assistance will be provided in making application for and/or assisting in establishing eligibility for benefits.

**Author:** Kay Pilgreen

**Statutory Authority:** Code of Ala. 1975, §§38-2-6, 38-9-1 through -11.

**History:** Emergency adoption effective September 23, 1983. Permanent amendment effective December 9, 1983. Succeedent permanent amendment effective September 7, 1990. Succeedent emergency amendment effective December 17, 1992. Succeedent permanent amendment effective March 11, 1993. **Amended:** Filed February 18, 1999; effective March 25, 1999.

#### **660-5-41-.06      Eligibility.**

Any adult 18 years of age or over who is at risk of abuse, neglect and exploitation or at risk of institutionalization and meets the definition of an adult in need of protective services given in Rule 660-5-41-.02 is eligible for protective services for adults and may be eligible for other services if the specific requirements for the services are met.

**Author:** Kay Pilgreen

**Statutory Authority:** Code of Ala. 1975, §§38-2-6, 38-9-1 through -11.

**History:** Emergency adoption effective September 23, 1983. Permanent amendment effective December 9, 1983. **Amended:** Filed February 18, 1999; effective March 25, 1999.

**660-5-41-.07      Alabama Elder And Adult In Need Of Protective Services Abuse Registry.**

I.     INTRODUCTION

Under Section 38-9G-2, Code of Alabama 1975, the Alabama Department of Human Resources is responsible for establishing and maintaining a statewide registry known as the Alabama Elderly and Adult in Need of Protective Services Abuse Registry (hereinafter, "Registry") for adult abuse, neglect, and exploitation reports made pursuant to §38-9-8, Code of Alabama 1975, as well as criminal convictions and protection from abuse orders. The purpose of the Registry is to protect vulnerable adults from abuse, neglect, and exploitation.

The Registry shall contain the name of any individual for whom any of the following are true:

- (1) The individual has been convicted of the crime of elder abuse and neglect in the first degree pursuant to Section 13A-6-192, Code of Alabama 1975.
- (2) The individual has been convicted of the crime of elder abuse and neglect in the second degree pursuant to Section 13A-6-193, Code of Alabama 1975.
- (3) The individual has been convicted of the crime of elder abuse and neglect in the third degree pursuant to Section 13A-6-194, Code of Alabama 1975.
- (4) The individual has been convicted of the crime of financial exploitation of an elderly person in the first degree pursuant to Section 13A-6-195, Code of Alabama 1975.
- (5) The individual has been convicted of the crime of financial exploitation of an elderly person in the second degree pursuant to Section 13A-6-196, Code of Alabama 1975.
- (6) The individual has been convicted of the crime of financial exploitation of an elderly person in the third degree pursuant to Section 13A-6-197, Code of Alabama 1975.
- (7) The individual has been convicted of any act of elder abuse as defined in Section 38-9F-3, Code of Alabama 1975.

- (8) An elder abuse protection order has been issued against the individual pursuant to section 38-9F-4, Code of Alabama 1975.
- (9) A protection from abuse order has been issued against the individual pursuant to Chapter 5 of Title 30, Code of Alabama 1975, for the protection of an elderly person or an adult in need of protective services.
- (10) The individual has been convicted of an act of abuse, neglect, or exploitation as described in Section 38-9-7, Code of Alabama 1975.
- (11) The individual has been found by the Department of Human Resources to have committed an act of abuse, elder abuse, emotional abuse, exploitation, financial exploitation, intimidation, neglect, sexual abuse, or undue influence against an elderly person or an adult in need of protective services.

## II. Definitions for the purposes of this Central Registry

The following terms have the following meanings:

- (1) ABUSE. The same term as defined in Section 38-9-2, Code of Alabama 1975, as amended, "the infliction of physical pain, injury, or the willful deprivation by a caregiver or other person of services necessary to maintain mental and physical health."
- (2) ADULT FOSTER HOME. The terms "foster family home" and "foster home" are used interchangeably to describe the settings of foster care for adults. Foster care for adults is intended to provide the security of a supportive family atmosphere and encouragement toward social interaction. It can be both rehabilitative and preventive.
- (3) ADULT IN NEED OF PROTECTIVE SERVICES. The same term as defined in Section 38-9-2, Code of Alabama 1975, as amended, "a person 18 years of age or older whose behavior indicates that he or she is mentally incapable of adequately caring for himself or herself and his or her interests without serious consequences to himself or herself or others; or who because of physical or mental impairment, is unable to protect himself or herself from abuse, neglect or exploitation, sexual abuse, or emotional abuse by others, and who has no guardian or relative or other appropriate person able, willing, and available to assume the kind and degree of protective supervision required under the circumstances."



- (4) DEPARTMENT. The Alabama Department of Human Resources. To the extent other entities are referenced in this Section, the following will be used: Alabama Department of Public Health ("ADPH"); Alabama Department of Mental Health ("ADMH"); Administrative Office of Courts ("the AOC").
- (5) ELDER ABUSE. The same term as defined in Section 38-9F-3(2), Code of Alabama 1975, as amended, "the commission of any of the following acts or the intent to commit any of the following acts against an elderly person:
- a. Abuse, as defined in Section 38-9-2, Code of Alabama 1975.
  - b. Arson, as defined in Sections 13A-7-40 to 13A-7-43, inclusive, Code of Alabama 1975.
  - c. Assault, as defined in Sections 13A-6-20 to 13A-6-22, inclusive, Code of Alabama 1975.
  - d. Criminal coercion, as defined in Section 13A-6-25, Code of Alabama 1975.
  - e. Criminal trespass as defined in Sections 13A-7-2 to 13A-7-4.1, inclusive, Code of Alabama 1975.
  - f. Emotional abuse, as defined in Sections 13A-6-191, Code of Alabama 1975.
  - g. Financial abuse, as defined in Sections 13A-6-191 and 8-6-171, Code of Alabama 1975.
  - h. Harassment, as defined in Section 13A-11-8, Code of Alabama 1975.
  - i. Kidnapping, as defined in Sections 13A-6-43 and 13A-6-44, Code of Alabama 1975.
  - j. Menacing, as defined in Sections 13A-6-23, Code of Alabama 1975.
  - k. Reckless endangerment, as defined in Sections 13A-6-24, Code of Alabama 1975.
  - l. Sexual abuse, as defined as any of the acts in Sections 13A-6-60 to 13A-6-68, Code of Alabama 1975.
  - m. Stalking, as defined in Sections 13A-6-90 to 13A-6-91.1, inclusive, Code of Alabama 1975.

- n. Theft, as defined in Sections 13A-8-2 to 13A-8-5, inclusive, Code of Alabama 1975.
  - o. Unlawful imprisonment, as defined in Sections 13A-6-41 and 13A-6-42, Code of Alabama 1975."
- (6) ELDERLY PERSON. An individual 60 years of age or older.
- (7) EMOTIONAL ABUSE. The intentional or reckless infliction of emotional or mental anguish, or the use of a physical or chemical restraint, medication, or isolation as punishment or as a substitute for treatment or care of any elderly person or adult in need of protective services.
- (8) EMPLOYEE. An individual who is either:
- a. Hired directly or through a contract by a service provider who has duties that involve, or may involve, one-on-one contact with a patient, resident, or client.
  - b. A volunteer of a service provider who has duties that involve, or may involve, one-on-one contact with a patient, resident, or client.
  - c. Since the legislation does not indicate it was intended to apply retroactively, this definition applies to those hired or volunteering on or after January 1, 2023.
- (9) EXPLOITATION. The same term as defined in Section 38-9-2, Code of Alabama 1975, as amended, "the expenditure, diminution, or use of the property, assets, or resources of a protected person without the express voluntary consent of that person or his or her legally authorized representative or the admission of or provision of care to a protected person who needs to be in the care of a licensed hospital by an unlicensed hospital after a court order obtained by the State Board of Health has directed closure of the unlicensed hospital."
- (10) FINANCIAL EXPLOITATION. Any of the following:
- a. The wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of an elderly person or an adult in need of protective services.
  - b. The use of deception, intimidation, undue influence, force, or threat of force to obtain or exert unauthorized control over an elderly person's money, assets, or property or the money, assets, or property of an adult in need of protective services with the intent

to deprive that individual of his or her money, assets, or property.

- c. The breach of a fiduciary duty to an elderly person or an adult in need of protective services under a power of attorney or through a conservatorship or guardianship which results in an unauthorized appropriation, sale, or transfer of the individual's money, assets, or property.
- (11) INDICATED. This disposition is used when preponderance of the substantial evidence (e.g., eyewitness account, medical report, or professional evaluation) and the professional judgement of the social worker (based on facts gathered during the initial assessment) indicates that abuse, neglect, or exploitation has occurred and that the adult is physically or mentally impaired or aged.
- (12) INTIMIDATION. A threat of physical or emotional harm to an elderly person or an adult in need of protective services, or the communication to an elderly person or adult in need of protective services that he or she will be deprived of food and nutrition, shelter, property, prescribed medication, or medical care or treatment.
- (13) NEGLECT. The same term as defined in Section 38-9-2, Code of Alabama 1975, as amended, "the failure of a caregiver to provide food, shelter, clothing, medical services, or health care for the person unable to care for himself or herself; or the failure of the person to provide these basic needs for himself or herself when the failure is the result of the person's mental or physical inability." Lack of supervision may meet the definition of neglect when lack of supervision results in lack of food, shelter, clothing, medical services, or health care.
- (14) SERVICE PROVIDER. Any of the following:
- a. As defined in Section 38-9G-1(11), Code of Alabama 1975, to include any of the following: (a) Assisted living community centers; (b) Specialty care assisted living communities or centers; (c) Home health agencies; (d) Hospice programs or residential hospice facilities; (e) Hospitals; (f) Long-term care facilities; (g) Skilled nursing facilities; (h) Rehabilitation facilities; (i) Group homes, other residential facilities, and community-based services serving adults in need of protective services, as designed by the rules adopted by the Department, ADMH, and ADPH; and/or (j) Foster homes that serve elderly persons or adults in need of protective services.
  - b. Adult Day Care Facilities

c. Should a conflict exist between definitions provided by the Department, ADPH, and/or ADMH, the definition used by the regulating, certifying, or licensing agency shall control. If no such agency exists, the Department's definition shall control.

(15) SEXUAL ABUSE. The same term as defined in Section 38-9-2, Code of Alabama 1975, as amended, "any conduct that constitutes a crime under Article 4 of Chapter 6 of Title 13A." Forms of sexual abuse include rape, incest, sodomy, and indecent exposure.

(16) UNDUE INFLUENCE, Domination, coercion, manipulation, or any other act exercised by another individual to the extent that an elderly person or adult in need of protective services is prevented from exercising free judgement and choice.

### III. DISCLOSURE OF INFORMATION AND QUERY

The Department shall establish and enforce reasonable rules governing the custody, use, and preservation of the reports and records of abuse, elder abuse, emotional abuse, exploitation, financial exploitation, intimidation, neglect, sexual abuse, or undue influence against an elderly person or an adult in need of protective services. These reports and records and related information or testimony shall be confidential, and shall not be used or disclosed for any purposes other than the following:

- (1) For investigation by a law enforcement agency.
- (2) For use by a grand jury upon its determination that access to the reports and records is necessary in the conduct of its official business.
- (3) For use by a court that finds the information is necessary for the determination of an issue before the court.
- (4) For use by any guardian ad litem, guardian, or conservator authorized by a court to act as a representative for an elderly person or adult in need of protective services who is the subject of a report.
- (5) For use by a physician who has before him or her an elderly person or an adult in need of protective services whom the physician reasonably suspects may be abused or neglected.
- (6) For use by federal, state, or local governmental entities, social service agencies of another state, or any agent of these entities, having a need for the information in order to carry out their responsibilities under law to protect individuals from abuse and neglect.

(7) For public disclosure of the findings or information about the case of abuse or neglect that has resulted in a fatality. Information identifying by name persons other than the victim shall not be disclosed.

(8) For purposes of employment by a service provider.

(A) On or before July 1, 2023, a service provider shall query the Registry via the Department with regard to an individual who is an employee or prospective employee of the provider to confirm whether any of the following are true:

1. The individual has been convicted of a crime as previously stated in Section I.
2. An elder abuse protection order against the individual has been issued pursuant to Section 38-9F-4, Code of Alabama 1975.
3. A protection from abuse order has been issued against the individual pursuant to Chapter 5 of Title 30, Code of Alabama 1975, for the protection of an elderly person or an adult in need of protective services.
4. The Department of Human Resources has made a finding that the individual has committed an act of abuse, elder abuse, emotional abuse, exploitation, financial exploitation, intimidation, neglect, sexual abuse, or undue influence against an elderly person or an adult in need of protective services.

#### IV. NOTIFICATIONS FROM OTHER AGENCIES

(A) The AOC shall notify the Department of the criminal conviction or protection order concerning an individual under any of the following circumstances:

1. An individual is found guilty of a crime perpetrated against an elderly person or an adult in need of protective services as previously stated in Section I.
2. The court issues an elder abuse protection order against an individual pursuant to Section 38-9F-4, Code of Alabama 1975.
3. The court issues a protection from abuse order against an individual pursuant to Chapter 5 of Title 30, Code of Alabama 1975, for the protection of an elderly person or an adult in need of protective services.

(B) ADPH, ADMH, and all other agencies responsible for investigating reports of abuse, neglect, exploitation, sexual

abuse, or emotional abuse under Section 38-9-6, Code of Alabama 1975, shall notify the Department of the outcome of the investigation if the report is determined to have been true or founded.

In addition to documentation required by the Department, notification shall include the individual's last known mailing address and any other information that the agency determines is necessary to adequately identify the individual when inquiry to the Registry is made.

(C) Upon receiving notification as previously stated, the Department, in addition to entering the individual's name and address on the Registry, shall enter information pertaining to the offense or offenses of which the individual was convicted. If an elder abuse protection order against the individual has been issued, or if a protection from abuse order against the individual has been issued for the protection of an elderly person or an adult in need of protective services, information pertaining to why the order was issued and the age of the victim shall be entered by the Department when known.

(D) If the individual whose information is entered on the Registry was not convicted of a crime but was found by the investigating agency to have otherwise committed acts of abuse, elder abuse, emotional abuse, exploitation, financial exploitation, intimidation, neglect, sexual abuse, or undue influence against an elderly person or an adult in need of protective services, the Department, in addition to entering the individual's name and address on the Registry, shall also enter information pertaining to the offense or offenses the individual was found by the investigating agency to have committed. The Department shall adopt the final dispositional findings of other investigating agencies, provided all requested and applicable due process has been completed.

#### V. DUE PROCESS

Due process shall be completed prior to an individual's information being placed on the Registry. In submitting the results of their investigations to the Department for placement on the Registry, ADMH and ADPH affirm due process has been completed. Placement on the Registry as to the AOC's submissions shall be determined by the final order of a court of competent jurisdiction.

Where the Department is the investigating agency, due process shall be completed in accordance with Ala. Admin. Code r. 660-5-41-.01. Notice of an indicated finding must be given by personal service or by certified mail to the person responsible for abuse, neglect, and/or exploitation.

## VI. EXPUNGEMENT

Once the individual's information is entered on the Registry, it shall remain on the Registry even if the individual fulfills the obligations of any criminal sentencing against the individual. An individual's name may be expunged from the registry for one of three reasons only:

- (1) Expungement of a criminal conviction was ordered by a court of competent jurisdiction with adequate notice to all parties. This finding results in expungement of a criminal conviction only.
- (2) Other investigating agencies (ADMH or ADPH) have expunged records of investigations conducted by them based on their respective rules or policy.
- (3) Should an individual believe the Registry information is inaccurate due to mistaken identity, he or she may, within thirty days of notification that his or her name appears on the Registry, challenge the inaccurate information contained therein.
  - (a) This process does not apply to a challenge to factual findings of an investigation or the disposition of an investigation where due process has occurred. The purpose of this process is to provide due process for those who have been identified in error as having committed an act of abuse, neglect, or exploitation of an elderly person or an adult in need of protective services.
  - (b) If the Registry entry is one that was entered based on a criminal conviction (as reported by the AOC) or the investigation of another investigating agency (ADPH or ADMH), the individual must contact the entity having made the initial finding (ADPH or ADMH) or the AOC as to its submission to the Department. The finding shall only be expunged from the Registry following that entity's determination that it is due to be expunged. Should that entity decline to expunge the entry, appeal should be taken in a manner consistent with that entity's regulations.
  - (c) For those Registry entries based on the Department's investigation, the request must be made in writing and submitted by certified mail to: APS Registry Division, Alabama Department of Human Resources, P.O. Box 304000, Montgomery, Alabama 36130. The request must include, at a minimum, a detailed description of the challenge as well as copies of all relevant official documents.

- (d) The Commissioner of the Department shall designate an agency official to review these challenges. The information submitted will be reviewed by the Commissioner's designees, who will determine whether the individual has been identified in error.
- (e) If the individual remains dissatisfied with the decision of the Department, he or she may submit a notice of appeal by certified mail to: Administrative Hearings Division, Alabama Department of Human Resources, P.O. Box 304000, Montgomery, Alabama 36130. Any hearing before an administrative law judge will be conducted in accordance with the regulations of the Department.
- (f) Should an individual remain dissatisfied with the ruling of the administrative law judge, he or she may appeal the ruling to a Circuit Court of competent jurisdiction in accordance with § 41-22-20, Code of Alabama 1975. Notice of this appeal may be given by certified mail to: Administrative Hearings Division, Alabama Department of Human Resources, P.O. Box 304000, Montgomery, Alabama 36130.

#### VII. CLEARANCE OF ADULT PROTECTIVE SERVICES REGISTRY

Adult Abuse, Neglect and Exploitation (AANE) Clearance forms signed by the individual to be cleared must be submitted by mail or e-mail. If submitted by mail, the forms should be mailed to Adult Protective Services Intake Division, Alabama Department of Human Resources, Post Office Box 304000, Montgomery, Alabama 36130-4000. If submitted by e-mail, the forms should be sent to [apsregistry@dhr.alabama.gov](mailto:apsregistry@dhr.alabama.gov).

**Author:** Teresa Momon

**Statutory Authority:** Sections 38-9-8 and Sections 38-9G-1 through 38-9G-5, Code of Alabama 1975; Title XX of the Social Security Act, 42 U.S. C. A. § 1397.

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