

Chapter 6 Programs and Services for Abused Persons

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71-6-101. Short title -- Legislative intent.

(a) This part may be cited as the "Tennessee Adult Protection Act."

(b) (1) The purpose of this part is to protect adults coming within this part from abuse, neglect or exploitation by requiring reporting of suspected cases by any person having cause to believe that such cases exist. It is intended that, as a result of such reports, the protective services of the state shall prevent further abuse, neglect or exploitation within the limitations set out in this part.

(2) It is recognized that adequate protection of adults will require the cooperation of many agencies and service providers in conjunction with the department of human services due to the often complex nature of the risks to this adult group, and that services to meet the needs of this group will not always be available in each community. However, it is desirable that the following services, as well as other services needed to meet the intent of this part, be available: medical care, mental health and developmental disabilities services, including in-home assessments and evaluations; in-home services including homemaker, home-health, chore, meals; emergency services including shelter; financial assistance; legal services; transportation; counseling; foster care; day care; respite care; and other services as needed to carry out the intent of this part.

71-6-102. Part definitions.

As used in this part, unless the context otherwise requires:

(1) "Abuse or neglect" means the infliction of physical pain, injury, or mental anguish, or the deprivation of services by a caretaker that are necessary to maintain the health and welfare of an adult or a situation in which an adult is unable to provide or obtain the services that are necessary to maintain that person's health or welfare. Nothing in this part shall be construed to mean a person is abused or neglected or in need of protective services for the sole reason that the person relies on or is being furnished treatment by spiritual means through prayer alone in accordance with a recognized religious method of healing in lieu of medical treatment; further, nothing in this part shall be construed to require or authorize the provision of medical care to any terminally ill person if such person has executed an unrevoked living will in accordance with the Tennessee Right to Natural Death Act, compiled in title 32, chapter 11, and if the provision of such medical care would conflict with the terms of such living will;

(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; provided, however, that a person eighteen (18) years of age or older who is mentally impaired but still competent shall be deemed to be a person with mental dysfunction for the purposes of this chapter;

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

(4) "Capacity to consent" 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. A decision itself to refuse services cannot be the sole evidence for finding the person lacks capacity to consent;

(5) (A) "Caretaker" means an individual or institution who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, or agreement;

(B) A financial institution is not a caretaker of funds or other assets unless such financial institution has entered into an agreement to act as a trustee of such property or has been appointed by a court of competent jurisdiction to act as a trustee with regard to the property of the adult;

(6) "Commissioner" means the commissioner of human services;

(7) "Department" means the department of human services;

(8) "Exploitation" means the improper use by a caretaker of funds that have been paid by a governmental agency to an adult or to the caretaker for the use or care of the adult;

(9) "Imminent danger" means conditions calculated to and capable of producing within a relatively short period of time a reasonable probability of resultant irreparable physical or mental harm or the cessation of life, or both, if such conditions are not removed or alleviated. However, the department is not required to assume responsibility for a person in imminent danger pursuant to this chapter except when, in the department's determination, sufficient resources exist for the implementation of this part;

(10) "Investigation" includes, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;

(11) "Protective services" means services undertaken by the department with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to, conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; services directed toward seeking legal determination of whether the adult in need of protective services has been abused, neglected or exploited and procurement of suitable care in or out of the adult's home;

(12) "Relative" means spouse; child, including stepchild, adopted child or foster child; parents, including stepparents, adoptive parents or foster parents; siblings of the whole or half-blood; step-siblings; grandparents; grandchildren, of any degree; and aunts, uncles, nieces and nephews; and

(13) "Sexual abuse" occurs when an adult, as defined in this chapter, is forced, tricked, threatened or otherwise coerced by a person into sexual activity, involuntary exposure to sexually explicit material or language, or sexual contact against such adult's will. Sexual abuse also occurs when an adult, as defined in this chapter, is unable to give consent to such sexual activities or contact and is engaged in such activities or contact with another person.

71-6-103. Rules and regulations -- Reports of abuse or neglect -- Investigation -- Providing protective services -- Consent of adult -- Duties of other agencies.

(a) The commissioner has the discretion to adopt such rules, regulations, procedures, guidelines, or any other expressions of policy necessary to effect the purpose of this part insofar as such action is reasonably calculated to serve the public interest.

(b) (1) Any person, including, but not limited to, a physician, nurse, social worker, department personnel, coroner, medical examiner, alternate care facility employee, or

caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with this part. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death. However, unless the report indicates that there are other adults in the same or similar situation and that an investigation and provision of protective services are necessary to prevent their possible abuse, neglect or exploitation, it shall not be necessary for the department to make an investigation of the circumstances surrounding the death; provided, that the appropriate law-enforcement agency is notified.

(2) If a hospital, clinic, school, or any other organization or agency responsible for the care of adults has a specific procedure, approved by the director of adult protective services for the department, or the director's designee, for the protection of adults who are victims of abuse, neglect, or exploitation, any member of its staff whose duty to report under this part arises from the performance of the staff member's services as a member of the staff of the organization may, at the staff member's option, fulfill that duty by reporting instead to the person in charge of the organization or the organization head's designee who shall make the report in accordance with this chapter.

(c) An oral or written report shall be made immediately to the department upon knowledge of the occurrence of suspected abuse, neglect, or exploitation of an adult. Any person making such a report shall provide the following information, if known: the name and address of the adult, or of any other person responsible for the adult's care; the age of the adult; the nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation; the identity of the perpetrator, if known; the identity of the complainant, if possible; and any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation. Each report of known or suspected abuse of an adult involving a sexual offense that is a violation of §§ 39-13-501 -- 39-13-506 that occurs in a facility licensed by the department of mental health and substance abuse services as defined in § 33-2-402, or any hospital shall also be made to the local law enforcement agency in the jurisdiction where such offense occurred.

(d) Upon receipt of the report, the department shall take the following action as soon as practical:

(1) Notify the appropriate law enforcement agency in all cases in which the report involves abuse, neglect, or exploitation of the adult by another person or persons;

(2) Notify the appropriate licensing authority if the report concerns an adult who is a resident of, or at the time of any alleged harm is receiving services from, a facility that is required by law to be licensed or the person alleged to have caused or permitted the harm is licensed under title 63. The commissioner of health, upon becoming aware through personal knowledge, receipt of a report or otherwise, of confirmed exploitation, abuse, or neglect of a nursing home resident, shall report such instances to the Tennessee bureau of investigation for a determination by the bureau as to whether the circumstances reported constitute abuse of the medicaid program or other criminal violation;

(3) Initiate an investigation of the complaint;

(4) Make a written report of the initial findings together with a recommendation for further action, if indicated; and

(5) After completing the evaluation, the department shall notify the person making the report of its determination.

(e) Any representative of the department may enter any health facility or health service licensed by the state at any reasonable time to carry out its responsibilities under this part.

(f) Any representative of the department may, with consent of the adult or caretaker, enter any private premises where any adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out this part. If the adult or caretaker does not consent to the investigation, a search warrant may issue upon a showing of probable cause that an adult is being abused, neglected, or exploited, to enable a representative of the department to proceed with the investigation.

(g) If a determination has been made that protective services are necessary when indicated by the investigation, the department shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.

(h) In the event the adult elects to accept the protective services to be provided by the department, the caretaker shall not interfere with the department when rendering such services.

(i) If the adult does not consent to the receipt of protective services, or if the adult withdraws consent, the services shall be terminated, unless the department determines that the adult lacks capacity to consent, in which case it may seek court authorization to provide protective services.

(j) (1) Any representative of the department actively involved in the conduct of an abuse, neglect, or exploitation investigation under this part shall be allowed access to the mental and physical health records of the adult that are in the possession of any individual, hospital, or other facility if necessary to complete the investigation mandated by this chapter.

(2) To complete the investigation required by this part, any authorized representative of the department actively involved in the conduct of an investigation pursuant to this part shall be allowed access to any law enforcement records or personnel records, not otherwise specifically protected by statute, of any person who is:

(A) A caretaker of the adult; or

(B) The alleged perpetrator of abuse, neglect or exploitation of the adult, who is the subject of the investigation.

(3) (A) If refused any information pursuant to subdivisions (j)(1) and (2), any information from any records necessary for conducting investigations pursuant to this part may be obtained upon motion by the department to the circuit, chancery or general sessions court of the county where such records are located, or in the court in which any proceeding concerning the adult may have been initiated or in the court in the county in which the investigation is being conducted.

(B) The order on the department's motion may be entered ex parte upon a showing by the department of an immediate need for such information.

(C) The court may enter such orders as may be necessary to ensure that the information sought is maintained pending any hearing on the motion, and to protect the information obtained from further disclosure if the information is made available to the department pursuant to the court's order.

(4) (A) The department may be allowed access to financial records that are contained in any financial institution, as defined by § 45-10-102(3):

(i) Regarding:

(a) The person who is the subject of the investigation;

(b) Any caretaker of such person; and

(c) Any alleged perpetrator of abuse, neglect or exploitation of such person;

(ii) By the issuance of an administrative subpoena in the name of the commissioner or an authorized representative of the commissioner that is:

(a) Directed to the financial institution; and

(b) Complies with §§ 45-10-106 and 45-10-107; or

(iii) By application, as otherwise required pursuant to § 45-10-117, to the circuit or chancery court in the county in which the financial institution is located, or in the court in which any proceeding concerning the adult may have been initiated or in which the investigation is being conducted, for the issuance of a judicial subpoena that complies with the requirements of § 45-10-107; provided, that the department shall not be required to post a bond pursuant to § 45-10-107(a)(4).

(B) Nothing in this subdivision (j)(4) shall be construed to supersede the provision of financial records pursuant to the permissible acts allowed pursuant to § 45-10-103.

(5) Any records received by the department, the confidentiality of which is protected by any other statute or regulation, shall be maintained as confidential pursuant to such

statutes or regulations, except for such use as may be necessary in the conduct of any proceedings pursuant to its authority pursuant to this part or title 33 or 34.

(k) (1) If, as a result of its investigation, the department determines that an adult who is a resident or patient of a facility owned or operated by an administrative department of the state is in need of protective services, and the facility is unable or unwilling to take action to protect the resident or patient, the department shall make a report of its investigation, along with any recommendations for needed services to the commissioner of the department having responsibility for the facility. It shall then be the responsibility of the commissioner for that department and not the department of human services to take such steps as may be necessary to protect the adult from abuse, neglect, or exploitation and, in such cases, the affected administrative department of the state shall have standing to petition the court.

(2) (A) Notwithstanding subdivision (k)(1) or any other provision of this part to the contrary, the department of human services shall not be required to investigate and the department of mental health and substance abuse services or the department of intellectual and developmental disabilities, or their successor agencies, shall not be required to report to the department of human services any allegations of abuse, neglect or exploitation involving any person that arise from conduct occurring in any institutions operated directly by either the department of mental health and substance abuse services or the department of intellectual and developmental disabilities.

(B) Allegations of abuse, neglect or exploitation of individuals occurring in the circumstances described in subdivision (k)(2)(A) shall be investigated, respectively, by investigators of the department of mental health and substance abuse services and the department of intellectual and developmental disabilities, or their successor agencies, who have been assigned to investigate the allegations.

(l) In the event the department, in the course of its investigation, is unable to determine to its satisfaction that sufficient information is available to determine whether an adult is in imminent danger or lacks the capacity to consent to protective services, an order may be issued, upon a showing of probable cause that an adult lacks capacity to consent to protective services and is being abused, neglected, or exploited, to require the adult to be examined by a physician, a psychologist in consultation with a physician or a psychiatrist in order that such determination can be made. An order for examination may be issued ex parte upon affidavit or sworn testimony if the court finds that there is cause to believe that the adult may be in imminent danger and that delay for a hearing would be likely to substantially increase the adult's likelihood of irreparable physical or mental harm, or both, and/or the cessation of life.

71-6-104. Remedies -- Injunctive relief.

(a) Any court with jurisdiction under this part may upon proper application by the department issue a temporary restraining order or other injunctive relief to prohibit any violation of this part, regardless of the existence of any other remedy at law.

(b) The court may enjoin from providing care for any person, on a temporary or permanent basis, any employee or volunteer, who the court finds has engaged in the abuse, neglect or exploitation of an adult as defined in this part, in any situation involving the care of such adult by such employee or volunteer, whether such actions occurred in an institutional setting, in any type of group home or foster care arrangement serving adults, and regardless of whether such person, facility or arrangement serving adults is licensed to provide care for adults.

71-6-105. Reporting or investigating parties -- Immunity from liability -- Protection from job discrimination.

Any person making any report or investigation pursuant to this part, including representatives of the department in the reasonable performance of their duties and within the scope of their authority, shall be presumed to be acting in good faith and shall thereby be immune from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or investigation. Any person making a report under this part shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes a detrimental change in the employment status of the reporting party by reason of the report.

71-6-106. Privilege for confidential communications.

Notwithstanding the existence of the privilege for confidential communications between husband and wife, the chancellor at the hearing may compel testimony if, in the chancellor's opinion, disclosure is necessary in the interest of the adult.

71-6-107. Provision of protective services without the consent of the adult.

(a) (1) (A) If the department determines that an adult who is in need of protective services is in imminent danger if that adult does not receive protective services and lacks capacity to consent to protective services, then the department may file a complaint with the court for an order authorizing the provision of protective services necessary to prevent imminent danger of irreparable physical or mental harm, or both, and/or the cessation of life. The judge or chancellor shall hear the complaint ahead of any other business then pending in court or in chambers. This order may include the designation of an individual or organization to be responsible for the personal welfare of the adult and for consenting to protective services in the adult's behalf. The complaint must allege specific facts sufficient to show that the adult is in imminent danger if the adult does not receive protective services and lacks capacity to consent to protective services. Prior to filing a complaint with the court for an order authorizing removal of an adult from that adult's chosen place of residence, the department shall make reasonable efforts to exhaust all practical alternatives to the removal of such adult from such place of residence.

(B) In situations where the department must present a petition for emergency removal of an adult in imminent danger and a chancellor or circuit judge is unavailable, the

department may present petitions to judicial officers with general sessions jurisdiction. Further proceedings shall be conducted in chancery or circuit court.

(C) For the purposes of this section, "sexual abuse," as defined in this chapter, shall provide grounds for the department to obtain custody of an adult who lacks capacity to consent when such abuse relates to sexual activity or contact.

(2) The judge or chancellor or the general sessions court judge, prior to entering the order, must find that the adult is in imminent danger if the adult does not receive protective services and lacks capacity to consent to protective services.

(3) Within seven (7) days of entering an order pursuant to this section, or for good cause shown, then up to fifteen (15) days, the court shall hold a hearing on the merits. If such a hearing is not held within such time, the order authorizing the provision of protective services shall be dissolved.

(4) (A) The adult alleged to be in need of protective services and any person to whom the adult is lawfully married, if known and reasonably available, must be served with a copy of the complaint at least forty-eight (48) hours prior to the hearing, unless for good cause shown, a shorter time is allowed by the court. The adult and the adult's spouse have a right to be present and represented by counsel at the hearing. Failure to serve a copy of the complaint on a lawful spouse of the adult, if the spouse is not known or is not reasonably available as determined by the court, shall not prevent the provision of protective services, as ordered by the court, that may be necessary to prevent the adult from suffering imminent harm.

(B) If the adult alleged to be in need of protective services is indigent or, in the determination of the judge or chancellor, lacks capacity to waive the right to counsel, then the court shall appoint counsel for the adult alleged to be in need of protective services.

(C) If the adult alleged to be in need of protective services is indigent, court costs and the cost of representation of the adult shall be borne by the state; otherwise, the costs shall be borne by the adult. The state shall not be liable for the cost of counsel or court costs for the spouse of the adult; provided, however, that if the court finds that the department or an agency acting under subdivision (a)(7) has, without good cause, failed to serve a copy of the complaint on the lawful spouse of the adult, the court may assess attorneys fees for the spouse of the adult and court costs to the department or agency acting under subdivision (a)(7) not to exceed a total of two thousand dollars (\$2,000); provided further, however, that the court may exceed the two thousand dollar (\$2,000) limit upon making a specific finding of fact that the failure of the department or an agency to serve the complaint resulted in financial hardship upon the spouse or adult in excess of two thousand dollars (\$2,000) and that the interests of justice require that the limit be exceeded in the particular case.

(D) If a court determines that appointment of a guardian ad litem is necessary, and if the adult is indigent, the cost for the guardian ad litem shall be borne by the state;

otherwise the costs shall be borne by the adult.

(5) (A) Protective services necessary to prevent imminent danger of irreparable physical or mental harm, or both, and/or the cessation of life authorized by order pursuant to this section may include, but are not limited to, taking the adult into physical custody in the home, a medical or nursing care facility, or, if available, an alternative living arrangement exclusive of a developmental center operated by the department of intellectual and developmental disabilities; provided, that the court finds that such custody is for the purpose of medical examination and treatment necessary to prevent imminent danger of irreparable physical or mental harm, or both, and/or the cessation of life or protection from abuse or neglect necessary to prevent imminent danger of irreparable physical or mental harm, or both, and/or the cessation of life, and that the court specifically authorizes such custody in its order. In determining what specific custodial authority to grant under this section, the court shall consider whether the imminent danger of irreparable physical or mental harm, or both, and/or the cessation of life is relatively mild or severe and authorize such custody as is appropriate under the circumstances. The department shall review the decree at least annually to determine whether the prerequisites for custody still exist.

(B) Within a reasonable period of time after an adult is taken into physical custody and placed other than in a medical or nursing care facility, the department shall cause an appropriate examination to be made of the adult to determine the cause or causes resulting in the adult's lack of capacity to consent, if such determination had not been made at the time of the final hearing.

(6) (A) In the event that the adult has sufficient resources to defray the costs of a medical or nursing care facility, or an appropriate alternative living arrangement, as decreed by the court pursuant to this subsection (a), and that without such resources the adult would be unable to enter such facility or alternative living arrangement, then the court may appoint a temporary guardian for such period as necessary to secure and disburse the adult's resources for that purpose, but for no longer than six (6) months from the entry of the order authorizing provision of protective services. However, the court in its discretion may extend such period for a period no longer than an additional six (6) months. The guardian appointed pursuant hereto shall file an accounting with the court as to the resources used.

(B) The court in its order may authorize the temporary guardian to exercise a limited power of attorney over any accounts the adult has in a bank, credit union, or other financial institution. The temporary guardian so designated shall deliver a copy of the order of the court to the financial institution prior to taking any action with regard to the accounts. The limited power of attorney shall authorize the temporary guardian to withdraw money from or freeze or unfreeze the account.

(C) Concurrent with the order of the court appointing a temporary guardian, the court shall issue a subpoena directed to the financial institution in compliance with the Financial Records Privacy Act, compiled in title 45, chapter 10, requesting the names of any co-owner or additional authorized signatories on the accounts, unless the temporary guardian has

actual knowledge of any co-owners or additional authorized signatories. Upon receipt of the response to the subpoena, or upon actual knowledge of the co-owners or additional authorized signatories, the temporary guardian shall send a copy of the order to any person who is a co-owner of or authorized signatory on the deposit account within ten (10) days of receiving the names of the co-owners or signatories. Nothing in this subdivision (a)(6)(C) shall preclude the temporary guardian from making immediate expenditures from the accounts of the adult necessary to provide protective services for the adult in imminent danger, as defined in this part, pending the response by the co-owners or other signatories to the accounts.

(D) If the court finds that the temporary guardian has, without good cause, failed to provide a copy of the order under this subdivision (a)(6) to the co-owner or additional authorized signatory on the deposit account, the court may assess attorneys' fees for the benefit of the co-owner or additional authorized signatory or court costs associated with the failure of the department or the temporary guardian; provided, that the fees and court costs shall not exceed a total of two thousand dollars (\$2,000); provided, further, however, that the court may exceed the two thousand dollar (\$2,000) limit upon making a specific finding of fact that the failure of the department or an agency to serve the complaint resulted in financial hardship upon the spouse or adult in excess of two thousand dollars (\$2,000) and that the interests of justice require that the limit be exceeded in the particular case.

(7) If the department refuses to exercise the powers granted to it by subdivision (a)(1), any private nonprofit agency representing disabled adults may proceed under subdivision (1), after giving notice to the department of intent to do so. If an order authorizing the provision of protective services results, the department's responsibilities are the same as they would have been if the department had sought the order. If the court finds that an order authorizing the provision of protected services is not warranted, any agency proceeding under this subdivision (a)(7) will be responsible for the cost of the court-appointed attorney representing the individual for whom protective services were sought as well as court costs.

(b) (1) If the department determines that an adult is in need of protective services and lacks capacity to consent to protective services, then the department may petition the judge or chancellor for a hearing. The complaint must allege specific facts sufficient to show that the adult is in need of protective services and lacks capacity to consent to protective services.

(2) (A) The adult alleged to be in need of protective services and any person to whom the adult is lawfully married, if known and reasonably available, must be served with a copy of the complaint at least ten (10) days prior to the hearing, unless for good cause shown, a shorter time is allowed by the court. The adult and the adult's spouse have a right to be present and represented by counsel at the hearing. Failure to serve a copy of the complaint on a lawful spouse of the adult, if the spouse is not known or is not reasonably available as determined by the court, shall not prevent the provision of protective services to the adult, as ordered by the court.

(B) If the adult alleged to be in need of protective services is indigent or, in the determination of the judge or chancellor, lacks capacity to waive the right to counsel, then the court shall appoint counsel for the adult alleged to be in need of protective services.

(C) If the adult alleged to be in need of protective services is indigent, court costs and the cost of representation of the adult shall be borne by the state; otherwise the costs shall be borne by the adult. The state shall not be liable for the costs of counsel or court costs for the spouse of the adult; provided, however, if the court finds that the department or an agency acting under subdivision (7) has, without good cause, failed to serve a copy of the complaint on the lawful spouse of the adult, the court may assess attorneys fees for the spouse of the adult and court costs to the department or agency acting under subdivision (7) not to exceed a total of two thousand dollars (\$2,000); provided, however, that the court may exceed the two thousand dollar (\$2,000) limit upon making a specific finding of fact that the failure of the department or an agency to serve the complaint resulted in financial hardship upon the spouse or adult in excess of two thousand dollars (\$2,000) and that the interests of justice require that the limit be exceeded in the particular case.

(D) If a court determines that appointment of a guardian ad litem is necessary, and if the adult is indigent, the cost for the guardian ad litem shall be borne by the state; otherwise the costs shall be borne by the adult.

(3) If the judge or chancellor finds that the adult is in need of protective services and lacks capacity to consent to protective services, then the judge or chancellor may enter a decree authorizing the provision of protective services. This decree may include the designation of an individual or organization to be responsible for the personal welfare of the adult and for consenting to protective services in the adult's behalf.

(c) An individual or organization appointed pursuant to subsection (a) or (b) to be responsible for the personal welfare of the adult and for consenting to protective services in the adult's behalf or to serve as temporary guardian shall have only specific authority as the court shall provide in its order. Such authority shall be limited to the authority to consent to specified protective services, including medical care if ordered, and if ordered pursuant to subsection (a), may arrange for, and consent to, appropriate custodial care and gain access to and disburse the adult's resources. If the adult is in need of a person to manage the adult's affairs or to have other responsibilities not addressed in this section, the procedures and requirements for appointment of a conservator pursuant to title 34, chapter 1 or 3, must be followed. Nothing in this section shall be construed as requiring the department to initiate proceedings for the appointment of a conservator or a temporary guardian or to accept such appointment if proceedings are instituted or to initiate proceedings under title 34, chapter 1 or 3.

71-6-108. Prohibitions.

No adult may be adjudicated incompetent or committed to a mental institution under this part.

71-6-110. Violation of duty to report.

Any person who knowingly fails to make a report required by this chapter commits a Class A misdemeanor.

71-6-117. Willful abuse, neglect or exploitation prohibited -- Penalty.

(a) It is an offense for any person to knowingly, other than by accidental means, abuse, neglect or exploit any adult within the meaning of this part.

(b) A violation of this section is a Class E felony.