

Legal Avenues to Address Elder Abuse



As our population ages, the problem of elder abuse is becoming more and more prominent. While our legal system is not perfect and must continue to evolve in order to be equipped to deal appropriately with elder abuse, it does offer numerous and varied options for halting the abuse and, if possible, providing redress for loss suffered due to the abuse.

These options include intervention by the police and prosecution to charge abusers with, for instance, the crimes of assault or fraud. There are also numerous options in the civil courts.

Civil law remedies include:

- a) Court-ordered injunctions to (for example):
 - a. Freeze or preserve stolen or wrongfully taken assets, to prevent the abuser from escaping with or hiding those assets; and/or,
 - b. Remove an elder from the control of his or her abuser,either of which can be obtained on an urgent basis if necessary;
- b) Actions for compensation for personal injuries caused by physical and, in some cases, emotional abuse;
- c) Actions for the return of money or assets wrongfully taken from an elder, for instance by coercion, deceit, or forgery;
- d) Actions to set aside Wills or “predatory marriages” that the elder has entered

into despite having diminished mental capacity or because of coercion; and,

- e) In the case of an abused elder who suffers from diminished mental capacity, the Courts are able to permit another person to step in to make decisions for the elder, including decisions about pursuing the abuser in the Courts.

Everyone should also be aware that the estate or heirs of an elder who has suffered abuse may be able to pursue these sorts of Court actions against an abuser, even if the elder has since passed away.

We encourage people who are victims or witnesses of any type of elder abuse to report this abuse to the police and others who might be able to help, such as seniors advocacy groups, caregivers, family members, and the Public Guardian and Trustee.

We also recommend consulting a lawyer who works in the field of elder law or wills and estates law. Many lawyers may be willing to provide a no-cost or inexpensive initial consult that can include advice about how best to report the abuse, as well as information about what can be done to stop the abuse or to undo the damage it has caused.



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