

Section 38-9-2

Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:

(1) ABUSE. 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 IN NEED OF PROTECTIVE SERVICES. 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, exploitation, sexual abuse, or emotional abuse by others, and who has no guardian, relative, or other appropriate person able, willing, and available to assume the kind and degree of protection and supervision required under the circumstances.

(3) CAREGIVER. An individual who has the responsibility for the care of a protected 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.

(4) COURT. The circuit court.

(5) DEPARTMENT. The Department of Human Resources of the State of Alabama.

(6) EMOTIONAL ABUSE. 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.

(7) EMPLOYEE OF A NURSING HOME. A person permitted to perform work in a nursing home by the nursing home administrator or by a person or an entity with an ownership interest in the facility, or by both. A person shall be considered an employee whether or not he or she receives compensation for the work performed.

(8) EXPLOITATION. 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. For the purpose of this section and Sections 38-9-6 and 38-9-7, the term "unlicensed hospital" shall have the meaning ascribed to it in Section 22-21-33, and the term "licensed hospital" shall have the meaning ascribed to it in Section 22-21-20.

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

(10) **INTERESTED PERSON.** Any adult relative, friend, or guardian of a protected person, or any official or representative of a public or private agency, corporation, or association concerned with his or her welfare.

(11) **MISAPPROPRIATION OF PROPERTY OF A NURSING HOME RESIDENT.** The deliberate misplacement or wrongful, temporary, or permanent use or withholding of belongings or money of a resident of a nursing home without the consent of the resident.

(12) **NEGLECT.** 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.

(13) **NEURODEGENERATIVE.** Relating to or being a progressive loss of neurologic function.

(14) **NURSING FACILITY.** A facility which is licensed as a nursing home by the Alabama Department of Public Health pursuant to Article 2, Chapter 21, Title 22.

(15) **OTHER LIKE INCAPACITIES.** Those 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 or her own care or protecting his or her own interests or protecting himself or herself from physical or mental injury or abuse.

(16) **PERSON.** Any natural human being.

(17) **PHYSICAL INJURY.** Impairment of physical condition or substantial pain.

(18) **PROTECTED PERSON.** Any person over 18 years of age subject to protection under this chapter or any person, including, but not limited to, persons with a 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 or herself or others.

(19) **PROTECTIVE SERVICES.** Those services whose objective is to protect an incapacitated person from himself or herself and from others.

(20) **RECKLESSLY.** A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he or she is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk shall be of such nature and degree that its disregard 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 of that risk solely by reason of voluntary intoxication, as defined in subdivision (e)(2) of Section 13A-3-2, acts recklessly with respect thereto.

(21) **SERIOUS PHYSICAL INJURY.** Physical injury which creates a risk of death, or which causes serious and protracted disfigurement, protracted impairment of health, protracted loss of the function of any bodily organ, or the impairment of the function of any bodily organ.

(22) **SEXUAL ABUSE.** Any conduct that is a crime as defined in Sections 13A-6-60 to 13A-6-70, inclusive.

(Acts 1977, No. 780, p. 1340, §2; Acts 1989, No. 89-825, p. 1652, §1; Acts 1994, No. 94-615, p. 1134, §1; Act 2000-455, p. 837, §1; Act 2008-390, p. 735, §1; Act 2018-564, §1.)