

# **RAISING AWARENESS**

## **A Guide to Recognizing and Reporting Abuse, Neglect and Exploitation of Vulnerable Adults**



**Adult Protective Services  
Division of Licensing and Protection  
Department of Disabilities, Aging & Independent Living**

**State of Vermont  
May 2009**

## **INTRODUCTION**

Staff from the State of Vermont, Department of Disabilities, Aging and Independent Living, Division of Licensing and Protection's Adult Protective Services Unit have prepared this guide for your use in understanding Vermont's Adult Protective Services Program. Information about Vermont's Adult Protective Services Statute, Title 33 Chapter 69, is provided. In addition, examples of possible signs of abuse, neglect and exploitation are listed as well as information regarding mandated reporters. It is our hope that this guide will provide information that will assist you in identifying possible abuse, neglect or exploitation of vulnerable adults. In providing you with this information, we believe that you will be better informed partners with us in the important area of adult abuse prevention.

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# TABLE OF CONTENTS

	Page(s)
<b>Introduction to Adult Protective Services</b> .....	1-2
- What is Adult Protective Services (APS)?.....	1
- What types of protective services does APS provide to vulnerable adults?.....	1
- Is APS the same as Child Protective Services?.....	2
- Does APS provide case management services?.....	2
- Does APS force vulnerable adults to accept protective services? .....	3
- Can APS criminally investigate and prosecute a perpetrator who has abused, neglected and/or exploited a vulnerable adult?.....	3
<b>Vulnerable Adult Defined</b> .....	4
- What is a “Vulnerable Adult”? .....	4
- Are all elders or people with disabilities considered vulnerable?.....	4
<b>Abuse of Vulnerable Adults</b> .....	5-7
- What is “Abuse”? .....	5
- Examples of abuse.....	6
- Indicators of physical abuse .....	7
- Indicators of sexual abuse .....	7
- Indicators of emotional abuse .....	7
<b>Neglect of Vulnerable Adults</b> .....	8-9
- What is “Neglect”? .....	8
- Examples of neglect .....	9
- Indicators of neglect .....	9
<b>Exploitation of Vulnerable Adults</b> .....	10-11
- What is “Exploitation”? .....	10
- Examples of exploitation.....	10
- Indicators of exploitation .....	11
- Who abuses, neglects or exploits vulnerable adults?.....	11
<b>Risk Factors</b> .....	12
- Individual factors .....	12
- Relationship factors.....	12
- Environmental factors .....	12

<b>Reporting abuse, neglects and exploitation .....</b>	<b>13-21</b>
- Responding to disclosures.....	13
- Why are vulnerable adults reluctance to report or disclose abuse, neglect or exploitation? .....	14-15
- Mandated reporters.....	16
- When do I need to report?.....	17
- What happens if I suspect that abuse, neglect or exploitation has occurred and I fail to report it?.....	17
- What if I am not sure that what I suspect is abuse, neglect or exploitation? .....	17
- What if I am not sure that the person I am concerned about is a “vulnerable adult”?.....	17
- How do I make a report?.....	18
- Useful information to have when making a report .....	19
- Can I be sued for making a report? .....	20
- What about HIPAA? .....	20
- What happens after a report is made? .....	20
- Why are reports of abuse sometimes "unsubstantiated" when it appears that abuse, neglect or exploitation has actually occurred? .....	21
- What happens if a report is substantiated?.....	21
 Resources .....	 22

# INTRODUCTION TO ADULT PROTECTIVE SERVICES

## What is Adult Protective Services?

Adult Protective Services (APS) is one of the principal governmental agencies mandated by Vermont law to investigate reports of abuse, neglect and exploitation of vulnerable adults. This statutory responsibility for this can be found under Title 33 of the Vermont Statutes.

## What types of protective services does APS provide to vulnerable adults?

- **Relief from abuse, neglect or exploitation orders** - APS has the statutory authority to help vulnerable adults obtain emergency orders from the courts to help protect victims from further abuse, neglect or exploitation.
- **Guardianship petitions** - APS has the statutory authority to pursue a guardianship petition *if* a vulnerable adult has impaired cognitive functioning that significantly results in the making of decisions that pose serious risks to their health, safety or financial well-being. Individuals who are competent to make their own decisions, but make “bad decisions,” may not be subject to this protective action unless they wish to do so voluntarily.
- **Help in securing safe living arrangements** - APS can assist vulnerable adults by making referrals to community organizations such as the Council on Aging or Home Health agencies.
- **Adult abuse registry** - APS maintains a statewide registry of all individuals who have been found to have abused, neglected, or exploited a vulnerable adult.

## **Is APS the same as Child Protective Services?**

The answer is yes and no. It is a common misconception that APS has the same authority and responsibilities as Child Protective Services. While there are similarities between the two agencies, there are also differences.

### ***Similarities:***

1. APS and Child Protective Services are the principle governmental agencies mandated by Vermont State law to protect vulnerable persons from suspected abuse, neglect and/or exploitation.
2. APS is mandated to protect vulnerable adults who are 18 years of age and older; Child Protective Services is mandated to protect children from birth to 18 years of age.

### ***Differences:***

1. Mandated reporters must make an initial report to APS within 48 hours. For Child Protection Services the time allowed is 24 hours.
2. APS has no ability to take any persons into custody regardless of their cognitive abilities or individual situation. Child Protection Services can petition the court for the custody of a child/ren.
3. APS has no ability to provide case management services. Child Protective Services has the ability to provide on-going case management.

## **Does APS provide case management services?**

No. APS does not provide case management services to vulnerable adults. If such support is necessary or requested, APS will make a referral to the appropriate agency or organization. The Area Agencies on Aging can provide case management services to individuals over the age of 60 and the Visiting

Nurses or Home Health Agencies can also provide social work or case management to individuals of any age who have a referral from their physician.

### **Does APS force vulnerable adults to accept protective services?**

Vermont law states that all individuals who are competent to make their own decisions have a right to refuse APS services and a right to refuse to participate in an investigation. Competent adults may exercise their rights even if that refusal means that the individual will remain in the same home with someone who has abused them, or will remain in a home that is unsanitary or unsafe. **APS cannot remove a competent adult from a situation that he or she refuses to leave.**

### **Can APS criminally investigate and prosecute a perpetrator who has abused, neglected and/or exploited a vulnerable adult?**

No. APS does not conduct criminal investigations. However, if APS determines that an incident has risen to the level of criminal behavior, a referral will be made to the appropriate prosecutorial agency (i.e. Attorney General's Office, State Attorney's Office, law enforcement agencies, etc...)

## VULNERABLE ADULT DEFINED

### What is a “vulnerable adult”?

The term “vulnerable adult” has a very specific meaning as defined by Vermont law under Title 33 of the Vermont Statutes Annotated (33 V.S.A. §6902).

A person is a vulnerable adult if he/she:

- is age 18 or older; **and**
- is a resident of licensed facility such as a nursing or community care home; *or*
- is a patient on a psychiatric unit or in a psychiatric hospital; *or*
- has received personal care services for longer than 1 month; *or*
- regardless of residence or whether any type of service is received, is impaired due to brain damage, infirmities of aging, or a physical, mental, or developmental disability:
  - some impairment of the individual's ability to provide for his or her own care without assistance, including the provision of food, shelter, clothing, health care, supervision, or management of finances; *or*
  - an impairment of the individual’s ability to protect himself or herself from abuse neglect or exploitation.

### Are all elders or people with disabilities considered vulnerable?

No. Most elders and people with disabilities manage their own lives and are capable of providing for their own care without assistance and capable of protecting themselves from abuse, neglect or exploitation. Those individuals would not meet the statutory definition of “vulnerable adult”.

## **ABUSE OF VULNERABLE ADULTS**

### **What is abuse?**

Vermont law provides a broad definition of “abuse” as it applies to vulnerable adults.

Abuse is defined as:

- any treatment of a vulnerable adult which places his or her life, health, or welfare in jeopardy or which is likely to result in impairment of health;
- any conduct committed with intent or reckless disregard that such conduct is likely to cause unnecessary pain, harm, or suffering;
- unnecessary or unlawful confinement or restraint of a vulnerable adult;
- intentionally subjecting a vulnerable adult to behavior which should reasonably be expected to result in intimidation, fear, humiliation, degradation, agitation, disorientation, or other forms of serious emotional distress;
- any sexual activity with a vulnerable adult by a caregiver who volunteers for or is paid by a care-giving facility or program. This definition shall not apply to a consensual relationship between a vulnerable adult and a spouse, nor to a consensual relationship between a vulnerable adult and a caregiver hired, supervised, and directed by the vulnerable adult;
- administration or threatened administration of a drug, substance, or preparation to a vulnerable adult for a purpose other than legitimate and lawful medical or therapeutic treatment.

## Examples of abuse

### ➤ **Physical abuse**

- hitting, kicking, shoving, shaking, pinching, burning
- throwing objects at a vulnerable adult
- driving impaired while having a vulnerable adult in the vehicle

### ➤ **Emotional abuse**

- yelling, swearing, name calling, bullying
- making threats of abuse or abandonment
- habitual blaming or scapegoating, humiliating, ridiculing
- isolating the vulnerable adult from friends or family

### ➤ **Sexual abuse**

- sexual assault and rape; any unwanted sexual touch or being forced to touch another in a sexual manner
- forcing pornographic material on a vulnerable adult

### ➤ **Unlawful restraint**

- tying a vulnerable adult to a bed or chair with a rope, belt, or sheets
- locking a vulnerable adult in a room or house

### ➤ **Substance administration abuse**

- the sharing of prescription medications
- providing illegal or unwanted drugs
- threatening to give a medication, drug, or substance if the vulnerable adult does not comply with the wishes of another person
- giving higher or more doses of any prescribed medication

### **Indicators that physical abuse may have occurred**

- unexplained bruises, burns, cuts, fractures, dislocations
- conflicting stories about injuries
- changes in physical or mental health (fear, withdrawal, anxiety)
- frequent changes in health care professionals
- forced isolation
- signs of being restrained, such as rope marks on wrists

### **Indicators that sexual abuse may have occurred**

- full or partial disclosure, or hints, of sexual abuse
- pain, itching or bruising in genital areas, thighs and upper arms
- torn, stained or bloodied underclothing or bedding
- sexually transmitted diseases, unusual urinary tract or vaginal infections
- pregnancy in an individual who lacks the capacity to consent to sexual activity
- changes in sexual behavior/attitude, inappropriate sexualized behaviors
- emotional changes
- changes in personal hygiene – wetting, soiling, reluctance to undress, new obsession with washing themselves

### **Indicators that emotional abuse may have occurred**

- changes in behavior/demeanor when a certain person is present
- prevention of access to friends, family, telephone, social groups
- changes in mental health – withdrawn, depressed, low self-esteem, anxious
- changes in sleep patterns or appetite
- unexplained fear or defensiveness

**These "warning signs" should not be interpreted as "proof" that physical, sexual, or emotional abuse has occurred or is occurring, but serve as indications that a problem may exist.**

## NEGLECT OF VULNERABLE ADULTS

### What is neglect?

Vermont law defines neglect as follows:

"Neglect" is defined as **purposeful** or **reckless** failure or omission by a caregiver to:

- Provide care or arrange for goods or services necessary to maintain the health or safety of a vulnerable adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, unless the caregiver is acting pursuant to the wishes of the vulnerable adult or his or her representative, or a terminal care document;
- Protect a vulnerable adult from abuse, neglect, or exploitation by others;
- Carry out a plan of care for a vulnerable adult when such failure results in or could reasonably be expected to result in physical or psychological harm or a substantial risk of death to the vulnerable adult, unless the caregiver is acting pursuant to the wishes of the vulnerable adult or his or her representative, or a terminal care document;
- Report significant changes in the health status of a vulnerable adult to a physician, nurse, or immediate supervisor, when the caregiver is employed by an organization that offers, provides or arranges for personal care;
- Neglect may be repeated conduct or a single incident which has resulted in or could be expected to result in physical or psychological harm.

## **Examples of neglect**

- failure to provide adequate food and nutrition
- failure to seek medical treatment for injuries or illnesses
- unsanitary living conditions (dirt, bugs, soiled bedding and clothes)
- leaving the vulnerable adult dirty
- unsuitable clothing or covering for the weather
- unsafe living conditions (no heat or running water; faulty electrical wiring, other fire hazards)
- desertion of the vulnerable adult
- failure to give prescribed medications or giving too much of the medication
- failure to follow a plan of care when doing so could result in physical or psychological harm to the vulnerable adult
- for those employed by caregiving organizations, failure to report significant changes in the health status of a vulnerable adult.

## **Indicators that neglect may be occurring**

- poor hygiene
- weight loss, malnourishment
- untreated injuries or health conditions
- lack of adequate clothing or personal care items
- lapses in medication pick-up and administration
- frequently missed physician appointments

**These "warning signs" should not be interpreted as "proof" that neglect has occurred or is occurring, but serve as indicators that a problem may exist.**

## **EXPLOITATION OF VULNERABLE ADULTS**

### **What is “exploitation”?**

As defined by Vermont law, exploitation means:

- Willfully using, withholding, transferring or disposing of funds or property of a vulnerable adult without or in excess of legal authority for the wrongful profit or advantage of another;
- Acquiring possession or control of or an interest in funds or property of a vulnerable adult through the use of undue influence, harassment, duress, or fraud;
- The act of forcing or compelling a vulnerable adult against his or her will to perform services for the profit or advantage of another;
- Any sexual activity with a vulnerable adult when the vulnerable adult does not consent or when an individual knows or should know that the vulnerable adult is incapable of resisting or declining consent to the sexual activity due to age or disability or due to fear of retribution or hardship, whether or not an individual has actual knowledge of vulnerable status.

### **Examples of exploitation**

- illegally withdrawing money from an account or forging checks
- unauthorized use of credit cards or using a vulnerable adult’s identity to obtain credit
- stealing or “borrowing” household items
- threatening a vulnerable adult to get compliance
- forcing or coercing a vulnerable adult to engage in sexual activity

## Indicators that exploitation may be occurring

- frequent checks made out to “cash”
- missing checks, credit cards
- numerous unpaid bills
- frequent expensive gifts from the vulnerable adult to the caregiver or other person
- missing possessions
- purchase of items that the vulnerable adult does not or cannot use

**These "warning signs" should not be interpreted as "proof" that exploitation has occurred or is occurring, but should serve as indicators that a problem may exist.**

## Who abuses, neglects or exploits vulnerable adults?

A vulnerable adult could be subjected to abuse, neglect or exploitation by just about anyone, including:

- a partner, child, relative
- a friend or neighbor
- a personal care attendant or home care provider
- a stranger
- facility or agency staff
- another vulnerable adult

## RISK FACTORS

Particular groups of people may be more at risk for being abused, neglected and exploited. These groups may include people isolated from the community by language barriers, cognitive or psychiatric disabilities and homelessness.

**Individual factors** which may predispose a vulnerable adult to abuse, neglect or exploitation include:

- communication difficulties by the vulnerable adult
- physical and/or emotional dependence on caregiver
- cognitive impairments
- high level of dependence or demanding
- substance misuse, self-harming behaviors
- aggressive behavior, rejects help
- lack of community supports and/or services

**Relationship factors** which may predispose a vulnerable adult to abuse, neglect or exploitation include:

- unequal distribution of power and decision making in relationships
- increased dependency by the vulnerable adult
- lack of boundaries
- stress of career, isolation, lack of support
- difficult or challenging behavior by the vulnerable adult
- burnout

**Environmental factors** which may predispose a vulnerable adult to abuse, neglect or exploitation include:

- overcrowding
- poor or insecure living conditions
- geographical isolation
- inappropriate staffing for care providing organizations

# REPORTING ABUSE, NEGLECT & EXPLOITATION

## Responding to disclosures

If a vulnerable adult fully or partially discloses that he or she has been the victim of abuse, neglect or exploitation, **DO**:

- remain calm
- listen attentively
- be reassuring
- treat the disclosure seriously
- allow the vulnerable adult to talk with privacy
- only ask open ended questions (for example: “what happened next?” instead of “did he push you down?”) but don’t conduct an investigation
- explain that a report to APS will be made
- document in as much detail as possible
- save any evidence
- report to APS

If a vulnerable adult fully or partially discloses that he or she has been the victim of abuse, neglect or exploitation, **DO NOT**:

- promise to keep secrets
- make promises you cannot keep
- make assumptions
- be judgmental
- stop someone who is freely recalling events
- contact the alleged perpetrator
- destroy evidence

## **Why are vulnerable adults reluctant to report or disclose abuse, neglect or exploitation?**

There are many reasons vulnerable adults may be reluctant to report mistreatment or accept help. The primary reasons are:

### ➤ ***Denial***

Unconsciously or consciously the victim is not able to acknowledge that the abuse is occurring. This kind of "denial" is common among elderly victims, and is also seen in children and younger battered women. For example, an elderly woman who has been battered throughout her marriage by her spouse may see abuse as "normal" because she has nothing against which to compare the abusive situation.

### ➤ ***Self blame***

Physical and mental abuse over time can wear away the victim's sense of identity and self esteem to the extent that s/he comes to believe s/he "deserves" or has provoked the abuse. It is often easier for victims to identify themselves as the wrongdoers rather than their children, spouses, other family members, or care givers.

### ➤ ***Shame and embarrassment***

Vulnerable adults are often ashamed to admit to being mistreated by someone related to them. They may feel that to admit the abuse will reflect badly on their past parenting abilities or family name.

### ➤ ***Dependency***

Vulnerable adults may be abused by people upon whom they depend for a large part of their care. Victims often fear that if they report the abuse, the caregiver will abandon them. They may also fear losing their homes and being forced to move into a nursing home when they can no longer survive alone.

### ➤ ***Loyalty to caregiver***

Typically, the caregiver who is abusing a vulnerable adult does not treat the adult in their care badly *all* the time. Victims may experience frustration about reporting the abuse because they feel genuine love and loyalty toward the abusive caregiver. This is especially likely if the caregiver is a family member.

➤ ***Fear of retaliation***

Victims often fear that reporting may cause the abuser to retaliate against them, and perhaps to escalate the abuse. Studies have indicated that these fears may be well founded.

➤ ***Physical inability to report***

Victims may lack the physical ability to report. They may be bedridden or have limited mobility and lack access to authorities because they have no transportation. Abusers may deliberately isolate their elderly victims from access to help.

➤ ***Perceptions of the system***

Vulnerable adults may not know they can report abuse or they may lack information about where to call for help. They may also feel that social service agencies and the criminal justice system will not be sympathetic or responsive to their needs. They may fear that no one will believe them or that they will be regarded as incompetent simply because of their age or disability, and that their right to decide their own future will be threatened or eroded. They may also fear that their only caregiver will be taken away, leaving them alone.

## **Mandated Reporters**

In the State of Vermont the law requires some individuals to report if they suspect that abuse, neglect or exploitation of a vulnerable adult has occurred or is occurring. These individuals are referred to as **mandated reporters**.

### **You are a mandated reporter if you are:**

- An employee of the Agency of Human Services who is involved in care-giving.
- A physician, osteopath, chiropractor or physician's assistant, nurse, medical examiner, licensed nursing assistant, emergency medical services personnel, dentist, or psychologist.
- A school teacher, school librarian, school administrator, school guidance counselor, school aide, school bus driver, or school employee or school contractor who works regularly with students.
- A mental health professional, social worker, person or organization that offers, provides, or arranges for personal care for vulnerable adults.
- A caregiver employed by a vulnerable adult.
- An employee, or contractor, involved in care giving for a community mental health center, therapeutic community residence, group home, or developmental home.
- A law enforcement officer.
- An employee of an adult day care center, area agency on aging, senior center, or meal program designed primarily to serve vulnerable adults.
- An employee of a hospital, nursing home, residential care home, home health agency.

## **When do I need to report?**

Mandated reporters must make an initial report to APS **within 48 hours** when they have a reason to suspect that a vulnerable adult may have been abused, neglected or exploited.

## **What happens if I suspect that a abuse, neglect or exploitation has occurred but I fail to report it?**

There are significant penalties for mandated reports who fail to report suspected incidents of abuse, neglect or exploitation within 48 hours.

Failure to report could result in:

- A \$500 fine
- Plus, an additional \$500 fine for each 24 hour period the incident is not reported
- A one year prison term

## **What if I am not sure that what I suspect is abuse, neglect or exploitation?**

You do not have to prove or be certain that a vulnerable adult has been abused, exploited, or neglected in order to make a report; you only need to have reason to believe that it may have occurred or is still occurring. It is the responsibility of APS to investigate whether or not abuse, neglect or exploitation has occurred.

## **What if I am not sure that the person I am concerned about is a “vulnerable adult”?**

If you suspect that abuse, neglect or exploitation has occurred or is occurring it is important to make a report. It is the job of the APS team to determine whether or not an individual is “vulnerable” as defined by relevant law.

***REPORT!!! REPORT!!! REPORT!!!  
NOT REPORTING IS NOT AN OPTION  
AND MAY BE A VIOLATION OF THE  
VERMONT STATE LAW***

### **How do I make a report?**

Reports to APS may be made by telephone, fax or online.

- By phone: 802-241-3918 or 1-800-564-1612
- By fax: 802-241-4092
- Online: [www.dlp.vermont.gov/abuse-reporting-form](http://www.dlp.vermont.gov/abuse-reporting-form)

If you need to make a report after business hours, on weekends or holidays, please call the Emergency Services Program (ESP) at 1-800-649-5285.

## **Useful information to have when making a report to APS.**

When making a report to APS it can be very useful, but not necessary, to have the following information:

- Reporter information
  - Name, phone number, address
  - Relationship to the situation
- Victim Information
  - Name, phone number, address
  - Date of birth or age
- Information known about the alleged victim's disabilities or diagnosis.
- What services is the alleged victim currently receiving?
- Perpetrator information
  - Name, phone number, address
  - Date of birth or age
  - Relationship to the alleged victim
- Does the alleged perpetrator have any disabilities or receive any services?
- Allegation
  - What happened? When? Where?
  - Are there injuries? Is the alleged victim still at risk?
  - Names and contact information of witnesses

## **Can I be sued for making a report?**

Vermont law provides you with immunity from civil or criminal liability as long as the report was made in good faith.

## **What about HIPAA?**

The HIPAA privacy rules allow covered entities to disclose protected health information in order to report known or suspected abuse, neglect or exploitation, if the report is made to a government authority that is authorized by law to receive such reports.

## **What happens after a report has been made?**

- A report of alleged abuse, neglect or exploitation is received by APS.
- A screening process is initiated to determine if the alleged victim meets the definition of a vulnerable adult and if the conduct meets the definition of abuse, neglect or exploitation.
- Through the screening process a determination is made to either close the report or send it to the field for further investigation.
- Once a report is opened for investigation the assigned investigator conducts interviews, reviews records and gathers relevant information to establish whether or not there is sufficient evidence to support a finding that abuse, neglect or exploitation occurred. This includes, but is not limited to, a visit to the vulnerable adult's place of residence, a visit to the location of the reported abuse, neglect or exploitation and the opportunity for the person who allegedly abused, neglected or exploited the vulnerable adult to be interviewed.
- At the completion of the investigative process the investigator prepares a written report with a recommendation to the Commissioner that the allegations be substantiated, or unsubstantiated, based on the evidence available.
- The alleged victim and the individual who made the report will receive a letter from APS at the conclusion of the investigation informing them of the outcome.

## **Why are reports of abuse sometimes “unsubstantiated” when it appears that abuse, neglect or exploitation has actually occurred?**

There are many reasons that APS is sometimes unable to substantiate a finding of abuse, neglect or exploitation. Some common reasons are:

- The alleged victim does not meet the statutory definition of vulnerable adult.
- The alleged victim has declined to participate in the investigation.
- The alleged victim could not be located.
- A preponderance of the evidence did not clearly establish that abuse, neglect or exploitation occurred.

## **What happens if a report is substantiated?**

The name of the perpetrator will be placed on the Adult Abuse Registry *if*:

1. The Commissioner of the Department of Disabilities, Aging and Independent Living, after determining that the alleged victim is vulnerable and that the conduct of the alleged perpetrator violates the law, accepts the recommendation for a substantiated finding of abuse, neglect or exploitation; and
2. The substantiated finding of abuse, neglect or exploitation is not reversed by the Human Services Board or the Vermont Supreme Court.

The placement of an individual’s name on the Adult Abuse Registry may result in the termination of the individual’s employment and may prevent them from being employed by any entity that serves the needs of children or vulnerable adults. It may also result in the revocation of the individual’s professional license (e.g. MD, RN, LPN, LNA, etc...).

## RESOURCES

<b>Adult Protective Services .....</b>	<b>1-802-871-3326 or 1-800-564-1612</b>
<b>Area Agencies on Aging.....</b>	<b>1-800-642-5119</b>
<b>Brain Injury Association of Vermont (BIA-VT).....</b>	<b>1-877-856-1772</b>
<b>Child Protection Line (24 hour).....</b>	<b>1-800-649-5285</b>
<b>Deaf Victim Advocacy Services TTY Support Line .....</b>	<b>1-800-303-3827</b>
<b>Domestic Violence Hotline (24 hour) .....</b>	<b>1-800-228-7395</b>
<b>Emergency Services Program (ESP).....</b>	<b>1-800-649-5285</b>
<b>Lawyer Referral Service.....</b>	<b>1-800-639-7036</b>
<b>Legal Service Law Line of Vermont. ....</b>	<b>1-800-639-8857</b>
<b>Medicaid Fraud and Residential Abuse Unit .....</b>	<b>1-802-241-4440</b>
<b>Office of Health Care Ombudsman.....</b>	<b>1-800-917-7787</b>
<b>Office of Public Guardian (OPG) .....</b>	<b>1-802-241-2663</b>
<b>Vermont Center for Crime Victims Services .....</b>	<b>1-800-750-1213</b>
<b>Vermont Legal Aid.....</b>	<b>1-800-889-2047</b>
<b>* Disability Law Project</b>	
<b>* Senior Citizens Law Project</b>	
<b>Vermont Ombudsman Project.....</b>	<b>1-800-889-2947</b>
<b>Vermont Protection &amp; Advocacy .....</b>	<b>1-800-834-7890</b>
<b>Vermont Volunteer Lawyers Project.....</b>	<b>1-800-639-8857</b>

**2-1-1 is the number to call for information about health and human services and organizations in your community.**