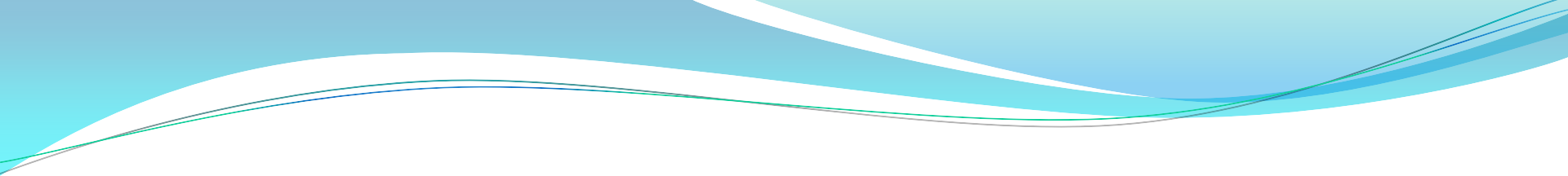


Kentucky's Caregiver Misconduct Registry





The legal definitions of adult **abuse**, **neglect**, and **exploitation** described in the following slides apply to both criminal cases and Caregiver Misconduct Registry cases.

- The main difference between criminal cases and Registry cases is the burden of proof. Criminal cases must meet the higher “beyond a reasonable doubt” standard. Registry cases only need to meet a “preponderance of the evidence” standard.

Who can be a victim of abuse, neglect, or exploitation?

The term “vulnerable adult” is often used to describe who can be a victim of abuse, neglect, or exploitation.

However, Kentucky law uses the term “adult” which is defined as:

- A person 18 years of age or older who, because of mental or physical dysfunctioning, is unable to manage his/her own resources, carry out the activity of daily living, or protect himself/herself from neglect, exploitation, or a hazardous or abusive situation without assistance from others.

-KRS 209.020(4)

What is abuse?

Abuse is:

- Infliction of injury
 - Physical or mental injury
 - intent to injure not required
- Sexual abuse
- Unreasonable confinement
- Intimidation
- Punishment that results in physical pain/injury or mental injury.

-KRS 209.020(8)

What is exploitation?

Exploitation is:

- Obtaining or using another person's resources, including but not limited to funds, assets, or property by deception, intimidation, or similar means, with the intent to deprive the person of those resources.

-KRS 209.020(9)



What is caretaker neglect?

Neglect is:

- The deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult

-KRS 209.020(16)

Caregiver Misconduct Registry Laws

- **KRS 209.032**
- **922 KAR 5:120(2)**

KRS 209.032

- Requires the Cabinet for Health and Family Services to establish and maintain a registry of employees and persons acting with the expectation of compensation who have a validated substantiated finding of adult abuse, neglect, or exploitation.
 - APS finding can be challenged through an administrative hearing process.
- Requires vulnerable adult service providers to check the registry for all prospective employees.
 - Allows unlimited periodic checks.

922 KAR 5:120

- Promulgated by the Department for Community Based Services to administer the Caregiver Misconduct Registry.
- Minimum 7 year placement on Registry.
 - Lifetime placement if serious injury or death of a vulnerable adult.
- Requires notice of APS investigative finding to perpetrator.
- Affords the right to appeal the finding through an administrative hearing process.

Who is a Vulnerable Adult Service Provider?

KRS 209.032(1)(c)

“Vulnerable adult service provider” means:

1. Adult day health care program centers as defined in KRS 216B.0441;
2. Adult day training facilities;
3. Assisted-living communities as defined in KRS 194A.700;
4. Boarding homes as defined in KRS 216B.300;
5. Group homes for individuals with an intellectual disability and developmentally disabled (ID/DD)
6. Home health agencies;

7. Hospice programs or residential hospice facilities licensed under KRS Chapter 216 B;
8. Long term care hospitals as defined in 42 U.S.C. sec. 1395ww(d)(1)(iv);
9. Long-term care facilities as defined in KRS 216.510;
10. Personal services agencies as defined in KRS 216.710;
11. Providers of home and community-based services authorized under KRS Chapter 205, including home and community based waiver services and supports for community living services; and
12. State-owned and operated psychiatric hospitals.

Who can be placed on the Registry?

KRS 209.032(1)(a) and (4)

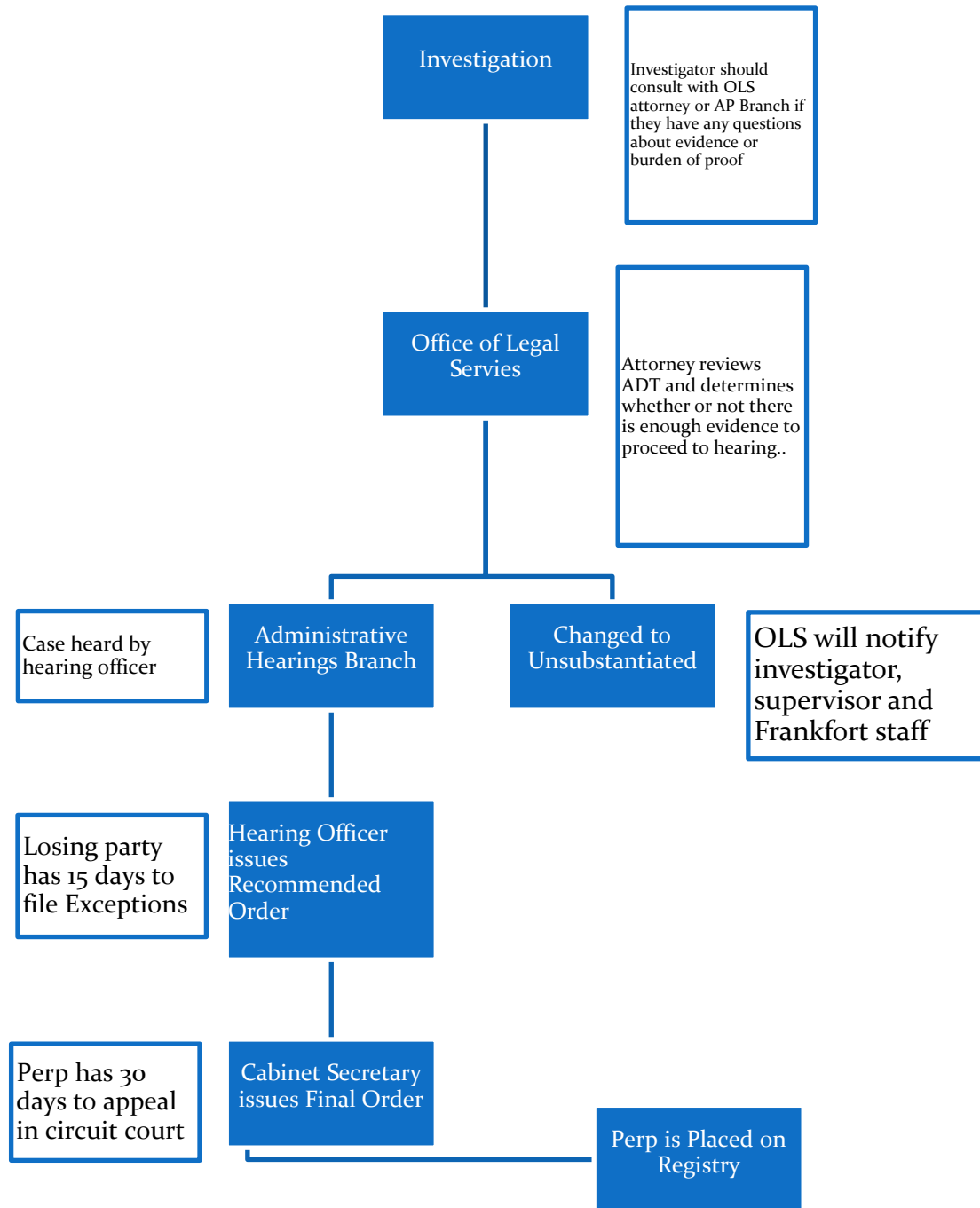
1. Employees of vulnerable adult service providers.
2. Volunteers of vulnerable adult service providers.
3. Any caregiver who is “acting with the expectation of compensation.”
 1. Ex: family member providing care in exchange for room/board.

What is a Validated Substantiated Finding of Adult Abuse, Neglect, or Exploitation?

KRS 209.032 (1)(b)

Means that the cabinet has:

1. Entered a final order concluding by a preponderance of the evidence that an individual has committed adult abuse, neglect, or exploitation.
2. The individual has been afforded an opportunity for an administrative hearing ... and an appeal to the Circuit Court...



Burden of Proof

At a hearing, DCBS has the burden to prove:

- Victim is an adult as defined in KRS 209.020.
- Perp is an employee or volunteer of a vulnerable adult service provider; or is otherwise compensated
- The abuse, neglect, or exploitation did occur

It must prove these elements through non-hearsay evidence.

Will an administrative Registry case affect any related criminal case?

- No! The administrative case will not affect any criminal charges.
- The administrative case usually will be placed in abeyance until criminal charges are resolved to ensure that the administrative process does not interfere with criminal prosecution.

Who can search the Registry?

- Vulnerable Adult Service Providers
- Individuals can run a self query
 - Private citizens can ask potential caregivers to run a self query.

Who does the Registry benefit?

- Protects vulnerable adults from caregivers who would otherwise remain eligible for employment at vulnerable adult service providers.
- Helps family members who want to hire a non-agency caregiver.
- Helps providers meet their mission of providing quality care to residents by helping to ensure health, safety, and welfare of residents.
- Helps reduce the providers' risk of liability because an employer can easily verify an employee's or volunteer's history of abuse, neglect, or exploitation.

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