

PROTECTION OF LEGAL RIGHTS

Reporting Abuse

There are laws which protect the elderly from abuse, neglect, and exploitation. These laws, however, are of little use if incidents of abuse remain unreported. If you are aware of any signs of abuse to a neighbor, friend, or relative, or suspect abuse in a nursing home or other long-term care facility, you should immediately contact your local Adult Protective Services Office or the Adult Abuse Hotline at (888) 832-3858. The Department of Social Services, Adult Protective Services, may also be reached at (804) 726-7533. Adult Protective Services accepts reports of suspected abuse, neglect, or exploitation across all care settings for adults 60 and over and adults 18 and over who have a disability. Reports may be made anonymously.

Alternative Dispute Resolution

When a legal dispute arises, the party who has been injured or damaged (the plaintiff) files his or her law suit against the alleged wrongdoer (the defendant) in a state court or, in some more restricted instances, in one of the federal district courts. These lawsuits are tried in the ordinary course, which often means that the resolution of the dispute is delayed and, depending on the facts involved, may be relatively expensive. Court dockets are often crowded, and each suit has to wait its turn before trial occurs. Of course, each case has to be prepared, and proper preparation can result in considerable delay and cost to the client. As a result, most federal district courts and many state trial courts have procedures to speed the resolution of law suits. These procedures are commonly referred to as "alternate dispute resolution" (ADR) methods. Two of the most popular ADR procedures are arbitration and mediation.

Arbitration

For many years, binding arbitration has been a recognized procedure for resolving disputes. It involves the selection of a single arbitrator or a panel of three arbitrators who hear and decide the case. Although not judges, they act as such since they decide which side wins and which side loses. The main advantage of arbitration is that delay and expense are often reduced. One of the principal disadvantages of binding arbitration is that an appeal from an arbitration award is very restricted, and, as a practical matter, there often is no ground for an appeal. Some criticize arbitration because of the difficulty of appealing the arbitrator's decision.

Mediation

Mediation is a relatively new procedure which also reduces delay and expense but avoids the disadvantages of binding arbitration. The case is conducted by a neutral mediator whose task is to guide the parties and their attorneys to a mutually acceptable settlement of the case. The mediator is not a judge or arbitrator and has no power to decide who wins or loses. Mediation is, thus, entirely different from a trial or the hearing of a case by a judge or arbitrator(s). The parties are in control of their case inasmuch as they have the right to decide upon a mutually acceptable settlement or to refuse to settle. If the parties do not agree to a settlement, the case stays on the court's docket for trial. Mediation is usually successful (i.e., a settlement results), but sometimes the parties reach an impasse. The expense is usually considerably less than that of a trial and usually less than arbitration. Mediation has become popular, and approximately 75% of the cases which are mediated result in mutually acceptable settlements. It is confidential. It is informal. The various states which