



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3604

Introduced 2/14/2020, by Sen. Rachelle Crowe

SYNOPSIS AS INTRODUCED:

320 ILCS 20/4	from Ch. 23, par. 6604
320 ILCS 20/4.1	
320 ILCS 20/4.2	
320 ILCS 20/5	from Ch. 23, par. 6605
320 ILCS 20/8	from Ch. 23, par. 6608

Amends the Adult Protective Services Act. Provides that any person may report information about the suspicious death of an eligible adult to an agency designated to receive such reports under the Act or to the Department on Aging. Provides that if a mandated reporter has reason to believe that the death of an eligible adult may be the result of abuse or neglect, the matter shall be reported to an agency designated to receive such reports under the Act or to the Department for subsequent referral to the appropriate law enforcement agency and the coroner or medical examiner. Prohibits an employer from discriminating against any employee who reports information about the suspicious death of an eligible adult in accordance with the Act. Provides that any mandated reporter who is required under the Act to report a suspicious death due to abuse, neglect, or financial exploitation shall testify fully in any administrative hearing resulting from such report. Provides that a referral to law enforcement may be made after a report of a suspicious death, depending upon the circumstances. Provides that all records concerning reports of suspicious deaths due to abuse, neglect, financial exploitation, or self-neglect and all records generated as a result of such reports shall be confidential and shall not be disclosed, with some exceptions. Effective January 1, 2021.

LRB101 20740 KTG 70425 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning aging.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Adult Protective Services Act is amended by
5 changing Sections 4, 4.1, 4.2, 5, and 8 as follows:

6 (320 ILCS 20/4) (from Ch. 23, par. 6604)

7 Sec. 4. Reports of abuse or neglect.

8 (a) Any person who suspects the abuse, neglect, financial
9 exploitation, or self-neglect of an eligible adult may report
10 this suspicion or information about the suspicious death of an
11 eligible adult to an agency designated to receive such reports
12 under this Act or to the Department.

13 (a-5) If any mandated reporter has reason to believe that
14 an eligible adult, who because of a disability or other
15 condition or impairment is unable to seek assistance for
16 himself or herself, has, within the previous 12 months, been
17 subjected to abuse, neglect, or financial exploitation, the
18 mandated reporter shall, within 24 hours after developing such
19 belief, report this suspicion to an agency designated to
20 receive such reports under this Act or to the Department. The
21 agency designated to receive such reports under this Act or the
22 Department may establish a manner in which a mandated reporter
23 can make the required report through an Internet reporting

1 tool. Information sent and received through the Internet
2 reporting tool is subject to the same rules in this Act as
3 other types of confidential reporting established by the
4 designated agency or the Department. Whenever a mandated
5 reporter is required to report under this Act in his or her
6 capacity as a member of the staff of a medical or other public
7 or private institution, facility, or agency, he or she shall
8 make a report to an agency designated to receive such reports
9 under this Act or to the Department in accordance with the
10 provisions of this Act and may also notify the person in charge
11 of the institution, facility, or agency or his or her
12 designated agent that the report has been made. Under no
13 circumstances shall any person in charge of such institution,
14 facility, or agency, or his or her designated agent to whom the
15 notification has been made, exercise any control, restraint,
16 modification, or other change in the report or the forwarding
17 of the report to an agency designated to receive such reports
18 under this Act or to the Department. The privileged quality of
19 communication between any professional person required to
20 report and his or her patient or client shall not apply to
21 situations involving abused, neglected, or financially
22 exploited eligible adults and shall not constitute grounds for
23 failure to report as required by this Act.

24 (a-6) If a mandated reporter has reason to believe that the
25 death of an eligible adult may be the result of abuse or
26 neglect, the matter shall be reported to an agency designated

1 to receive such reports under this Act or to the Department for
2 subsequent referral to the appropriate law enforcement agency
3 and the coroner or medical examiner in accordance with
4 subsection (c-5) of Section 3 of this Act.

5 (a-7) A person making a report under this Act in the belief
6 that it is in the alleged victim's best interest shall be
7 immune from criminal or civil liability or professional
8 disciplinary action on account of making the report,
9 notwithstanding any requirements concerning the
10 confidentiality of information with respect to such eligible
11 adult which might otherwise be applicable.

12 (a-9) Law enforcement officers shall continue to report
13 incidents of alleged abuse pursuant to the Illinois Domestic
14 Violence Act of 1986, notwithstanding any requirements under
15 this Act.

16 (b) Any person, institution or agency participating in the
17 making of a report, providing information or records related to
18 a report, assessment, or services, or participating in the
19 investigation of a report under this Act in good faith, or
20 taking photographs or x-rays as a result of an authorized
21 assessment, shall have immunity from any civil, criminal or
22 other liability in any civil, criminal or other proceeding
23 brought in consequence of making such report or assessment or
24 on account of submitting or otherwise disclosing such
25 photographs or x-rays to any agency designated to receive
26 reports of alleged or suspected abuse or neglect. Any person,

1 institution or agency authorized by the Department to provide
2 assessment, intervention, or administrative services under
3 this Act shall, in the good faith performance of those
4 services, have immunity from any civil, criminal or other
5 liability in any civil, criminal, or other proceeding brought
6 as a consequence of the performance of those services. For the
7 purposes of any civil, criminal, or other proceeding, the good
8 faith of any person required to report, permitted to report, or
9 participating in an investigation of a report of alleged or
10 suspected abuse, neglect, financial exploitation, or
11 self-neglect shall be presumed.

12 (c) The identity of a person making a report of alleged or
13 suspected abuse, neglect, financial exploitation, or
14 self-neglect or a report concerning information about the
15 suspicious death of an eligible adult under this Act may be
16 disclosed by the Department or other agency provided for in
17 this Act only with such person's written consent or by court
18 order, but is otherwise confidential.

19 (d) The Department shall by rule establish a system for
20 filing and compiling reports made under this Act.

21 (e) Any physician who willfully fails to report as required
22 by this Act shall be referred to the Illinois State Medical
23 Disciplinary Board for action in accordance with subdivision
24 (A) (22) of Section 22 of the Medical Practice Act of 1987. Any
25 dentist or dental hygienist who willfully fails to report as
26 required by this Act shall be referred to the Department of

1 Professional Regulation for action in accordance with
2 paragraph 19 of Section 23 of the Illinois Dental Practice Act.
3 Any optometrist who willfully fails to report as required by
4 this Act shall be referred to the Department of Financial and
5 Professional Regulation for action in accordance with
6 paragraph (15) of subsection (a) of Section 24 of the Illinois
7 Optometric Practice Act of 1987. Any other mandated reporter
8 required by this Act to report suspected abuse, neglect, or
9 financial exploitation who willfully fails to report the same
10 is guilty of a Class A misdemeanor.

11 (Source: P.A. 97-860, eff. 7-30-12; 98-49, eff. 7-1-13;
12 98-1039, eff. 8-25-14.)

13 (320 ILCS 20/4.1)

14 Sec. 4.1. Employer discrimination. No employer shall
15 discharge, demote or suspend, or threaten to discharge, demote
16 or suspend, or in any manner discriminate against any employee:
17 (i) who makes any good faith oral or written report of
18 suspected abuse, neglect, or financial exploitation; (ii) who
19 makes any good faith oral or written report concerning
20 information about the suspicious death of an eligible adult; or
21 (iii) who is or will be a witness or testify in any
22 investigation or proceeding concerning a report of suspected
23 abuse, neglect, or financial exploitation.

24 (Source: P.A. 98-49, eff. 7-1-13.)

1 (320 ILCS 20/4.2)

2 Sec. 4.2. Testimony by mandated reporter and investigator.

3 Any mandated reporter who makes a report or any person who
4 investigates a report under this Act shall testify fully in any
5 judicial proceeding resulting from such report, as to any
6 evidence of abuse, neglect, or financial exploitation or the
7 cause thereof. Any mandated reporter who is required to report
8 a suspected case of or a suspicious death due to abuse,
9 neglect, or financial exploitation under Section 4 of this Act
10 shall testify fully in any administrative hearing resulting
11 from such report, as to any evidence of abuse, neglect, or
12 financial exploitation or the cause thereof. No evidence shall
13 be excluded by reason of any common law or statutory privilege
14 relating to communications between the alleged abuser or the
15 eligible adult subject of the report under this Act and the
16 person making or investigating the report.

17 (Source: P.A. 90-628, eff. 1-1-99.)

18 (320 ILCS 20/5) (from Ch. 23, par. 6605)

19 Sec. 5. Procedure.

20 (a) A provider agency designated to receive reports of
21 alleged or suspected abuse, neglect, financial exploitation,
22 or self-neglect under this Act shall, upon receiving such a
23 report, conduct a face-to-face assessment with respect to such
24 report, in accord with established law and Department
25 protocols, procedures, and policies. Face-to-face assessments,

1 casework, and follow-up of reports of self-neglect by the
2 provider agencies designated to receive reports of
3 self-neglect shall be subject to sufficient appropriation for
4 statewide implementation of assessments, casework, and
5 follow-up of reports of self-neglect. In the absence of
6 sufficient appropriation for statewide implementation of
7 assessments, casework, and follow-up of reports of
8 self-neglect, the designated adult protective services
9 provider agency shall refer all reports of self-neglect to the
10 appropriate agency or agencies as designated by the Department
11 for any follow-up. The assessment shall include, but not be
12 limited to, a visit to the residence of the eligible adult who
13 is the subject of the report and shall include interviews or
14 consultations regarding the allegations with service agencies,
15 immediate family members, and individuals who may have
16 knowledge of the eligible adult's circumstances based on the
17 consent of the eligible adult in all instances, except where
18 the provider agency is acting in the best interest of an
19 eligible adult who is unable to seek assistance for himself or
20 herself and where there are allegations against a caregiver who
21 has assumed responsibilities in exchange for compensation. If,
22 after the assessment, the provider agency determines that the
23 case is substantiated it shall develop a service care plan for
24 the eligible adult and may report its findings at any time
25 during the case to the appropriate law enforcement agency in
26 accord with established law and Department protocols,

1 procedures, and policies. In developing a case plan, the
2 provider agency may consult with any other appropriate provider
3 of services, and such providers shall be immune from civil or
4 criminal liability on account of such acts. The plan shall
5 include alternative suggested or recommended services which
6 are appropriate to the needs of the eligible adult and which
7 involve the least restriction of the eligible adult's
8 activities commensurate with his or her needs. Only those
9 services to which consent is provided in accordance with
10 Section 9 of this Act shall be provided, contingent upon the
11 availability of such services.

12 (b) A provider agency shall refer evidence of crimes
13 against an eligible adult to the appropriate law enforcement
14 agency according to Department policies. A referral to law
15 enforcement may be made at intake, at ~~or~~ any time during the
16 case, or after a report of a suspicious death, depending upon
17 the circumstances. Where a provider agency has reason to
18 believe the death of an eligible adult may be the result of
19 abuse or neglect, the agency shall immediately report the
20 matter to the coroner or medical examiner and shall cooperate
21 fully with any subsequent investigation.

22 (c) If any person other than the alleged victim refuses to
23 allow the provider agency to begin an investigation, interferes
24 with the provider agency's ability to conduct an investigation,
25 or refuses to give access to an eligible adult, the appropriate
26 law enforcement agency must be consulted regarding the

1 investigation.

2 (Source: P.A. 101-496, eff. 1-1-20.)

3 (320 ILCS 20/8) (from Ch. 23, par. 6608)

4 Sec. 8. Access to records. All records concerning reports
5 of abuse, neglect, financial exploitation, or self-neglect or
6 reports of suspicious deaths due to abuse, neglect, financial
7 exploitation, or self-neglect and all records generated as a
8 result of such reports shall be confidential and shall not be
9 disclosed except as specifically authorized by this Act or
10 other applicable law. In accord with established law and
11 Department protocols, procedures, and policies, access to such
12 records, but not access to the identity of the person or
13 persons making a report of alleged abuse, neglect, financial
14 exploitation, or self-neglect as contained in such records,
15 shall be provided, upon request, to the following persons and
16 for the following persons:

17 (1) Department staff, provider agency staff, other
18 aging network staff, and regional administrative agency
19 staff, including staff of the Chicago Department on Aging
20 while that agency is designated as a regional
21 administrative agency, in the furtherance of their
22 responsibilities under this Act;

23 (1.5) A representative of the public guardian acting in
24 the course of investigating the appropriateness of
25 guardianship for the eligible adult or while pursuing a

1 petition for guardianship of the eligible adult pursuant to
2 the Probate Act of 1975;

3 (2) A law enforcement agency or State's Attorney's
4 office investigating known or suspected abuse, neglect,
5 financial exploitation, or self-neglect. Where a provider
6 agency has reason to believe that the death of an eligible
7 adult may be the result of abuse or neglect, including any
8 reports made after death, the agency shall immediately
9 provide the appropriate law enforcement agency with all
10 records pertaining to the eligible adult;

11 (2.5) A law enforcement agency, fire department
12 agency, or fire protection district having proper
13 jurisdiction pursuant to a written agreement between a
14 provider agency and the law enforcement agency, fire
15 department agency, or fire protection district under which
16 the provider agency may furnish to the law enforcement
17 agency, fire department agency, or fire protection
18 district a list of all eligible adults who may be at
19 imminent risk of abuse, neglect, financial exploitation,
20 or self-neglect;

21 (3) A physician who has before him or her or who is
22 involved in the treatment of an eligible adult whom he or
23 she reasonably suspects may be abused, neglected,
24 financially exploited, or self-neglected or who has been
25 referred to the Adult Protective Services Program;

26 (4) An eligible adult reported to be abused, neglected,

1 financially exploited, or self-neglected, or such adult's
2 authorized guardian or agent, unless such guardian or agent
3 is the abuser or the alleged abuser;

4 (4.5) An executor or administrator of the estate of an
5 eligible adult who is deceased;

6 (5) In cases regarding abuse, neglect, or financial
7 exploitation, a court or a guardian ad litem, upon its or
8 his or her finding that access to such records may be
9 necessary for the determination of an issue before the
10 court. However, such access shall be limited to an in
11 camera inspection of the records, unless the court
12 determines that disclosure of the information contained
13 therein is necessary for the resolution of an issue then
14 pending before it;

15 (5.5) In cases regarding self-neglect, a guardian ad
16 litem;

17 (6) A grand jury, upon its determination that access to
18 such records is necessary in the conduct of its official
19 business;

20 (7) Any person authorized by the Director, in writing,
21 for audit or bona fide research purposes;

22 (8) A coroner or medical examiner who has reason to
23 believe that an eligible adult has died as the result of
24 abuse, neglect, financial exploitation, or self-neglect.
25 The provider agency shall immediately provide the coroner
26 or medical examiner with all records pertaining to the

1 eligible adult;

2 (8.5) A coroner or medical examiner having proper
3 jurisdiction, pursuant to a written agreement between a
4 provider agency and the coroner or medical examiner, under
5 which the provider agency may furnish to the office of the
6 coroner or medical examiner a list of all eligible adults
7 who may be at imminent risk of death as a result of abuse,
8 neglect, financial exploitation, or self-neglect;

9 (9) Department of Financial and Professional
10 Regulation staff and members of the Illinois Medical
11 Disciplinary Board or the Social Work Examining and
12 Disciplinary Board in the course of investigating alleged
13 violations of the Clinical Social Work and Social Work
14 Practice Act by provider agency staff or other licensing
15 bodies at the discretion of the Director of the Department
16 on Aging;

17 (9-a) Department of Healthcare and Family Services
18 staff and provider agency staff when that Department is
19 funding services to the eligible adult, including access to
20 the identity of the eligible adult;

21 (9-b) Department of Human Services staff and provider
22 agency staff when that Department is funding services to
23 the eligible adult or is providing reimbursement for
24 services provided by the abuser or alleged abuser,
25 including access to the identity of the eligible adult;

26 (10) Hearing officers in the course of conducting an

1 administrative hearing under this Act; parties to such
2 hearing shall be entitled to discovery as established by
3 rule;

4 (11) A caregiver who challenges placement on the
5 Registry shall be given the statement of allegations in the
6 abuse report and the substantiation decision in the final
7 investigative report; and

8 (12) The Illinois Guardianship and Advocacy Commission
9 and the agency designated by the Governor under Section 1
10 of the Protection and Advocacy for Persons with
11 Developmental Disabilities Act shall have access, through
12 the Department, to records, including the findings,
13 pertaining to a completed or closed investigation of a
14 report of suspected abuse, neglect, financial
15 exploitation, or self-neglect of an eligible adult.

16 (Source: P.A. 98-49, eff. 7-1-13; 98-1039, eff. 8-25-14;
17 99-143, eff. 7-27-15; 99-287, eff. 1-1-16; 99-547, eff.
18 7-15-16; 99-642, eff. 7-28-16.)

19 Section 99. Effective date. This Act takes effect January
20 1, 2021.