



Sen. Jil Tracy

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LRB103 26814 KTG 62125 a

1 AMENDMENT TO HOUSE BILL 2858

2 AMENDMENT NO. _____. Amend House Bill 2858, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Act on the Aging is amended by
6 changing Section 4.04 as follows:

7 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

8 Sec. 4.04. Long Term Care Ombudsman Program. The purpose
9 of the Long Term Care Ombudsman Program is to ensure that older
10 persons and persons with disabilities receive quality
11 services. This is accomplished by providing advocacy services
12 for residents of long term care facilities and participants
13 receiving home care and community-based care. Managed care is
14 increasingly becoming the vehicle for delivering health and
15 long-term services and supports to seniors and persons with
16 disabilities, including dual eligible participants. The

1 additional ombudsman authority will allow advocacy services to
2 be provided to Illinois participants for the first time and
3 will produce a cost savings for the State of Illinois by
4 supporting the rebalancing efforts of the Patient Protection
5 and Affordable Care Act.

6 (a) Long Term Care Ombudsman Program. The Department shall
7 establish a Long Term Care Ombudsman Program, through the
8 Office of State Long Term Care Ombudsman ("the Office"), in
9 accordance with the provisions of the Older Americans Act of
10 1965, as now or hereafter amended. The Long Term Care
11 Ombudsman Program is authorized, subject to sufficient
12 appropriations, to advocate on behalf of older persons and
13 persons with disabilities residing in their own homes or
14 community-based settings, relating to matters which may
15 adversely affect the health, safety, welfare, or rights of
16 such individuals.

17 (b) Definitions. As used in this Section, unless the
18 context requires otherwise:

19 (1) "Access" means the right to:

20 (i) Enter any long term care facility or assisted
21 living or shared housing establishment or supportive
22 living facility;

23 (ii) Communicate privately and without restriction
24 with any resident, regardless of age, who consents to
25 the communication;

26 (iii) Seek consent to communicate privately and

1 without restriction with any participant or resident,
2 regardless of age;

3 (iv) Inspect and copy the clinical and other
4 records of a participant or resident, regardless of
5 age, with the express written consent of the
6 participant or resident;

7 (v) Observe all areas of the long term care
8 facility or supportive living facilities, assisted
9 living or shared housing establishment except the
10 living area of any resident who protests the
11 observation; and

12 (vi) Subject to permission of the participant or
13 resident requesting services or his or her
14 representative, enter a home or community-based
15 setting.

16 (2) "Long Term Care Facility" means (i) any facility
17 as defined by Section 1-113 of the Nursing Home Care Act,
18 as now or hereafter amended; (ii) any skilled nursing
19 facility or a nursing facility which meets the
20 requirements of Section 1819(a), (b), (c), and (d) or
21 Section 1919(a), (b), (c), and (d) of the Social Security
22 Act, as now or hereafter amended (42 U.S.C. 1395i-3(a),
23 (b), (c), and (d) and 42 U.S.C. 1396r(a), (b), (c), and
24 (d)); (iii) any facility as defined by Section 1-113 of
25 the ID/DD Community Care Act, as now or hereafter amended;
26 (iv) any facility as defined by Section 1-113 of MC/DD

1 Act, as now or hereafter amended; and (v) any facility
2 licensed under Section 4-105 or 4-201 of the Specialized
3 Mental Health Rehabilitation Act of 2013, as now or
4 hereafter amended.

5 (2.5) "Assisted living establishment" and "shared
6 housing establishment" have the meanings given those terms
7 in Section 10 of the Assisted Living and Shared Housing
8 Act.

9 (2.7) "Supportive living facility" means a facility
10 established under Section 5-5.01a of the Illinois Public
11 Aid Code.

12 (2.8) "Community-based setting" means any place of
13 abode other than an individual's private home.

14 (3) "State Long Term Care Ombudsman" means any person
15 employed by the Department to fulfill the requirements of
16 the Office of State Long Term Care Ombudsman as required
17 under the Older Americans Act of 1965, as now or hereafter
18 amended, and Departmental policy.

19 (3.1) "Ombudsman" means any designated representative
20 of the State Long Term Care Ombudsman Program; provided
21 that the representative, whether he is paid for or
22 volunteers his ombudsman services, shall be qualified and
23 designated by the Office to perform the duties of an
24 ombudsman as specified by the Department in rules and in
25 accordance with the provisions of the Older Americans Act
26 of 1965, as now or hereafter amended.

1 (4) "Participant" means an older person aged 60 or
2 over or an adult with a disability aged 18 through 59 who
3 is eligible for services under any of the following:

4 (i) A medical assistance waiver administered by
5 the State.

6 (ii) A managed care organization providing care
7 coordination and other services to seniors and persons
8 with disabilities.

9 (5) "Resident" means an older person aged 60 or over
10 or an adult with a disability aged 18 through 59 who
11 resides in a long-term care facility.

12 (c) Ombudsman; rules. The Office of State Long Term Care
13 Ombudsman shall be composed of at least one full-time
14 ombudsman and shall include a system of designated regional
15 long term care ombudsman programs. Each regional program shall
16 be designated by the State Long Term Care Ombudsman as a
17 subdivision of the Office and any representative of a regional
18 program shall be treated as a representative of the Office.

19 The Department, in consultation with the Office, shall
20 promulgate administrative rules in accordance with the
21 provisions of the Older Americans Act of 1965, as now or
22 hereafter amended, to establish the responsibilities of the
23 Department and the Office of State Long Term Care Ombudsman
24 and the designated regional Ombudsman programs. The
25 administrative rules shall include the responsibility of the
26 Office and designated regional programs to investigate and

1 resolve complaints made by or on behalf of residents of long
2 term care facilities, supportive living facilities, and
3 assisted living and shared housing establishments, and
4 participants residing in their own homes or community-based
5 settings, including the option to serve residents and
6 participants under the age of 60, relating to actions,
7 inaction, or decisions of providers, or their representatives,
8 of such facilities and establishments, of public agencies, or
9 of social services agencies, which may adversely affect the
10 health, safety, welfare, or rights of such residents and
11 participants. The Office and designated regional programs may
12 represent all residents and participants, but are not required
13 by this Act to represent persons under 60 years of age, except
14 to the extent required by federal law. When necessary and
15 appropriate, representatives of the Office shall refer
16 complaints to the appropriate regulatory State agency. The
17 Department, in consultation with the Office, shall cooperate
18 with the Department of Human Services and other State agencies
19 in providing information and training to designated regional
20 long term care ombudsman programs about the appropriate
21 assessment and treatment (including information about
22 appropriate supportive services, treatment options, and
23 assessment of rehabilitation potential) of the participants
24 they serve.

25 The State Long Term Care Ombudsman and all other
26 ombudsmen, as defined in paragraph (3.1) of subsection (b)

1 must submit to background checks under the Health Care Worker
2 Background Check Act and receive training, as prescribed by
3 the Illinois Department on Aging, before visiting facilities,
4 private homes, or community-based settings. The training must
5 include information specific to assisted living
6 establishments, supportive living facilities, shared housing
7 establishments, private homes, and community-based settings
8 and to the rights of residents and participants guaranteed
9 under the corresponding Acts and administrative rules.

10 (c-5) Consumer Choice Information Reports. The Office
11 shall:

12 (1) In collaboration with the Attorney General, create
13 a Consumer Choice Information Report form to be completed
14 by all licensed long term care facilities to aid
15 Illinoisans and their families in making informed choices
16 about long term care. The Office shall create a Consumer
17 Choice Information Report for each type of licensed long
18 term care facility. The Office shall collaborate with the
19 Attorney General and the Department of Human Services to
20 create a Consumer Choice Information Report form for
21 facilities licensed under the ID/DD Community Care Act or
22 the MC/DD Act.

23 (2) Develop a database of Consumer Choice Information
24 Reports completed by licensed long term care facilities
25 that includes information in the following consumer
26 categories:

- 1 (A) Medical Care, Services, and Treatment.
- 2 (B) Special Services and Amenities.
- 3 (C) Staffing.
- 4 (D) Facility Statistics and Resident Demographics.
- 5 (E) Ownership and Administration.
- 6 (F) Safety and Security.
- 7 (G) Meals and Nutrition.
- 8 (H) Rooms, Furnishings, and Equipment.
- 9 (I) Family, Volunteer, and Visitation Provisions.

10 (3) Make this information accessible to the public,
11 including on the Internet by means of a hyperlink on the
12 Office's World Wide Web home page. Information about
13 facilities licensed under the ID/DD Community Care Act or
14 the MC/DD Act shall be made accessible to the public by the
15 Department of Human Services, including on the Internet by
16 means of a hyperlink on the Department of Human Services'
17 "For Customers" website.

18 (4) Have the authority, with the Attorney General, to
19 verify that information provided by a facility is
20 accurate.

21 (5) Request a new report from any licensed facility
22 whenever it deems necessary.

23 (6) Include in the Office's Consumer Choice
24 Information Report for each type of licensed long term
25 care facility additional information on each licensed long
26 term care facility in the State of Illinois, including

1 information regarding each facility's compliance with the
2 relevant State and federal statutes, rules, and standards;
3 customer satisfaction surveys; and information generated
4 from quality measures developed by the Centers for
5 Medicare and Medicaid Services.

6 (d) Access and visitation rights.

7 (1) In accordance with subparagraphs (A) and (E) of
8 paragraph (3) of subsection (c) of Section 1819 and
9 subparagraphs (A) and (E) of paragraph (3) of subsection
10 (c) of Section 1919 of the Social Security Act, as now or
11 hereafter amended (42 U.S.C. 1395i-3 (c) (3) (A) and (E) and
12 42 U.S.C. 1396r (c) (3) (A) and (E)), and Section 712 of the
13 Older Americans Act of 1965, as now or hereafter amended
14 (42 U.S.C. 3058f), a long term care facility, supportive
15 living facility, assisted living establishment, and shared
16 housing establishment must:

17 (i) permit immediate access to any resident,
18 regardless of age, by a designated ombudsman;

19 (ii) permit representatives of the Office, with
20 the permission of the resident, the resident's legal
21 representative, or the resident's legal guardian, to
22 examine and copy a resident's clinical and other
23 records, regardless of the age of the resident, and if
24 a resident is unable to consent to such review, and has
25 no legal guardian, permit representatives of the
26 Office appropriate access, as defined by the

1 Department, in consultation with the Office, in
2 administrative rules, to the resident's records; and

3 (iii) permit a representative of the Program to
4 communicate privately and without restriction with any
5 participant who consents to the communication
6 regardless of the consent of, or withholding of
7 consent by, a legal guardian or an agent named in a
8 power of attorney executed by the participant.

9 (2) Each long term care facility, supportive living
10 facility, assisted living establishment, and shared
11 housing establishment shall display, in multiple,
12 conspicuous public places within the facility accessible
13 to both visitors and residents and in an easily readable
14 format, the address and phone number of the Office of the
15 Long Term Care Ombudsman, in a manner prescribed by the
16 Office.

17 (e) Immunity. An ombudsman or any representative of the
18 Office participating in the good faith performance of his or
19 her official duties shall have immunity from any liability
20 (civil, criminal or otherwise) in any proceedings (civil,
21 criminal or otherwise) brought as a consequence of the
22 performance of his official duties.

23 (f) Business offenses.

24 (1) No person shall:

25 (i) Intentionally prevent, interfere with, or
26 attempt to impede in any way any representative of the

1 Office in the performance of his official duties under
2 this Act and the Older Americans Act of 1965; or

3 (ii) Intentionally retaliate, discriminate
4 against, or effect reprisals against any long term
5 care facility resident or employee for contacting or
6 providing information to any representative of the
7 Office.

8 (2) A violation of this Section is a business offense,
9 punishable by a fine not to exceed \$501.

10 (3) The State Long Term Care Ombudsman shall notify
11 the State's Attorney of the county in which the long term
12 care facility, supportive living facility, or assisted
13 living or shared housing establishment is located, or the
14 Attorney General, of any violations of this Section.

15 (g) Confidentiality of records and identities. The
16 Department shall establish procedures for the disclosure by
17 the State Ombudsman or the regional ombudsmen entities of
18 files maintained by the program. The procedures shall provide
19 that the files and records may be disclosed only at the
20 discretion of the State Long Term Care Ombudsman or the person
21 designated by the State Ombudsman to disclose the files and
22 records, and the procedures shall prohibit the disclosure of
23 the identity of any complainant, resident, participant,
24 witness, or employee of a long term care provider unless:

25 (1) the complainant, resident, participant, witness,
26 or employee of a long term care provider or his or her

1 legal representative consents to the disclosure and the
2 consent is in writing;

3 (2) the complainant, resident, participant, witness,
4 or employee of a long term care provider gives consent
5 orally; and the consent is documented contemporaneously in
6 writing in accordance with such requirements as the
7 Department shall establish; or

8 (3) the disclosure is required by court order.

9 (h) Legal representation. The Attorney General shall
10 provide legal representation to any representative of the
11 Office against whom suit or other legal action is brought in
12 connection with the performance of the representative's
13 official duties, in accordance with the State Employee
14 Indemnification Act.

15 (i) Treatment by prayer and spiritual means. Nothing in
16 this Act shall be construed to authorize or require the
17 medical supervision, regulation or control of remedial care or
18 treatment of any resident in a long term care facility
19 operated exclusively by and for members or adherents of any
20 church or religious denomination the tenets and practices of
21 which include reliance solely upon spiritual means through
22 prayer for healing.

23 (j) The Long Term Care Ombudsman Fund is created as a
24 special fund in the State treasury to receive moneys for the
25 express purposes of this Section. All interest earned on
26 moneys in the fund shall be credited to the fund. Moneys

1 contained in the fund shall be used to support the purposes of
2 this Section.

3 (k) Each Regional Ombudsman may, in accordance with rules
4 promulgated by the Office, establish a multi-disciplinary team
5 to act in an advisory role for the purpose of providing
6 professional knowledge and expertise in handling complex
7 abuse, neglect, and advocacy issues involving participants.
8 Each multi-disciplinary team may consist of one or more
9 volunteer representatives from any combination of at least 7
10 members from the following professions: banking or finance;
11 disability care; health care; pharmacology; law; law
12 enforcement; emergency responder; mental health care; clergy;
13 coroner or medical examiner; substance abuse; domestic
14 violence; sexual assault; or other related fields. To support
15 multi-disciplinary teams in this role, law enforcement
16 agencies and coroners or medical examiners shall supply
17 records as may be requested in particular cases. The Regional
18 Ombudsman, or his or her designee, of the area in which the
19 multi-disciplinary team is created shall be the facilitator of
20 the multi-disciplinary team.

21 (Source: P.A. 102-1033, eff. 1-1-23.)

22 Section 10. The Adult Protective Services Act is amended
23 by changing Sections 2, 4, 4.1, 4.2, 5, and 8 as follows:

24 (320 ILCS 20/2) (from Ch. 23, par. 6602)

1 Sec. 2. Definitions. As used in this Act, unless the
2 context requires otherwise:

3 (a) "Abandonment" means the desertion or willful forsaking
4 of an eligible adult by an individual responsible for the care
5 and custody of that eligible adult under circumstances in
6 which a reasonable person would continue to provide care and
7 custody. Nothing in this Act shall be construed to mean that an
8 eligible adult is a victim of abandonment because of health
9 care services provided or not provided by licensed health care
10 professionals.

11 (a-1) "Abuse" means causing any physical, mental or sexual
12 injury to an eligible adult, including exploitation of such
13 adult's financial resources, and abandonment.

14 Nothing in this Act shall be construed to mean that an
15 eligible adult is a victim of abuse, abandonment, neglect, or
16 self-neglect for the sole reason that he or she is being
17 furnished with or relies upon treatment by spiritual means
18 through prayer alone, in accordance with the tenets and
19 practices of a recognized church or religious denomination.

20 Nothing in this Act shall be construed to mean that an
21 eligible adult is a victim of abuse because of health care
22 services provided or not provided by licensed health care
23 professionals.

24 Nothing in this Act shall be construed to mean that an
25 eligible adult is a victim of abuse in cases of criminal
26 activity by strangers, telemarketing scams, consumer fraud,

1 internet fraud, home repair disputes, complaints against a
2 homeowners' association, or complaints between landlords and
3 tenants.

4 (a-5) "Abuser" means a person who is a family member,
5 caregiver, or another person who has a continuing relationship
6 with the eligible adult and abuses, abandons, neglects, or
7 financially exploits an eligible adult.

8 (a-6) "Adult with disabilities" means a person aged 18
9 through 59 who resides in a domestic living situation and
10 whose disability as defined in subsection (c-5) impairs his or
11 her ability to seek or obtain protection from abuse,
12 abandonment, neglect, or exploitation.

13 (a-7) "Caregiver" means a person who either as a result of
14 a family relationship, voluntarily, or in exchange for
15 compensation has assumed responsibility for all or a portion
16 of the care of an eligible adult who needs assistance with
17 activities of daily living or instrumental activities of daily
18 living.

19 (b) "Department" means the Department on Aging of the
20 State of Illinois.

21 (c) "Director" means the Director of the Department.

22 (c-5) "Disability" means a physical or mental disability,
23 including, but not limited to, a developmental disability, an
24 intellectual disability, a mental illness as defined under the
25 Mental Health and Developmental Disabilities Code, or dementia
26 as defined under the Alzheimer's Disease Assistance Act.

1 (d) "Domestic living situation" means a residence where
2 the eligible adult at the time of the report lives alone or
3 with his or her family or a caregiver, or others, or other
4 community-based unlicensed facility, but is not:

5 (1) A licensed facility as defined in Section 1-113 of
6 the Nursing Home Care Act;

7 (1.5) A facility licensed under the ID/DD Community
8 Care Act;

9 (1.6) A facility licensed under the MC/DD Act;

10 (1.7) A facility licensed under the Specialized Mental
11 Health Rehabilitation Act of 2013;

12 (2) A "life care facility" as defined in the Life Care
13 Facilities Act;

14 (3) A home, institution, or other place operated by
15 the federal government or agency thereof or by the State
16 of Illinois;

17 (4) A hospital, sanitarium, or other institution, the
18 principal activity or business of which is the diagnosis,
19 care, and treatment of human illness through the
20 maintenance and operation of organized facilities
21 therefor, which is required to be licensed under the
22 Hospital Licensing Act;

23 (5) A "community living facility" as defined in the
24 Community Living Facilities Licensing Act;

25 (6) (Blank);

26 (7) A "community-integrated living arrangement" as

1 defined in the Community-Integrated Living Arrangements
2 Licensure and Certification Act or a "community
3 residential alternative" as licensed under that Act;

4 (8) An assisted living or shared housing establishment
5 as defined in the Assisted Living and Shared Housing Act;
6 or

7 (9) A supportive living facility as described in
8 Section 5-5.01a of the Illinois Public Aid Code.

9 (e) "Eligible adult" means either an adult with
10 disabilities aged 18 through 59 or a person aged 60 or older
11 who resides in a domestic living situation and is, or is
12 alleged to be, abused, abandoned, neglected, or financially
13 exploited by another individual or who neglects himself or
14 herself. "Eligible adult" also includes an adult who resides
15 in any of the facilities that are excluded from the definition
16 of "domestic living situation" under paragraphs (1) through
17 (9) of subsection (d), if either: (i) the alleged abuse,
18 abandonment, or neglect occurs outside of the facility and not
19 under facility supervision and the alleged abuser is a family
20 member, caregiver, or another person who has a continuing
21 relationship with the adult; or (ii) the alleged financial
22 exploitation is perpetrated by a family member, caregiver, or
23 another person who has a continuing relationship with the
24 adult, but who is not an employee of the facility where the
25 adult resides.

26 (f) "Emergency" means a situation in which an eligible

1 adult is living in conditions presenting a risk of death or
2 physical, mental or sexual injury and the provider agency has
3 reason to believe the eligible adult is unable to consent to
4 services which would alleviate that risk.

5 (f-1) "Financial exploitation" means the use of an
6 eligible adult's resources by another to the disadvantage of
7 that adult or the profit or advantage of a person other than
8 that adult.

9 (f-3) "Investment advisor" means any person required to
10 register as an investment adviser or investment adviser
11 representative under Section 8 of the Illinois Securities Law
12 of 1953, which for purposes of this Act excludes any bank,
13 trust company, savings bank, or credit union, or their
14 respective employees.

15 (f-5) "Mandated reporter" means any of the following
16 persons while engaged in carrying out their professional
17 duties:

18 (1) a professional or professional's delegate while
19 engaged in: (i) social services, (ii) law enforcement,
20 (iii) education, (iv) the care of an eligible adult or
21 eligible adults, or (v) any of the occupations required to
22 be licensed under the Behavior Analyst Licensing Act, the
23 Clinical Psychologist Licensing Act, the Clinical Social
24 Work and Social Work Practice Act, the Illinois Dental
25 Practice Act, the Dietitian Nutritionist Practice Act, the
26 Marriage and Family Therapy Licensing Act, the Medical

1 Practice Act of 1987, the Naprapathic Practice Act, the
2 Nurse Practice Act, the Nursing Home Administrators
3 Licensing and Disciplinary Act, the Illinois Occupational
4 Therapy Practice Act, the Illinois Optometric Practice Act
5 of 1987, the Pharmacy Practice Act, the Illinois Physical
6 Therapy Act, the Physician Assistant Practice Act of 1987,
7 the Podiatric Medical Practice Act of 1987, the
8 Respiratory Care Practice Act, the Professional Counselor
9 and Clinical Professional Counselor Licensing and Practice
10 Act, the Illinois Speech-Language Pathology and Audiology
11 Practice Act, the Veterinary Medicine and Surgery Practice
12 Act of 2004, and the Illinois Public Accounting Act;

13 (1.5) an employee of an entity providing developmental
14 disabilities services or service coordination funded by
15 the Department of Human Services;

16 (2) an employee of a vocational rehabilitation
17 facility prescribed or supervised by the Department of
18 Human Services;

19 (3) an administrator, employee, or person providing
20 services in or through an unlicensed community based
21 facility;

22 (4) any religious practitioner who provides treatment
23 by prayer or spiritual means alone in accordance with the
24 tenets and practices of a recognized church or religious
25 denomination, except as to information received in any
26 confession or sacred communication enjoined by the

1 discipline of the religious denomination to be held
2 confidential;

3 (5) field personnel of the Department of Healthcare
4 and Family Services, Department of Public Health, and
5 Department of Human Services, and any county or municipal
6 health department;

7 (6) personnel of the Department of Human Services, the
8 Guardianship and Advocacy Commission, the State Fire
9 Marshal, local fire departments, the Department on Aging
10 and its subsidiary Area Agencies on Aging and provider
11 agencies, except the State Long Term Care Ombudsman and
12 any of his or her representatives or volunteers where
13 prohibited from making such a report pursuant to 45 CFR
14 1324.11(e) (3) (iv); and the Office of State Long Term Care
15 Ombudsman;

16 (7) any employee of the State of Illinois not
17 otherwise specified herein who is involved in providing
18 services to eligible adults, including professionals
19 providing medical or rehabilitation services and all other
20 persons having direct contact with eligible adults;

21 (8) a person who performs the duties of a coroner or
22 medical examiner; ~~or~~

23 (9) a person who performs the duties of a paramedic or
24 an emergency medical technician; or ~~or~~

25 (10) a person who performs the duties of an investment
26 advisor.

1 (g) "Neglect" means another individual's failure to
2 provide an eligible adult with or willful withholding from an
3 eligible adult the necessities of life including, but not
4 limited to, food, clothing, shelter or health care. This
5 subsection does not create any new affirmative duty to provide
6 support to eligible adults. Nothing in this Act shall be
7 construed to mean that an eligible adult is a victim of neglect
8 because of health care services provided or not provided by
9 licensed health care professionals.

10 (h) "Provider agency" means any public or nonprofit agency
11 in a planning and service area that is selected by the
12 Department or appointed by the regional administrative agency
13 with prior approval by the Department on Aging to receive and
14 assess reports of alleged or suspected abuse, abandonment,
15 neglect, or financial exploitation. A provider agency is also
16 referenced as a "designated agency" in this Act.

17 (i) "Regional administrative agency" means any public or
18 nonprofit agency in a planning and service area that provides
19 regional oversight and performs functions as set forth in
20 subsection (b) of Section 3 of this Act. The Department shall
21 designate an Area Agency on Aging as the regional
22 administrative agency or, in the event the Area Agency on
23 Aging in that planning and service area is deemed by the
24 Department to be unwilling or unable to provide those
25 functions, the Department may serve as the regional
26 administrative agency or designate another qualified entity to

1 serve as the regional administrative agency; any such
2 designation shall be subject to terms set forth by the
3 Department.

4 (i-5) "Self-neglect" means a condition that is the result
5 of an eligible adult's inability, due to physical or mental
6 impairments, or both, or a diminished capacity, to perform
7 essential self-care tasks that substantially threaten his or
8 her own health, including: providing essential food, clothing,
9 shelter, and health care; and obtaining goods and services
10 necessary to maintain physical health, mental health,
11 emotional well-being, and general safety. The term includes
12 compulsive hoarding, which is characterized by the acquisition
13 and retention of large quantities of items and materials that
14 produce an extensively cluttered living space, which
15 significantly impairs the performance of essential self-care
16 tasks or otherwise substantially threatens life or safety.

17 (j) "Substantiated case" means a reported case of alleged
18 or suspected abuse, abandonment, neglect, financial
19 exploitation, or self-neglect in which a provider agency,
20 after assessment, determines that there is reason to believe
21 abuse, abandonment, neglect, or financial exploitation has
22 occurred.

23 (k) "Verified" means a determination that there is "clear
24 and convincing evidence" that the specific injury or harm
25 alleged was the result of abuse, abandonment, neglect, or
26 financial exploitation.

1 (Source: P.A. 102-244, eff. 1-1-22; 102-953, eff. 5-27-22.)

2 (320 ILCS 20/4) (from Ch. 23, par. 6604)

3 Sec. 4. Reports of abuse, abandonment, or neglect.

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

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

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

20 (a-6) If a mandated reporter has reason to believe that
21 the death of an eligible adult may be the result of abuse or
22 neglect, the matter shall be reported to an agency designated
23 to receive such reports under this Act or to the Department for
24 subsequent referral to the appropriate law enforcement agency
25 and the coroner or medical examiner in accordance with
26 subsection (c-5) of Section 3 of this Act.

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

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

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

1 civil, criminal or other liability in any civil, criminal, or
2 other proceeding brought as a consequence of the performance
3 of those services. For the purposes of any civil, criminal, or
4 other proceeding, the good faith of any person required to
5 report, permitted to report, or participating in an
6 investigation of a report of alleged or suspected abuse,
7 abandonment, neglect, financial exploitation, or self-neglect
8 shall be presumed.

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

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

18 (e) Any physician who willfully fails to report as
19 required by this Act shall be referred to the Illinois State
20 Medical Disciplinary Board for action in accordance with
21 subdivision (A) (22) of Section 22 of the Medical Practice Act
22 of 1987. Any dentist or dental hygienist who willfully fails
23 to report as required by this Act shall be referred to the
24 Department of Professional Regulation for action in accordance
25 with paragraph 19 of Section 23 of the Illinois Dental
26 Practice Act. Any optometrist who willfully fails to report as

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

8 (Source: P.A. 102-244, eff. 1-1-22.)

9 (320 ILCS 20/4.1)

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

21 (Source: P.A. 102-244, eff. 1-1-22.)

22 (320 ILCS 20/4.2)

23 Sec. 4.2. Testimony by mandated reporter and investigator.
24 Any mandated reporter who makes a report or any person who

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

15 (Source: P.A. 102-244, eff. 1-1-22.)

16 (320 ILCS 20/5) (from Ch. 23, par. 6605)

17 Sec. 5. Procedure.

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

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

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

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

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

1 (Source: P.A. 101-496, eff. 1-1-20; 102-244, eff. 1-1-22.)

2 (320 ILCS 20/8) (from Ch. 23, par. 6608)

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

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

22 (1.5) A representative of the public guardian acting
23 in the course of investigating the appropriateness of
24 guardianship for the eligible adult or while pursuing a
25 petition for guardianship of the eligible adult pursuant

1 to the Probate Act of 1975;

2 (2) A law enforcement agency or State's Attorney's
3 office investigating known or suspected abuse,
4 abandonment, neglect, financial exploitation, or
5 self-neglect. Where a provider agency has reason to
6 believe that the death of an eligible adult may be the
7 result of abuse, abandonment, 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, abandonment, neglect, financial
20 exploitation, 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, abandoned,
24 neglected, financially exploited, or self-neglected or who
25 has been referred to the Adult Protective Services
26 Program;

1 (4) An eligible adult reported to be abused,
2 abandoned, neglected, financially exploited, or
3 self-neglected, or such adult's authorized guardian or
4 agent, unless such guardian or agent is the abuser or the
5 alleged abuser;

6 (4.5) An executor or administrator of the estate of an
7 eligible adult who is deceased;

8 (5) A probate court with jurisdiction over the
9 guardianship of an alleged victim for an in camera
10 inspection ~~In cases regarding abuse, abandonment, neglect,~~
11 ~~or financial exploitation, a court or a guardian ad litem,~~
12 ~~upon its or his or her finding that access to such records~~
13 ~~may be necessary for the determination of an issue before~~
14 ~~the court. However, such access shall be limited to an in~~
15 ~~camera inspection of the records, unless the court~~
16 ~~determines that disclosure of the information contained~~
17 ~~therein is necessary for the resolution of an issue then~~
18 ~~pending before it;~~

19 (5.5) A ~~In cases regarding self neglect, a guardian ad~~
20 ~~litem, unless such guardian ad litem is the abuser or~~
21 ~~alleged abuser;~~

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

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

1 (8) A coroner or medical examiner who has reason to
2 believe that an eligible adult has died as the result of
3 abuse, abandonment, neglect, financial exploitation, or
4 self-neglect. The provider agency shall immediately
5 provide the coroner or medical examiner with all records
6 pertaining to the eligible adult;

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

15 (9) Department of Financial and Professional
16 Regulation staff and members of the Illinois Medical
17 Disciplinary Board or the Social Work Examining and
18 Disciplinary Board in the course of investigating alleged
19 violations of the Clinical Social Work and Social Work
20 Practice Act by provider agency staff or other licensing
21 bodies at the discretion of the Director of the Department
22 on Aging;

23 (9-a) Department of Healthcare and Family Services
24 staff and provider agency staff when that Department is
25 funding services to the eligible adult, including access
26 to the identity of the eligible adult;

1 (9-b) Department of Human Services staff and provider
2 agency staff when that Department is funding services to
3 the eligible adult or is providing reimbursement for
4 services provided by the abuser or alleged abuser,
5 including access to the identity of the eligible adult;

6 (10) Hearing officers in the course of conducting an
7 administrative hearing under this Act; parties to such
8 hearing shall be entitled to discovery as established by
9 rule;

10 (11) A caregiver who challenges placement on the
11 Registry shall be given the statement of allegations in
12 the abuse report and the substantiation decision in the
13 final investigative report; and

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

22 (Source: P.A. 102-244, eff. 1-1-22.)

23 Section 99. Effective date. This Act takes effect January
24 1, 2024."