

1 AN ACT concerning elder abuse.

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

4 Section 5. The Elder Abuse and Neglect Act is amended by
5 changing Sections 2, 3.5, 4, and 7 as follows:

6 (320 ILCS 20/2) (from Ch. 23, par. 6602)

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

9 (a) "Abuse" means causing any physical, mental or sexual
10 injury to an eligible adult, including exploitation of such
11 adult's financial resources.

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

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

22 (a-5) "Abuser" means a person who abuses, neglects, or
23 financially exploits an eligible adult.

24 (a-7) "Caregiver" means a person who either as a result
25 of a family relationship, voluntarily, or in exchange for
26 compensation has assumed responsibility for all or a portion
27 of the care of an eligible adult who needs assistance with
28 activities of daily living.

29 (b) "Department" means the Department on Aging of the
30 State of Illinois.

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

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

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

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

9 (3) A home, institution, or other place operated by
10 the federal government or agency thereof or by the State
11 of Illinois;

12 (4) A hospital, sanitarium, or other institution,
13 the principal activity or business of which is the
14 diagnosis, care, and treatment of human illness through
15 the maintenance and operation of organized facilities
16 therefor, which is required to be licensed under the
17 Hospital Licensing Act;

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

20 (6) A "community residential alternative" as
21 defined in the Community Residential Alternatives
22 Licensing Act; and

23 (7) A "community-integrated living arrangement" as
24 defined in the Community-Integrated Living Arrangements
25 Licensure and Certification Act.

26 (e) "Eligible adult" means a person 60 years of age or
27 older who resides in a domestic living situation and is, or
28 is alleged to be, abused, neglected, or financially exploited
29 by another individual.

30 (f) "Emergency" means a situation in which an eligible
31 adult is living in conditions presenting a risk of death or
32 physical, mental or sexual injury and the provider agency has
33 reason to believe the eligible adult is unable to consent to
34 services which would alleviate that risk.

1 (f-5) "Mandated reporter" means any of the following
2 persons while engaged in carrying out their professional
3 duties:

4 (1) a professional or professional's delegate while
5 engaged in: (i) social services, (ii) law enforcement,
6 (iii) education, (iv) the care of an eligible adult or
7 eligible adults, or (v) any of the occupations required
8 to be licensed under the Clinical Psychologist Licensing
9 Act, the Clinical Social Work and Social Work Practice
10 Act, the Illinois Dental Practice Act, the Dietetic and
11 Nutrition Services Practice Act, the Marriage and Family
12 Therapy Licensing Act, the Medical Practice Act of 1987,
13 the Naprapathic Practice Act, the Nursing and Advanced
14 Practice Nursing Act, the Nursing Home Administrators
15 Licensing and Disciplinary Act, the Illinois Occupational
16 Therapy Practice Act, the Illinois Optometric Practice
17 Act of 1987, the Pharmacy Practice Act of 1987, the
18 Illinois Physical Therapy Act, the Physician Assistant
19 Practice Act of 1987, the Podiatric Medical Practice Act
20 of 1987, the Respiratory Care Practice Act, the
21 Professional Counselor and Clinical Professional
22 Counselor Licensing Act, the Illinois Speech-Language
23 Pathology and Audiology Practice Act, the Veterinary
24 Medicine and Surgery Practice Act of 1994, and the
25 Illinois Public Accounting Act;

26 (2) an employee of a vocational rehabilitation
27 facility prescribed or supervised by the Department of
28 Human Services;

29 (3) an administrator, employee, or person providing
30 services in or through an unlicensed community based
31 facility;

32 (4) a Christian Science Practitioner;

33 (5) field personnel of the Department of Public
34 Aid, Department of Public Health, and Department of Human

1 Services, and any county or municipal health department;

2 (6) personnel of the Department of Human Services,
3 the Guardianship and Advocacy Commission, the State Fire
4 Marshal, local fire departments, the Department on Aging
5 and its subsidiary Area Agencies on Aging and provider
6 agencies, and the Office of State Long Term Care
7 Ombudsman;

8 (7) any employee of the State of Illinois not
9 otherwise specified herein who is involved in providing
10 services to eligible adults, including professionals
11 providing medical or rehabilitation services and all
12 other persons having direct contact with eligible adults;
13 or

14 (8) a person who performs the duties of a coroner
15 or medical examiner; or

16 (9) a person who performs the duties of a paramedic
17 or an emergency medical technician.

18 (g) "Neglect" means another individual's failure to
19 provide an eligible adult with or willful withholding from an
20 eligible adult the necessities of life including, but not
21 limited to, food, clothing, shelter or medical care. This
22 subsection does not create any new affirmative duty to
23 provide support to eligible adults. Nothing in this Act
24 shall be construed to mean that an eligible adult is a victim
25 of neglect because of health care services provided or not
26 provided by licensed health care professionals.

27 (h) "Provider agency" means any public or nonprofit
28 agency in a planning and service area appointed by the
29 regional administrative agency with prior approval by the
30 Department on Aging to receive and assess reports of alleged
31 or suspected abuse, neglect, or financial exploitation.

32 (i) "Regional administrative agency" means any public or
33 nonprofit agency in a planning and service area so designated
34 by the Department, provided that the designated Area Agency

1 on Aging shall be designated the regional administrative
2 agency if it so requests. The Department shall assume the
3 functions of the regional administrative agency for any
4 planning and service area where another agency is not so
5 designated.

6 (j) "Substantiated case" means a reported case of
7 alleged or suspected abuse, neglect, or financial
8 exploitation in which a provider agency, after assessment,
9 determines that there is reason to believe abuse, neglect, or
10 financial exploitation has occurred.

11 (Source: P.A. 91-259, eff. 1-1-00; 91-357, eff. 7-29-99;
12 91-533, eff. 8-13-99; 92-16, eff. 6-28-01.)

13 (320 ILCS 20/3.5)

14 Sec. 3.5. Other Responsibilities. The Department shall
15 also be responsible for the following activities, contingent
16 upon adequate funding:

17 (a) promotion of a wide range of endeavors for the
18 purpose of preventing elder abuse, neglect, and financial
19 exploitation in both domestic and institutional settings,
20 including, but not limited to, promotion of public and
21 professional education to increase awareness of elder abuse,
22 neglect, and financial exploitation, to increase reports, and
23 to improve response by various legal, financial, social, and
24 health systems;

25 (b) coordination of efforts with other agencies,
26 councils, and like entities, to include but not be limited
27 to, the Office of the Attorney General, the State Police, the
28 Illinois Law Enforcement Training Standards Board, the State
29 Triad, the Criminal Justice Information Authority, the
30 Departments of Public Health, Public Aid, and Human Services,
31 the Family Violence Coordinating Council, the Violence
32 Prevention Authority, and other entities which may impact
33 awareness of, and response to, elder abuse, neglect, and

1 financial exploitation;

2 (c) collection and analysis of data;

3 (d) monitoring of the performance of regional
4 administrative agencies and elder abuse provider agencies;
5 and

6 (e) promotion of prevention activities;

7 (f) establishment and coordination of an aggressive
8 training program about the unique nature of elder abuse cases
9 with other agencies, councils, and like entities, including
10 but not limited to the Office of the Attorney General, the
11 State Police, the Illinois Law Enforcement Training Standards
12 Board, the State Triad, the Criminal Justice Information
13 Authority, the Departments of Public Health, Public Aid, and
14 Human Services, the Family Violence Coordinating Council, the
15 Illinois Violence Prevention Authority, and other entities
16 that may impact awareness of, and response to, elder abuse,
17 neglect, and financial exploitation;

18 (g) solicitation of financial institutions for the
19 purpose of making information available to the general public
20 warning of financial exploitation of the elderly and related
21 financial fraud or abuse, including such information and
22 warnings available through signage or other written materials
23 provided by the Department on the premises of such financial
24 institutions, provided that the manner of displaying or
25 distributing such information is subject to the sole
26 discretion of each financial institution; and

27 (h) coordination of efforts with utility companies to
28 send notices in utility bills which explain elder rights
29 regarding telemarketing home repair frauds.

30 (Source: P.A. 92-16, eff. 6-28-01.)

31 (320 ILCS 20/4) (from Ch. 23, par. 6604)

32 Sec. 4. Reports of abuse or neglect.

33 (a) Any person who suspects the abuse, neglect, or

1 financial exploitation of an eligible adult may report this
2 suspicion to an agency designated to receive such reports
3 under this Act or to the Department.

4 (a-5) If any mandated reporter has reason to believe
5 that an eligible adult, who because of dysfunction is unable
6 to seek assistance for himself or herself, has, within the
7 previous 12 months, been subjected to abuse, neglect, or
8 financial exploitation, the mandated reporter shall, within
9 24 hours after developing such belief, report this suspicion
10 to an agency designated to receive such reports under this
11 Act or to the Department. Whenever a mandated reporter is
12 required to report under this Act in his or her capacity as a
13 member of the staff of a medical or other public or private
14 institution, facility, board and care home, or agency, he or
15 she shall make a report to an agency designated to receive
16 such reports under this Act or to the Department in
17 accordance with the provisions of this Act and may also
18 notify the person in charge of the institution, facility,
19 board and care home, or agency or his or her designated agent
20 that the report has been made. Under no circumstances shall
21 any person in charge of such institution, facility, board and
22 care home, or agency, or his or her designated agent to whom
23 the notification has been made, exercise any control,
24 restraint, modification, or other change in the report or the
25 forwarding of the report to an agency designated to receive
26 such reports under this Act or to the Department. The
27 privileged quality of communication between any professional
28 person required to report and his or her patient or client
29 shall not apply to situations involving abused, neglected, or
30 financially exploited eligible adults and shall not
31 constitute grounds for failure to report as required by this
32 Act.

33 (a-7) A person making a report under this Act in the
34 belief that it is in the alleged victim's best interest shall

1 be immune from criminal or civil liability or professional
2 disciplinary action on account of making the report,
3 notwithstanding any requirements concerning the
4 confidentiality of information with respect to such eligible
5 adult which might otherwise be applicable.

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

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

32 (c) The identity of a person making a report of alleged
33 or suspected abuse or neglect under this Act may be disclosed
34 by the Department or other agency provided for in this Act

1 only with such person's written consent or by court order.

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

4 (e) Any physician who willfully fails to report as
5 required by this Act shall be referred to the Illinois State
6 Medical Disciplinary Board for action in accordance with
7 subdivision (A)(22) of Section 22 of the Medical Practice Act
8 of 1987. Any dentist or dental hygienist who willfully fails
9 to report as required by this Act shall be referred to the
10 Department of Professional Regulation for action in
11 accordance with paragraph 19 of Section 23 of the Illinois
12 Dental Practice Act. Any other mandated reporter required by
13 this Act to report suspected abuse, neglect, or financial
14 exploitation who willfully fails to report the same is guilty
15 of a Class A misdemeanor.

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

17 (320 ILCS 20/7) (from Ch. 23, par. 6607)

18 Sec. 7. Review. All services provided to an eligible
19 adult shall be reviewed by the provider agency on at least a
20 quarterly basis for up to one year to determine whether the
21 service care plan should be continued or modified, except
22 that the Department on Aging, upon review, may grant a waiver
23 to extend the service care plan for up to an additional one
24 year period.

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