



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**  
**SB2469**

Introduced 2/3/2004, by William R. Haine

**SYNOPSIS AS INTRODUCED:**

750 ILCS 60/103

from Ch. 40, par. 2311-3

Amends the Illinois Domestic Violence Act of 1986. Removes the definitions of "adult with disabilities" and "elder adult with disabilities". Provides that, under the definition of "family or household members", caregivers include former employees of facilities licensed or certified under the Nursing Home Care Act, the Assisted Living and Shared Housing Act, and the federal Social Security Act. Provides, under the definition of a "high-risk adult with disabilities", that a person may be an adult with disabilities for purposes of this Act even though he or she has never been adjudicated an incompetent adult. Provides that no court proceeding may be initiated or continued on behalf of an adult with disabilities over that adult's objection, unless the proceeding is approved by his or her legal guardian, if any. Effective immediately.

LRB093 19852 LCB 45595 b

1 AN ACT concerning domestic violence.

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

4 Section 5. The Illinois Domestic Violence Act of 1986 is  
5 amended by changing Section 103 as follows:

6 (750 ILCS 60/103) (from Ch. 40, par. 2311-3)

7 Sec. 103. Definitions. For the purposes of this Act, the  
8 following terms shall have the following meanings:

9 (1) "Abuse" means physical abuse, harassment, intimidation  
10 of a dependent, interference with personal liberty or willful  
11 deprivation but does not include reasonable direction of a  
12 minor child by a parent or person in loco parentis.

13 (2) (Blank). ~~"Adult with disabilities" means an elder adult~~  
14 ~~with disabilities or a high risk adult with disabilities. A~~  
15 ~~person may be an adult with disabilities for purposes of this~~  
16 ~~Act even though he or she has never been adjudicated an~~  
17 ~~incompetent adult. However, no court proceeding may be~~  
18 ~~initiated or continued on behalf of an adult with disabilities~~  
19 ~~over that adult's objection, unless such proceeding is approved~~  
20 ~~by his or her legal guardian, if any.~~

21 (3) "Domestic violence" means abuse as defined in paragraph  
22 (1).

23 (4) (Blank). ~~"Elder adult with disabilities" means an adult~~  
24 ~~prevented by advanced age from taking appropriate action to~~  
25 ~~protect himself or herself from abuse by a family or household~~  
26 ~~member.~~

27 (5) "Exploitation" means the illegal, including tortious,  
28 use of a high-risk adult with disabilities or of the assets or  
29 resources of a high-risk adult with disabilities. Exploitation  
30 includes, but is not limited to, the misappropriation of assets  
31 or resources of a high-risk adult with disabilities by undue  
32 influence, by breach of a fiduciary relationship, by fraud,

1 deception, or extortion, or the use of such assets or resources  
2 in a manner contrary to law.

3 (6) "Family or household members" include spouses, former  
4 spouses, parents, children, stepchildren and other persons  
5 related by blood or by present or prior marriage, persons who  
6 share or formerly shared a common dwelling, persons who have or  
7 allegedly have a child in common, persons who share or  
8 allegedly share a blood relationship through a child, persons  
9 who have or have had a dating or engagement relationship,  
10 persons with disabilities and their personal assistants, and  
11 caregivers as defined in paragraph (3) of subsection (b) of  
12 Section 12-21 of the Criminal Code of 1961, except that for the  
13 purposes of this Act, caregivers shall also include former  
14 employees of facilities licensed or certified under the Nursing  
15 Home Care Act, the Assisted Living and Shared Housing Act, and  
16 the federal Social Security Act. For purposes of this  
17 paragraph, neither a casual acquaintanceship nor ordinary  
18 fraternization between 2 individuals in business or social  
19 contexts shall be deemed to constitute a dating relationship.  
20 In the case of a high-risk adult with disabilities, "family or  
21 household members" includes any person who has the  
22 responsibility for a high-risk adult as a result of a family  
23 relationship or who has assumed responsibility for all or a  
24 portion of the care of a high-risk adult with disabilities  
25 voluntarily, or by express or implied contract, or by court  
26 order.

27 (7) "Harassment" means knowing conduct which is not  
28 necessary to accomplish a purpose that is reasonable under the  
29 circumstances; would cause a reasonable person emotional  
30 distress; and does cause emotional distress to the petitioner.  
31 Unless the presumption is rebutted by a preponderance of the  
32 evidence, the following types of conduct shall be presumed to  
33 cause emotional distress:

34 (i) creating a disturbance at petitioner's place of  
35 employment or school;

36 (ii) repeatedly telephoning petitioner's place of

1 employment, home or residence;

2 (iii) repeatedly following petitioner about in a  
3 public place or places;

4 (iv) repeatedly keeping petitioner under surveillance  
5 by remaining present outside his or her home, school, place  
6 of employment, vehicle or other place occupied by  
7 petitioner or by peering in petitioner's windows;

8 (v) improperly concealing a minor child from  
9 petitioner, repeatedly threatening to improperly remove a  
10 minor child of petitioner's from the jurisdiction or from  
11 the physical care of petitioner, repeatedly threatening to  
12 conceal a minor child from petitioner, or making a single  
13 such threat following an actual or attempted improper  
14 removal or concealment, unless respondent was fleeing an  
15 incident or pattern of domestic violence; or

16 (vi) threatening physical force, confinement or  
17 restraint on one or more occasions.

18 (8) "High-risk adult with disabilities" means a person aged  
19 18 or over whose physical or mental disability or advanced age  
20 impairs his or her ability to seek or obtain protection from  
21 abuse, neglect, or exploitation. A person may be an adult with  
22 disabilities for purposes of this Act even though he or she has  
23 never been adjudicated an incompetent adult. However, no court  
24 proceedings may be initiated or continued on behalf of an adult  
25 with disabilities over that adult's objection, unless the  
26 proceeding is approved by his or her legal guardian, if any.

27 (9) "Interference with personal liberty" means committing  
28 or threatening physical abuse, harassment, intimidation or  
29 willful deprivation so as to compel another to engage in  
30 conduct from which she or he has a right to abstain or to  
31 refrain from conduct in which she or he has a right to engage.

32 (10) "Intimidation of a dependent" means subjecting a  
33 person who is dependent because of age, health or disability to  
34 participation in or the witnessing of: physical force against  
35 another or physical confinement or restraint of another which  
36 constitutes physical abuse as defined in this Act, regardless

1 of whether the abused person is a family or household member.

2 (11) (A) "Neglect" means the failure to exercise that  
3 degree of care toward a high-risk adult with disabilities which  
4 a reasonable person would exercise under the circumstances and  
5 includes but is not limited to:

6 (i) the failure to take reasonable steps to protect a  
7 high-risk adult with disabilities from acts of abuse;

8 (ii) the repeated, careless imposition of unreasonable  
9 confinement;

10 (iii) the failure to provide food, shelter, clothing,  
11 and personal hygiene to a high-risk adult with disabilities  
12 who requires such assistance;

13 (iv) the failure to provide medical and rehabilitative  
14 care for the physical and mental health needs of a  
15 high-risk adult with disabilities; or

16 (v) the failure to protect a high-risk adult with  
17 disabilities from health and safety hazards.

18 (B) Nothing in this subsection (10) shall be construed to  
19 impose a requirement that assistance be provided to a high-risk  
20 adult with disabilities over his or her objection in the  
21 absence of a court order, nor to create any new affirmative  
22 duty to provide support to a high-risk adult with disabilities.

23 (12) "Order of protection" means an emergency order,  
24 interim order or plenary order, granted pursuant to this Act,  
25 which includes any or all of the remedies authorized by Section  
26 214 of this Act.

27 (13) "Petitioner" may mean not only any named petitioner  
28 for the order of protection and any named victim of abuse on  
29 whose behalf the petition is brought, but also any other person  
30 protected by this Act.

31 (14) "Physical abuse" includes sexual abuse and means any  
32 of the following:

33 (i) knowing or reckless use of physical force,  
34 confinement or restraint;

35 (ii) knowing, repeated and unnecessary sleep  
36 deprivation; or

1           (iii) knowing or reckless conduct which creates an  
2           immediate risk of physical harm.

3           (15) "Willful deprivation" means wilfully denying a person  
4           who because of age, health or disability requires medication,  
5           medical care, shelter, accessible shelter or services, food,  
6           therapeutic device, or other physical assistance, and thereby  
7           exposing that person to the risk of physical, mental or  
8           emotional harm, except with regard to medical care or treatment  
9           when the dependent person has expressed an intent to forgo such  
10          medical care or treatment. This paragraph does not create any  
11          new affirmative duty to provide support to dependent persons.  
12          (Source: P.A. 92-253, eff. 1-1-02.)

13          Section 99. Effective date. This Act takes effect upon  
14          becoming law.