

1 AN ACT concerning civil law.

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

4 Section 5. The Probate Act of 1975 is amended by changing  
5 Sections 2-6.2 and 18-1.1 as follows:

6 (755 ILCS 5/2-6.2)

7 Sec. 2-6.2. Financial exploitation, abuse, or neglect of an  
8 elderly person or a person with a disability.

9 (a) In this Section:

10 "Abuse" means any offense described in Section 12-21 of the  
11 Criminal Code of 1961.

12 "Financial exploitation" means any offense described in  
13 Section 16-1.3 of the Criminal Code of 1961.

14 "Neglect" means any offense described in Section 12-19 of  
15 the Criminal Code of 1961.

16 (b) Persons convicted of financial exploitation, abuse, or  
17 neglect of an elderly person or a person with a disability  
18 shall not receive any property, benefit, or other interest by  
19 reason of the death of that elderly person or person with a  
20 disability, whether as heir, legatee, beneficiary, survivor,  
21 appointee, claimant under Section 18-1.1, or in any other  
22 capacity and whether the property, benefit, or other interest  
23 passes pursuant to any form of title registration, testamentary

1 or nontestamentary instrument, intestacy, renunciation, or any  
2 other circumstance. The property, benefit, or other interest  
3 shall pass as if the person convicted of the financial  
4 exploitation, abuse, or neglect died before the decedent,  
5 provided that with respect to joint tenancy property the  
6 interest possessed prior to the death by the person convicted  
7 of the financial exploitation, abuse, or neglect shall not be  
8 diminished by the application of this Section. Notwithstanding  
9 the foregoing, a person convicted of financial exploitation,  
10 abuse, or neglect of an elderly person or a person with a  
11 disability shall be entitled to receive property, a benefit, or  
12 an interest in any capacity and under any circumstances  
13 described in this subsection (b) if it is demonstrated by clear  
14 and convincing evidence that the victim of that offense knew of  
15 the conviction and subsequent to the conviction expressed or  
16 ratified his or her intent to transfer the property, benefit,  
17 or interest to the person convicted of financial exploitation,  
18 abuse, or neglect of an elderly person or a person with a  
19 disability in any manner contemplated by this subsection (b).

20 (c) (1) The holder of any property subject to the  
21 provisions of this Section shall not be liable for  
22 distributing or releasing the property to the person  
23 convicted of financial exploitation, abuse, or neglect of  
24 an elderly person or a person with a disability if the  
25 distribution or release occurs prior to the conviction.

26 (2) If the holder is a financial institution, trust

1           company, trustee, or similar entity or person, the holder  
2           shall not be liable for any distribution or release of the  
3           property, benefit, or other interest to the person  
4           convicted of a violation of Section 12-19, 12-21, or 16-1.3  
5           of the Criminal Code of 1961 unless the holder knowingly  
6           distributes or releases the property, benefit, or other  
7           interest to the person so convicted after first having  
8           received actual written notice of the conviction in  
9           sufficient time to act upon the notice.

10          (d) If the holder of any property subject to the provisions  
11          of this Section knows that a potential beneficiary has been  
12          convicted of financial exploitation, abuse, or neglect of an  
13          elderly person or a person with a disability within the scope  
14          of this Section, the holder shall fully cooperate with law  
15          enforcement authorities and judicial officers in connection  
16          with any investigation of the financial exploitation, abuse, or  
17          neglect. If the holder is a person or entity that is subject to  
18          regulation by a regulatory agency pursuant to the laws of this  
19          or any other state or pursuant to the laws of the United  
20          States, including but not limited to the business of a  
21          financial institution, corporate fiduciary, or insurance  
22          company, then such person or entity shall not be deemed to be  
23          in violation of this Section to the extent that privacy laws  
24          and regulations applicable to such person or entity prevent it  
25          from voluntarily providing law enforcement authorities or  
26          judicial officers with information.

1 (Source: P.A. 93-299, eff. 1-1-04.)

2 (755 ILCS 5/18-1.1) (from Ch. 110 1/2, par. 18-1.1)

3 Sec. 18-1.1. Statutory custodial claim. Any spouse,  
4 parent, brother, sister, or child of a disabled person who  
5 dedicates himself or herself to the care of the disabled person  
6 by living with and personally caring for the disabled person  
7 for at least 3 years shall be entitled to a claim against the  
8 estate upon the death of the disabled person. The claim shall  
9 take into consideration the claimant's lost employment  
10 opportunities, lost lifestyle opportunities, and emotional  
11 distress experienced as a result of personally caring for the  
12 disabled person. Notwithstanding the statutory claim amounts  
13 stated in this Section, a court may reduce an amount to the  
14 extent that the living arrangements were intended to and did in  
15 fact also provide a physical or financial benefit to the  
16 claimant. The factors a court may consider in determining  
17 whether to reduce a statutory custodial claim amount may  
18 include but are not limited to: (i) the free or low cost of  
19 housing provided to the claimant; (ii) the alleviation of the  
20 need for the claimant to be employed full time; (iii) any  
21 financial benefit provided to the claimant; (iv) the personal  
22 care received by the claimant from the decedent or others; and  
23 (v) the proximity of the care provided by the claimant to the  
24 decedent to the time of the decedent's death. The claim shall  
25 be in addition to any other claim, including without limitation

1 a reasonable claim for nursing and other care. The claim shall  
2 be based upon the nature and extent of the person's disability  
3 and, at a minimum but subject to the extent of the assets  
4 available, shall be in the amounts set forth below:

5 1. 100% disability, \$180,000 ~~\$100,000~~

6 2. 75% disability, \$135,000 ~~\$75,000~~

7 3. 50% disability, \$90,000 ~~\$50,000~~

8 4. 25% disability, \$45,000 ~~\$25,000~~

9 (Source: P.A. 87-908.)