



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB2020

by Rep. Elizabeth Hernandez

#### SYNOPSIS AS INTRODUCED:

320 ILCS 20/2

from Ch. 23, par. 6602

Amends the Elder Abuse and Neglect Act. Redefines "domestic living situation" to mean a residence where the eligible adult at the time of the report lives alone or with his or her family or a caregiver, or others, or a board and care home or other community-based unlicensed facility, with certain exceptions (rather than a residence where the eligible adult lives alone or with his or her family or a caregiver, or others, or a board and care home or other community-based unlicensed facility, with certain exceptions). Effective immediately.

LRB097 03046 KTG 43078 b

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 Elder Abuse and Neglect Act is amended by  
5 changing Section 2 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, neglect, or self-neglect  
14 for the sole reason that he or she is being furnished with or  
15 relies upon treatment by spiritual means through prayer alone,  
16 in 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.

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

6           (b) "Department" means the Department on Aging of the State  
7 of Illinois.

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

9           (d) "Domestic living situation" means a residence where the  
10 eligible adult at the time of the report lives alone or with  
11 his or her family or a caregiver, or others, or a board and  
12 care home or other community-based unlicensed facility, but is  
13 not:

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

16           (1.5) A facility licensed under the MR/DD Community  
17 Care Act;

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

20           (3) A home, institution, or other place operated by the  
21 federal government or agency thereof or by the State of  
22 Illinois;

23           (4) A hospital, sanitarium, or other institution, the  
24 principal activity or business of which is the diagnosis,  
25 care, and treatment of human illness through the  
26 maintenance and operation of organized facilities

1           therefor, which is required to be licensed under the  
2           Hospital Licensing Act;

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

5           (6) (Blank);

6           (7) A "community-integrated living arrangement" as  
7           defined in the Community-Integrated Living Arrangements  
8           Licensure and Certification Act;

9           (8) An assisted living or shared housing establishment  
10          as defined in the Assisted Living and Shared Housing Act;  
11          or

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

14          (e) "Eligible adult" means a person 60 years of age or  
15          older who resides in a domestic living situation and is, or is  
16          alleged to be, abused, neglected, or financially exploited by  
17          another individual or who neglects himself or herself.

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

23          (f-5) "Mandated reporter" means any of the following  
24          persons while engaged in carrying out their professional  
25          duties:

26                 (1) a professional or professional's delegate while

1 engaged in: (i) social services, (ii) law enforcement,  
2 (iii) education, (iv) the care of an eligible adult or  
3 eligible adults, or (v) any of the occupations required to  
4 be licensed under the Clinical Psychologist Licensing Act,  
5 the Clinical Social Work and Social Work Practice Act, the  
6 Illinois Dental Practice Act, the Dietetic and Nutrition  
7 Services Practice Act, the Marriage and Family Therapy  
8 Licensing Act, the Medical Practice Act of 1987, the  
9 Naprapathic Practice Act, the Nurse Practice Act, the  
10 Nursing Home Administrators Licensing and Disciplinary  
11 Act, the Illinois Occupational Therapy Practice Act, the  
12 Illinois Optometric Practice Act of 1987, the Pharmacy  
13 Practice Act, the Illinois Physical Therapy Act, the  
14 Physician Assistant Practice Act of 1987, the Podiatric  
15 Medical Practice Act of 1987, the Respiratory Care Practice  
16 Act, the Professional Counselor and Clinical Professional  
17 Counselor Licensing Act, the Illinois Speech-Language  
18 Pathology and Audiology Practice Act, the Veterinary  
19 Medicine and Surgery Practice Act of 2004, and the Illinois  
20 Public Accounting Act;

21 (2) an employee of a vocational rehabilitation  
22 facility prescribed or supervised by the Department of  
23 Human Services;

24 (3) an administrator, employee, or person providing  
25 services in or through an unlicensed community based  
26 facility;

1           (4) any religious practitioner who provides treatment  
2           by prayer or spiritual means alone in accordance with the  
3           tenets and practices of a recognized church or religious  
4           denomination, except as to information received in any  
5           confession or sacred communication enjoined by the  
6           discipline of the religious denomination to be held  
7           confidential;

8           (5) field personnel of the Department of Healthcare and  
9           Family Services, Department of Public Health, and  
10          Department of Human Services, and any county or municipal  
11          health department;

12          (6) personnel of the Department of Human Services, the  
13          Guardianship and Advocacy Commission, the State Fire  
14          Marshal, local fire departments, the Department on Aging  
15          and its subsidiary Area Agencies on Aging and provider  
16          agencies, and the Office of State Long Term Care Ombudsman;

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

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

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

26          (g) "Neglect" means another individual's failure to

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

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

14 (i) "Regional administrative agency" means any public or  
15 nonprofit agency in a planning and service area so designated  
16 by the Department, provided that the designated Area Agency on  
17 Aging shall be designated the regional administrative agency if  
18 it so requests. The Department shall assume the functions of  
19 the regional administrative agency for any planning and service  
20 area where another agency is not so designated.

21 (i-5) "Self-neglect" means a condition that is the result  
22 of an eligible adult's inability, due to physical or mental  
23 impairments, or both, or a diminished capacity, to perform  
24 essential self-care tasks that substantially threaten his or  
25 her own health, including: providing essential food, clothing,  
26 shelter, and health care; and obtaining goods and services

1 necessary to maintain physical health, mental health,  
2 emotional well-being, and general safety. The term includes  
3 compulsive hoarding, which is characterized by the acquisition  
4 and retention of large quantities of items and materials that  
5 produce an extensively cluttered living space, which  
6 significantly impairs the performance of essential self-care  
7 tasks or otherwise substantially threatens life or safety.

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

13 (Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07;  
14 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-526, eff. 1-1-10;  
15 96-572, eff. 1-1-10; 96-1000, eff. 7-2-10.)

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.