



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB0948

Introduced 1/25/2013, by Rep. Greg Harris

SYNOPSIS AS INTRODUCED:

See Index

Repeals the Abuse of Adults with Disabilities Intervention Act. Amends the Elder Abuse and Neglect Act. Changes the short title of the Act to the Adult Protective Services Act and amends various Acts to change references to the short title. Adds and defines new terms. Provides that within 6 months, the Department on Aging shall establish a centralized Adult Protective Services Helpline for the purposes of reporting the abuse, neglect, or financial exploitation of an eligible adult. Requires the Department on Aging to make the helpline accessible 24 hours a day, 7 days a week and to post its telephone number online. Requires the Department on Aging to report to the Department of Public Health's health care worker registry the identity and administrative finding against any caregiver of a verified and substantiated decision of significant abuse, neglect, or financial exploitation of an eligible adult. Contains provisions concerning notice to caregivers; report challenges; registry hearings; a caregiver's rights to collateral action; removal from the registry; and the referral of registry reports to health care facilities; the establishment of a Statewide Fatality Review Team; and other matters. Effective July 1, 2013.

LRB098 06332 KTG 36373 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning adult protective services.

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

4 Section 2. The Open Meetings Act is amended by changing
5 Section 2 as follows:

6 (5 ILCS 120/2) (from Ch. 102, par. 42)

7 Sec. 2. Open meetings.

8 (a) Openness required. All meetings of public bodies shall
9 be open to the public unless excepted in subsection (c) and
10 closed in accordance with Section 2a.

11 (b) Construction of exceptions. The exceptions contained
12 in subsection (c) are in derogation of the requirement that
13 public bodies meet in the open, and therefore, the exceptions
14 are to be strictly construed, extending only to subjects
15 clearly within their scope. The exceptions authorize but do not
16 require the holding of a closed meeting to discuss a subject
17 included within an enumerated exception.

18 (c) Exceptions. A public body may hold closed meetings to
19 consider the following subjects:

20 (1) The appointment, employment, compensation,
21 discipline, performance, or dismissal of specific
22 employees of the public body or legal counsel for the
23 public body, including hearing testimony on a complaint

1 lodged against an employee of the public body or against
2 legal counsel for the public body to determine its
3 validity.

4 (2) Collective negotiating matters between the public
5 body and its employees or their representatives, or
6 deliberations concerning salary schedules for one or more
7 classes of employees.

8 (3) The selection of a person to fill a public office,
9 as defined in this Act, including a vacancy in a public
10 office, when the public body is given power to appoint
11 under law or ordinance, or the discipline, performance or
12 removal of the occupant of a public office, when the public
13 body is given power to remove the occupant under law or
14 ordinance.

15 (4) Evidence or testimony presented in open hearing, or
16 in closed hearing where specifically authorized by law, to
17 a quasi-adjudicative body, as defined in this Act, provided
18 that the body prepares and makes available for public
19 inspection a written decision setting forth its
20 determinative reasoning.

21 (5) The purchase or lease of real property for the use
22 of the public body, including meetings held for the purpose
23 of discussing whether a particular parcel should be
24 acquired.

25 (6) The setting of a price for sale or lease of
26 property owned by the public body.

1 (7) The sale or purchase of securities, investments, or
2 investment contracts. This exception shall not apply to the
3 investment of assets or income of funds deposited into the
4 Illinois Prepaid Tuition Trust Fund.

5 (8) Security procedures and the use of personnel and
6 equipment to respond to an actual, a threatened, or a
7 reasonably potential danger to the safety of employees,
8 students, staff, the public, or public property.

9 (9) Student disciplinary cases.

10 (10) The placement of individual students in special
11 education programs and other matters relating to
12 individual students.

13 (11) Litigation, when an action against, affecting or
14 on behalf of the particular public body has been filed and
15 is pending before a court or administrative tribunal, or
16 when the public body finds that an action is probable or
17 imminent, in which case the basis for the finding shall be
18 recorded and entered into the minutes of the closed
19 meeting.

20 (12) The establishment of reserves or settlement of
21 claims as provided in the Local Governmental and
22 Governmental Employees Tort Immunity Act, if otherwise the
23 disposition of a claim or potential claim might be
24 prejudiced, or the review or discussion of claims, loss or
25 risk management information, records, data, advice or
26 communications from or with respect to any insurer of the

1 public body or any intergovernmental risk management
2 association or self insurance pool of which the public body
3 is a member.

4 (13) Conciliation of complaints of discrimination in
5 the sale or rental of housing, when closed meetings are
6 authorized by the law or ordinance prescribing fair housing
7 practices and creating a commission or administrative
8 agency for their enforcement.

9 (14) Informant sources, the hiring or assignment of
10 undercover personnel or equipment, or ongoing, prior or
11 future criminal investigations, when discussed by a public
12 body with criminal investigatory responsibilities.

13 (15) Professional ethics or performance when
14 considered by an advisory body appointed to advise a
15 licensing or regulatory agency on matters germane to the
16 advisory body's field of competence.

17 (16) Self evaluation, practices and procedures or
18 professional ethics, when meeting with a representative of
19 a statewide association of which the public body is a
20 member.

21 (17) The recruitment, credentialing, discipline or
22 formal peer review of physicians or other health care
23 professionals for a hospital, or other institution
24 providing medical care, that is operated by the public
25 body.

26 (18) Deliberations for decisions of the Prisoner

1 Review Board.

2 (19) Review or discussion of applications received
3 under the Experimental Organ Transplantation Procedures
4 Act.

5 (20) The classification and discussion of matters
6 classified as confidential or continued confidential by
7 the State Government Suggestion Award Board.

8 (21) Discussion of minutes of meetings lawfully closed
9 under this Act, whether for purposes of approval by the
10 body of the minutes or semi-annual review of the minutes as
11 mandated by Section 2.06.

12 (22) Deliberations for decisions of the State
13 Emergency Medical Services Disciplinary Review Board.

14 (23) The operation by a municipality of a municipal
15 utility or the operation of a municipal power agency or
16 municipal natural gas agency when the discussion involves
17 (i) contracts relating to the purchase, sale, or delivery
18 of electricity or natural gas or (ii) the results or
19 conclusions of load forecast studies.

20 (24) Meetings of a residential health care facility
21 resident sexual assault and death review team or the
22 Executive Council under the Abuse Prevention Review Team
23 Act.

24 (25) Meetings of an independent team of experts under
25 Brian's Law.

26 (26) Meetings of a mortality review team appointed

1 under the Department of Juvenile Justice Mortality Review
2 Team Act.

3 (27) Confidential information, when discussed by one
4 or more members of an elder abuse fatality review team,
5 designated under Section 15 of the Adult Protective
6 Services Act ~~Elder Abuse and Neglect Act~~, while
7 participating in a review conducted by that team of the
8 death of an elderly person in which abuse or neglect is
9 suspected, alleged, or substantiated; provided that before
10 the review team holds a closed meeting, or closes an open
11 meeting, to discuss the confidential information, each
12 participating review team member seeking to disclose the
13 confidential information in the closed meeting or closed
14 portion of the meeting must state on the record during an
15 open meeting or the open portion of a meeting the nature of
16 the information to be disclosed and the legal basis for
17 otherwise holding that information confidential.

18 (28) Correspondence and records (i) that may not be
19 disclosed under Section 11-9 of the Public Aid Code or (ii)
20 that pertain to appeals under Section 11-8 of the Public
21 Aid Code.

22 (29) Meetings between internal or external auditors
23 and governmental audit committees, finance committees, and
24 their equivalents, when the discussion involves internal
25 control weaknesses, identification of potential fraud risk
26 areas, known or suspected frauds, and fraud interviews

1 conducted in accordance with generally accepted auditing
2 standards of the United States of America.

3 (d) Definitions. For purposes of this Section:

4 "Employee" means a person employed by a public body whose
5 relationship with the public body constitutes an
6 employer-employee relationship under the usual common law
7 rules, and who is not an independent contractor.

8 "Public office" means a position created by or under the
9 Constitution or laws of this State, the occupant of which is
10 charged with the exercise of some portion of the sovereign
11 power of this State. The term "public office" shall include
12 members of the public body, but it shall not include
13 organizational positions filled by members thereof, whether
14 established by law or by a public body itself, that exist to
15 assist the body in the conduct of its business.

16 "Quasi-adjudicative body" means an administrative body
17 charged by law or ordinance with the responsibility to conduct
18 hearings, receive evidence or testimony and make
19 determinations based thereon, but does not include local
20 electoral boards when such bodies are considering petition
21 challenges.

22 (e) Final action. No final action may be taken at a closed
23 meeting. Final action shall be preceded by a public recital of
24 the nature of the matter being considered and other information
25 that will inform the public of the business being conducted.

26 (Source: P.A. 96-1235, eff. 1-1-11; 96-1378, eff. 7-29-10;

1 96-1428, eff. 8-11-10; 97-318, eff. 1-1-12; 97-333, eff.
2 8-12-11; 97-452, eff. 8-19-11; 97-813, eff. 7-13-12; 97-876,
3 eff. 8-1-12.)

4 Section 3. The State Employee Indemnification Act is
5 amended by changing Section 1 as follows:

6 (5 ILCS 350/1) (from Ch. 127, par. 1301)

7 Sec. 1. Definitions. For the purpose of this Act:

8 (a) The term "State" means the State of Illinois, the
9 General Assembly, the court, or any State office, department,
10 division, bureau, board, commission, or committee, the
11 governing boards of the public institutions of higher education
12 created by the State, the Illinois National Guard, the
13 Comprehensive Health Insurance Board, any poison control
14 center designated under the Poison Control System Act that
15 receives State funding, or any other agency or instrumentality
16 of the State. It does not mean any local public entity as that
17 term is defined in Section 1-206 of the Local Governmental and
18 Governmental Employees Tort Immunity Act or a pension fund.

19 (b) The term "employee" means any present or former elected
20 or appointed officer, trustee or employee of the State, or of a
21 pension fund, any present or former commissioner or employee of
22 the Executive Ethics Commission or of the Legislative Ethics
23 Commission, any present or former Executive, Legislative, or
24 Auditor General's Inspector General, any present or former

1 employee of an Office of an Executive, Legislative, or Auditor
2 General's Inspector General, any present or former member of
3 the Illinois National Guard while on active duty, individuals
4 or organizations who contract with the Department of
5 Corrections, the Comprehensive Health Insurance Board, or the
6 Department of Veterans' Affairs to provide services,
7 individuals or organizations who contract with the Department
8 of Human Services (as successor to the Department of Mental
9 Health and Developmental Disabilities) to provide services
10 including but not limited to treatment and other services for
11 sexually violent persons, individuals or organizations who
12 contract with the Department of Military Affairs for youth
13 programs, individuals or organizations who contract to perform
14 carnival and amusement ride safety inspections for the
15 Department of Labor, individual representatives of or
16 designated organizations authorized to represent the Office of
17 State Long-Term Ombudsman for the Department on Aging,
18 individual representatives of or organizations designated by
19 the Department on Aging in the performance of their duties as
20 elder abuse provider agencies or regional administrative
21 agencies under the Adult Protective Services Act ~~Elder Abuse~~
22 ~~and Neglect Act~~, individuals or organizations who perform
23 volunteer services for the State where such volunteer
24 relationship is reduced to writing, individuals who serve on
25 any public entity (whether created by law or administrative
26 action) described in paragraph (a) of this Section, individuals

1 or not for profit organizations who, either as volunteers,
2 where such volunteer relationship is reduced to writing, or
3 pursuant to contract, furnish professional advice or
4 consultation to any agency or instrumentality of the State,
5 individuals who serve as foster parents for the Department of
6 Children and Family Services when caring for a Department ward,
7 individuals who serve as members of an independent team of
8 experts under Brian's Law, and individuals who serve as
9 arbitrators pursuant to Part 10A of Article II of the Code of
10 Civil Procedure and the rules of the Supreme Court implementing
11 Part 10A, each as now or hereafter amended, but does not mean
12 an independent contractor except as provided in this Section.
13 The term includes an individual appointed as an inspector by
14 the Director of State Police when performing duties within the
15 scope of the activities of a Metropolitan Enforcement Group or
16 a law enforcement organization established under the
17 Intergovernmental Cooperation Act. An individual who renders
18 professional advice and consultation to the State through an
19 organization which qualifies as an "employee" under the Act is
20 also an employee. The term includes the estate or personal
21 representative of an employee.

22 (c) The term "pension fund" means a retirement system or
23 pension fund created under the Illinois Pension Code.

24 (Source: P.A. 96-1235, eff. 1-1-11.)

25 Section 4. The Illinois Act on the Aging is amended by

1 changing Section 4.01 as follows:

2 (20 ILCS 105/4.01) (from Ch. 23, par. 6104.01)

3 Sec. 4.01. Additional powers and duties of the Department.

4 In addition to powers and duties otherwise provided by law, the
5 Department shall have the following powers and duties:

6 (1) To evaluate all programs, services, and facilities for
7 the aged and for minority senior citizens within the State and
8 determine the extent to which present public or private
9 programs, services and facilities meet the needs of the aged.

10 (2) To coordinate and evaluate all programs, services, and
11 facilities for the Aging and for minority senior citizens
12 presently furnished by State agencies and make appropriate
13 recommendations regarding such services, programs and
14 facilities to the Governor and/or the General Assembly.

15 (3) To function as the sole State agency to develop a
16 comprehensive plan to meet the needs of the State's senior
17 citizens and the State's minority senior citizens.

18 (4) To receive and disburse State and federal funds made
19 available directly to the Department including those funds made
20 available under the Older Americans Act and the Senior
21 Community Service Employment Program for providing services
22 for senior citizens and minority senior citizens or for
23 purposes related thereto, and shall develop and administer any
24 State Plan for the Aging required by federal law.

25 (5) To solicit, accept, hold, and administer in behalf of

1 the State any grants or legacies of money, securities, or
2 property to the State of Illinois for services to senior
3 citizens and minority senior citizens or purposes related
4 thereto.

5 (6) To provide consultation and assistance to communities,
6 area agencies on aging, and groups developing local services
7 for senior citizens and minority senior citizens.

8 (7) To promote community education regarding the problems
9 of senior citizens and minority senior citizens through
10 institutes, publications, radio, television and the local
11 press.

12 (8) To cooperate with agencies of the federal government in
13 studies and conferences designed to examine the needs of senior
14 citizens and minority senior citizens and to prepare programs
15 and facilities to meet those needs.

16 (9) To establish and maintain information and referral
17 sources throughout the State when not provided by other
18 agencies.

19 (10) To provide the staff support that may reasonably be
20 required by the Council.

21 (11) To make and enforce rules and regulations necessary
22 and proper to the performance of its duties.

23 (12) To establish and fund programs or projects or
24 experimental facilities that are specially designed as
25 alternatives to institutional care.

26 (13) To develop a training program to train the counselors

1 presently employed by the Department's aging network to provide
2 Medicare beneficiaries with counseling and advocacy in
3 Medicare, private health insurance, and related health care
4 coverage plans. The Department shall report to the General
5 Assembly on the implementation of the training program on or
6 before December 1, 1986.

7 (14) To make a grant to an institution of higher learning
8 to study the feasibility of establishing and implementing an
9 affirmative action employment plan for the recruitment,
10 hiring, training and retraining of persons 60 or more years old
11 for jobs for which their employment would not be precluded by
12 law.

13 (15) To present one award annually in each of the
14 categories of community service, education, the performance
15 and graphic arts, and the labor force to outstanding Illinois
16 senior citizens and minority senior citizens in recognition of
17 their individual contributions to either community service,
18 education, the performance and graphic arts, or the labor
19 force. The awards shall be presented to 4 senior citizens and
20 minority senior citizens selected from a list of 44 nominees
21 compiled annually by the Department. Nominations shall be
22 solicited from senior citizens' service providers, area
23 agencies on aging, senior citizens' centers, and senior
24 citizens' organizations. The Department shall establish a
25 central location within the State to be designated as the
26 Senior Illinoisans Hall of Fame for the public display of all

1 the annual awards, or replicas thereof.

2 (16) To establish multipurpose senior centers through area
3 agencies on aging and to fund those new and existing
4 multipurpose senior centers through area agencies on aging, the
5 establishment and funding to begin in such areas of the State
6 as the Department shall designate by rule and as specifically
7 appropriated funds become available.

8 (17) To develop the content and format of the
9 acknowledgment regarding non-recourse reverse mortgage loans
10 under Section 6.1 of the Illinois Banking Act; to provide
11 independent consumer information on reverse mortgages and
12 alternatives; and to refer consumers to independent counseling
13 services with expertise in reverse mortgages.

14 (18) To develop a pamphlet in English and Spanish which may
15 be used by physicians licensed to practice medicine in all of
16 its branches pursuant to the Medical Practice Act of 1987,
17 pharmacists licensed pursuant to the Pharmacy Practice Act, and
18 Illinois residents 65 years of age or older for the purpose of
19 assisting physicians, pharmacists, and patients in monitoring
20 prescriptions provided by various physicians and to aid persons
21 65 years of age or older in complying with directions for
22 proper use of pharmaceutical prescriptions. The pamphlet may
23 provide space for recording information including but not
24 limited to the following:

25 (a) name and telephone number of the patient;

26 (b) name and telephone number of the prescribing

1 physician;

2 (c) date of prescription;

3 (d) name of drug prescribed;

4 (e) directions for patient compliance; and

5 (f) name and telephone number of dispensing pharmacy.

6 In developing the pamphlet, the Department shall consult
7 with the Illinois State Medical Society, the Center for
8 Minority Health Services, the Illinois Pharmacists Association
9 and senior citizens organizations. The Department shall
10 distribute the pamphlets to physicians, pharmacists and
11 persons 65 years of age or older or various senior citizen
12 organizations throughout the State.

13 (19) To conduct a study of the feasibility of implementing
14 the Senior Companion Program throughout the State.

15 (20) The reimbursement rates paid through the community
16 care program for chore housekeeping services and home care
17 aides shall be the same.

18 (21) From funds appropriated to the Department from the
19 Meals on Wheels Fund, a special fund in the State treasury that
20 is hereby created, and in accordance with State and federal
21 guidelines and the intrastate funding formula, to make grants
22 to area agencies on aging, designated by the Department, for
23 the sole purpose of delivering meals to homebound persons 60
24 years of age and older.

25 (22) To distribute, through its area agencies on aging,
26 information alerting seniors on safety issues regarding

1 emergency weather conditions, including extreme heat and cold,
2 flooding, tornadoes, electrical storms, and other severe storm
3 weather. The information shall include all necessary
4 instructions for safety and all emergency telephone numbers of
5 organizations that will provide additional information and
6 assistance.

7 (23) To develop guidelines for the organization and
8 implementation of Volunteer Services Credit Programs to be
9 administered by Area Agencies on Aging or community based
10 senior service organizations. The Department shall hold public
11 hearings on the proposed guidelines for public comment,
12 suggestion, and determination of public interest. The
13 guidelines shall be based on the findings of other states and
14 of community organizations in Illinois that are currently
15 operating volunteer services credit programs or demonstration
16 volunteer services credit programs. The Department shall offer
17 guidelines for all aspects of the programs including, but not
18 limited to, the following:

19 (a) types of services to be offered by volunteers;

20 (b) types of services to be received upon the
21 redemption of service credits;

22 (c) issues of liability for the volunteers and the
23 administering organizations;

24 (d) methods of tracking service credits earned and
25 service credits redeemed;

26 (e) issues of time limits for redemption of service

1 credits;

2 (f) methods of recruitment of volunteers;

3 (g) utilization of community volunteers, community
4 service groups, and other resources for delivering
5 services to be received by service credit program clients;

6 (h) accountability and assurance that services will be
7 available to individuals who have earned service credits;
8 and

9 (i) volunteer screening and qualifications.

10 The Department shall submit a written copy of the guidelines to
11 the General Assembly by July 1, 1998.

12 (24) To function as the sole State agency to receive and
13 disburse State and federal funds for providing adult protective
14 services in a domestic living situation.

15 (Source: P.A. 95-298, eff. 8-20-07; 95-689, eff. 10-29-07;
16 95-876, eff. 8-21-08; 96-918, eff. 6-9-10.)

17 Section 10. The Department of Human Services Act is amended
18 by changing Section 1-17 as follows:

19 (20 ILCS 1305/1-17)

20 Sec. 1-17. Inspector General.

21 (a) Nature and purpose. It is the express intent of the
22 General Assembly to ensure the health, safety, and financial
23 condition of individuals receiving services in this State due
24 to mental illness, developmental disability, or both by

1 protecting those persons from acts of abuse, neglect, or both
2 by service providers. To that end, the Office of the Inspector
3 General for the Department of Human Services is created to
4 investigate and report upon allegations of the abuse, neglect,
5 or financial exploitation of individuals receiving services
6 within mental health facilities, developmental disabilities
7 facilities, and community agencies operated, licensed, funded
8 or certified by the Department of Human Services, but not
9 licensed or certified by any other State agency. ~~It is also the~~
10 ~~express intent of the General Assembly to authorize the~~
11 ~~Inspector General to investigate alleged or suspected cases of~~
12 ~~abuse, neglect, or financial exploitation of adults with~~
13 ~~disabilities living in domestic settings in the community under~~
14 ~~the Abuse of Adults with Disabilities Intervention Act.~~

15 (b) Definitions. The following definitions apply to this
16 Section:

17 "Adult student with a disability" means an adult student,
18 age 18 through 21, inclusive, with an Individual Education
19 Program, other than a resident of a facility licensed by the
20 Department of Children and Family Services in accordance with
21 the Child Care Act of 1969. For purposes of this definition,
22 "through age 21, inclusive", means through the day before the
23 student's 22nd birthday.

24 "Agency" or "community agency" means (i) a community agency
25 licensed, funded, or certified by the Department, but not
26 licensed or certified by any other human services agency of the

1 State, to provide mental health service or developmental
2 disabilities service, or (ii) a program licensed, funded, or
3 certified by the Department, but not licensed or certified by
4 any other human services agency of the State, to provide mental
5 health service or developmental disabilities service.

6 "Aggravating circumstance" means a factor that is
7 attendant to a finding and that tends to compound or increase
8 the culpability of the accused.

9 "Allegation" means an assertion, complaint, suspicion, or
10 incident involving any of the following conduct by an employee,
11 facility, or agency against an individual or individuals:
12 mental abuse, physical abuse, sexual abuse, neglect, or
13 financial exploitation.

14 "Day" means working day, unless otherwise specified.

15 "Deflection" means a situation in which an individual is
16 presented for admission to a facility or agency, and the
17 facility staff or agency staff do not admit the individual.
18 "Deflection" includes triage, redirection, and denial of
19 admission.

20 "Department" means the Department of Human Services.

21 "Developmentally disabled" means having a developmental
22 disability.

23 "Developmental disability" means "developmental
24 disability" as defined in the Mental Health and Developmental
25 Disabilities Code.

26 "Egregious neglect" means a finding of neglect as

1 determined by the Inspector General that (i) represents a gross
2 failure to adequately provide for, or a callused indifference
3 to, the health, safety, or medical needs of an individual and
4 (ii) results in an individual's death or other serious
5 deterioration of an individual's physical condition or mental
6 condition.

7 "Employee" means any person who provides services at the
8 facility or agency on-site or off-site. The service
9 relationship can be with the individual or with the facility or
10 agency. Also, "employee" includes any employee or contractual
11 agent of the Department of Human Services or the community
12 agency involved in providing or monitoring or administering
13 mental health or developmental disability services. This
14 includes but is not limited to: owners, operators, payroll
15 personnel, contractors, subcontractors, and volunteers.

16 "Facility" or "State-operated facility" means a mental
17 health facility or developmental disabilities facility
18 operated by the Department.

19 "Financial exploitation" means taking unjust advantage of
20 an individual's assets, property, or financial resources
21 through deception, intimidation, or conversion for the
22 employee's, facility's, or agency's own advantage or benefit.

23 "Finding" means the Office of Inspector General's
24 determination regarding whether an allegation is
25 substantiated, unsubstantiated, or unfounded.

26 "Health care worker registry" or "registry" means the

1 health care worker registry created by the Nursing Home Care
2 Act.

3 "Individual" means any person receiving mental health
4 service, developmental disabilities service, or both from a
5 facility or agency, while either on-site or off-site.

6 "Mental abuse" means the use of demeaning, intimidating, or
7 threatening words, signs, gestures, or other actions by an
8 employee about an individual and in the presence of an
9 individual or individuals that results in emotional distress or
10 maladaptive behavior, or could have resulted in emotional
11 distress or maladaptive behavior, for any individual present.

12 "Mental illness" means "mental illness" as defined in the
13 Mental Health and Developmental Disabilities Code.

14 "Mentally ill" means having a mental illness.

15 "Mitigating circumstance" means a condition that (i) is
16 attendant to a finding, (ii) does not excuse or justify the
17 conduct in question, but (iii) may be considered in evaluating
18 the severity of the conduct, the culpability of the accused, or
19 both the severity of the conduct and the culpability of the
20 accused.

21 "Neglect" means an employee's, agency's, or facility's
22 failure to provide adequate medical care, personal care, or
23 maintenance and that, as a consequence, (i) causes an
24 individual pain, injury, or emotional distress, (ii) results in
25 either an individual's maladaptive behavior or the
26 deterioration of an individual's physical condition or mental

1 condition, or (iii) places the individual's health or safety at
2 substantial risk.

3 "Physical abuse" means an employee's non-accidental and
4 inappropriate contact with an individual that causes bodily
5 harm. "Physical abuse" includes actions that cause bodily harm
6 as a result of an employee directing an individual or person to
7 physically abuse another individual.

8 "Recommendation" means an admonition, separate from a
9 finding, that requires action by the facility, agency, or
10 Department to correct a systemic issue, problem, or deficiency
11 identified during an investigation.

12 "Required reporter" means any employee who suspects,
13 witnesses, or is informed of an allegation of any one or more
14 of the following: mental abuse, physical abuse, sexual abuse,
15 neglect, or financial exploitation.

16 "Secretary" means the Chief Administrative Officer of the
17 Department.

18 "Sexual abuse" means any sexual contact or intimate
19 physical contact between an employee and an individual,
20 including an employee's coercion or encouragement of an
21 individual to engage in sexual behavior that results in sexual
22 contact, intimate physical contact, sexual behavior, or
23 intimate physical behavior.

24 "Substantiated" means there is a preponderance of the
25 evidence to support the allegation.

26 "Unfounded" means there is no credible evidence to support

1 the allegation.

2 "Unsubstantiated" means there is credible evidence, but
3 less than a preponderance of evidence to support the
4 allegation.

5 (c) Appointment. The Governor shall appoint, and the Senate
6 shall confirm, an Inspector General. The Inspector General
7 shall be appointed for a term of 4 years and shall function
8 within the Department of Human Services and report to the
9 Secretary and the Governor.

10 (d) Operation and appropriation. The Inspector General
11 shall function independently within the Department with
12 respect to the operations of the Office, including the
13 performance of investigations and issuance of findings and
14 recommendations. The appropriation for the Office of Inspector
15 General shall be separate from the overall appropriation for
16 the Department.

17 (e) Powers and duties. The Inspector General shall
18 investigate reports of suspected mental abuse, physical abuse,
19 sexual abuse, neglect, or financial exploitation of
20 individuals in any mental health or developmental disabilities
21 facility or agency and shall have authority to take immediate
22 action to prevent any one or more of the following from
23 happening to individuals under its jurisdiction: mental abuse,
24 physical abuse, sexual abuse, neglect, or financial
25 exploitation. Upon written request of an agency of this State,
26 the Inspector General may assist another agency of the State in

1 investigating reports of the abuse, neglect, or abuse and
2 neglect of persons with mental illness, persons with
3 developmental disabilities, or persons with both. To comply
4 with the requirements of subsection (k) of this Section, the
5 Inspector General shall also review all reportable deaths for
6 which there is no allegation of abuse or neglect. Nothing in
7 this Section shall preempt any duties of the Medical Review
8 Board set forth in the Mental Health and Developmental
9 Disabilities Code. The Inspector General shall have no
10 authority to investigate alleged violations of the State
11 Officials and Employees Ethics Act. Allegations of misconduct
12 under the State Officials and Employees Ethics Act shall be
13 referred to the Office of the Governor's Executive Inspector
14 General for investigation.

15 (f) Limitations. The Inspector General shall not conduct an
16 investigation within an agency or facility if that
17 investigation would be redundant to or interfere with an
18 investigation conducted by another State agency. The Inspector
19 General shall have no supervision over, or involvement in, the
20 routine programmatic, licensing, funding, or certification
21 operations of the Department. Nothing in this subsection limits
22 investigations by the Department that may otherwise be required
23 by law or that may be necessary in the Department's capacity as
24 central administrative authority responsible for the operation
25 of the State's mental health and developmental disabilities
26 facilities.

1 (g) Rulemaking authority. The Inspector General shall
2 promulgate rules establishing minimum requirements for
3 reporting allegations as well as for initiating, conducting,
4 and completing investigations based upon the nature of the
5 allegation or allegations. The rules shall clearly establish
6 that if 2 or more State agencies could investigate an
7 allegation, the Inspector General shall not conduct an
8 investigation that would be redundant to, or interfere with, an
9 investigation conducted by another State agency. The rules
10 shall further clarify the method and circumstances under which
11 the Office of Inspector General may interact with the
12 licensing, funding, or certification units of the Department in
13 preventing further occurrences of mental abuse, physical
14 abuse, sexual abuse, neglect, egregious neglect, and financial
15 exploitation.

16 (h) Training programs. The Inspector General shall (i)
17 establish a comprehensive program to ensure that every person
18 authorized to conduct investigations receives ongoing training
19 relative to investigation techniques, communication skills,
20 and the appropriate means of interacting with persons receiving
21 treatment for mental illness, developmental disability, or
22 both mental illness and developmental disability, and (ii)
23 establish and conduct periodic training programs for facility
24 and agency employees concerning the prevention and reporting of
25 any one or more of the following: mental abuse, physical abuse,
26 sexual abuse, neglect, egregious neglect, or financial

1 exploitation. Nothing in this Section shall be deemed to
2 prevent the Office of Inspector General from conducting any
3 other training as determined by the Inspector General to be
4 necessary or helpful.

5 (i) Duty to cooperate.

6 (1) The Inspector General shall at all times be granted
7 access to any facility or agency for the purpose of
8 investigating any allegation, conducting unannounced site
9 visits, monitoring compliance with a written response, or
10 completing any other statutorily assigned duty. The
11 Inspector General shall conduct unannounced site visits to
12 each facility at least annually for the purpose of
13 reviewing and making recommendations on systemic issues
14 relative to preventing, reporting, investigating, and
15 responding to all of the following: mental abuse, physical
16 abuse, sexual abuse, neglect, egregious neglect, or
17 financial exploitation.

18 (2) Any employee who fails to cooperate with an Office
19 of the Inspector General investigation is in violation of
20 this Act. Failure to cooperate with an investigation
21 includes, but is not limited to, any one or more of the
22 following: (i) creating and transmitting a false report to
23 the Office of the Inspector General hotline, (ii) providing
24 false information to an Office of the Inspector General
25 Investigator during an investigation, (iii) colluding with
26 other employees to cover up evidence, (iv) colluding with

1 other employees to provide false information to an Office
2 of the Inspector General investigator, (v) destroying
3 evidence, (vi) withholding evidence, or (vii) otherwise
4 obstructing an Office of the Inspector General
5 investigation. Additionally, any employee who, during an
6 unannounced site visit or written response compliance
7 check, fails to cooperate with requests from the Office of
8 the Inspector General is in violation of this Act.

9 (j) Subpoena powers. The Inspector General shall have the
10 power to subpoena witnesses and compel the production of all
11 documents and physical evidence relating to his or her
12 investigations and any hearings authorized by this Act. This
13 subpoena power shall not extend to persons or documents of a
14 labor organization or its representatives insofar as the
15 persons are acting in a representative capacity to an employee
16 whose conduct is the subject of an investigation or the
17 documents relate to that representation. Any person who
18 otherwise fails to respond to a subpoena or who knowingly
19 provides false information to the Office of the Inspector
20 General by subpoena during an investigation is guilty of a
21 Class A misdemeanor.

22 (k) Reporting allegations and deaths.

23 (1) Allegations. If an employee witnesses, is told of,
24 or has reason to believe an incident of mental abuse,
25 physical abuse, sexual abuse, neglect, or financial
26 exploitation has occurred, the employee, agency, or

1 facility shall report the allegation by phone to the Office
2 of the Inspector General hotline according to the agency's
3 or facility's procedures, but in no event later than 4
4 hours after the initial discovery of the incident,
5 allegation, or suspicion of any one or more of the
6 following: mental abuse, physical abuse, sexual abuse,
7 neglect, or financial exploitation. A required reporter as
8 defined in subsection (b) of this Section who knowingly or
9 intentionally fails to comply with these reporting
10 requirements is guilty of a Class A misdemeanor.

11 (2) Deaths. Absent an allegation, a required reporter
12 shall, within 24 hours after initial discovery, report by
13 phone to the Office of the Inspector General hotline each
14 of the following:

15 (i) Any death of an individual occurring within 14
16 calendar days after discharge or transfer of the
17 individual from a residential program or facility.

18 (ii) Any death of an individual occurring within 24
19 hours after deflection from a residential program or
20 facility.

21 (iii) Any other death of an individual occurring at
22 an agency or facility or at any Department-funded site.

23 (3) Retaliation. It is a violation of this Act for any
24 employee or administrator of an agency or facility to take
25 retaliatory action against an employee who acts in good
26 faith in conformance with his or her duties as a required

1 reporter.

2 (1) Reporting to law enforcement.

3 (1) Reporting criminal acts. Within 24 hours after
4 determining that there is credible evidence indicating
5 that a criminal act may have been committed or that special
6 expertise may be required in an investigation, the
7 Inspector General shall notify the Department of State
8 Police or other appropriate law enforcement authority, or
9 ensure that such notification is made. The Department of
10 State Police shall investigate any report from a
11 State-operated facility indicating a possible murder,
12 sexual assault, or other felony by an employee. All
13 investigations conducted by the Inspector General shall be
14 conducted in a manner designed to ensure the preservation
15 of evidence for possible use in a criminal prosecution.

16 (2) Reporting allegations of adult students with
17 disabilities. Upon receipt of a reportable allegation
18 regarding an adult student with a disability, the
19 Department's Office of the Inspector General shall
20 determine whether the allegation meets the criteria for the
21 Domestic Abuse Program under the Abuse of Adults with
22 Disabilities Intervention Act. If the allegation is
23 reportable to that program, the Office of the Inspector
24 General shall initiate an investigation. If the allegation
25 is not reportable to the Domestic Abuse Program, the Office
26 of the Inspector General shall make an expeditious referral

1 to the respective law enforcement entity. If the alleged
2 victim is already receiving services from the Department,
3 the Office of the Inspector General shall also make a
4 referral to the respective Department of Human Services'
5 Division or Bureau.

6 (m) Investigative reports. Upon completion of an
7 investigation, the Office of Inspector General shall issue an
8 investigative report identifying whether the allegations are
9 substantiated, unsubstantiated, or unfounded. Within 10
10 business days after the transmittal of a completed
11 investigative report substantiating an allegation, or if a
12 recommendation is made, the Inspector General shall provide the
13 investigative report on the case to the Secretary and to the
14 director of the facility or agency where any one or more of the
15 following occurred: mental abuse, physical abuse, sexual
16 abuse, neglect, egregious neglect, or financial exploitation.
17 In a substantiated case, the investigative report shall include
18 any mitigating or aggravating circumstances that were
19 identified during the investigation. If the case involves
20 substantiated neglect, the investigative report shall also
21 state whether egregious neglect was found. An investigative
22 report may also set forth recommendations. All investigative
23 reports prepared by the Office of the Inspector General shall
24 be considered confidential and shall not be released except as
25 provided by the law of this State or as required under
26 applicable federal law. Unsubstantiated and unfounded reports

1 shall not be disclosed except as allowed under Section 6 of the
2 Abused and Neglected Long Term Care Facility Residents
3 Reporting Act. Raw data used to compile the investigative
4 report shall not be subject to release unless required by law
5 or a court order. "Raw data used to compile the investigative
6 report" includes, but is not limited to, any one or more of the
7 following: the initial complaint, witness statements,
8 photographs, investigator's notes, police reports, or incident
9 reports. If the allegations are substantiated, the accused
10 shall be provided with a redacted copy of the investigative
11 report. Death reports where there was no allegation of abuse or
12 neglect shall only be released pursuant to applicable State or
13 federal law or a valid court order.

14 (n) Written responses and reconsideration requests.

15 (1) Written responses. Within 30 calendar days from
16 receipt of a substantiated investigative report or an
17 investigative report which contains recommendations,
18 absent a reconsideration request, the facility or agency
19 shall file a written response that addresses, in a concise
20 and reasoned manner, the actions taken to: (i) protect the
21 individual; (ii) prevent recurrences; and (iii) eliminate
22 the problems identified. The response shall include the
23 implementation and completion dates of such actions. If the
24 written response is not filed within the allotted 30
25 calendar day period, the Secretary shall determine the
26 appropriate corrective action to be taken.

1 (2) Reconsideration requests. The facility, agency,
2 victim or guardian, or the subject employee may request
3 that the Office of Inspector General reconsider or clarify
4 its finding based upon additional information.

5 (o) Disclosure of the finding by the Inspector General. The
6 Inspector General shall disclose the finding of an
7 investigation to the following persons: (i) the Governor, (ii)
8 the Secretary, (iii) the director of the facility or agency,
9 (iv) the alleged victims and their guardians, (v) the
10 complainant, and (vi) the accused. This information shall
11 include whether the allegations were deemed substantiated,
12 unsubstantiated, or unfounded.

13 (p) Secretary review. Upon review of the Inspector
14 General's investigative report and any agency's or facility's
15 written response, the Secretary shall accept or reject the
16 written response and notify the Inspector General of that
17 determination. The Secretary may further direct that other
18 administrative action be taken, including, but not limited to,
19 any one or more of the following: (i) additional site visits,
20 (ii) training, (iii) provision of technical assistance
21 relative to administrative needs, licensure or certification,
22 or (iv) the imposition of appropriate sanctions.

23 (q) Action by facility or agency. Within 30 days of the
24 date the Secretary approves the written response or directs
25 that further administrative action be taken, the facility or
26 agency shall provide an implementation report to the Inspector

1 General that provides the status of the action taken. The
2 facility or agency shall be allowed an additional 30 days to
3 send notice of completion of the action or to send an updated
4 implementation report. If the action has not been completed
5 within the additional 30 day period, the facility or agency
6 shall send updated implementation reports every 60 days until
7 completion. The Inspector General shall conduct a review of any
8 implementation plan that takes more than 120 days after
9 approval to complete, and shall monitor compliance through a
10 random review of approved written responses, which may include,
11 but are not limited to: (i) site visits, (ii) telephone
12 contact, and (iii) requests for additional documentation
13 evidencing compliance.

14 (r) Sanctions. Sanctions, if imposed by the Secretary under
15 Subdivision (p)(iv) of this Section, shall be designed to
16 prevent further acts of mental abuse, physical abuse, sexual
17 abuse, neglect, egregious neglect, or financial exploitation
18 or some combination of one or more of those acts at a facility
19 or agency, and may include any one or more of the following:

20 (1) Appointment of on-site monitors.

21 (2) Transfer or relocation of an individual or
22 individuals.

23 (3) Closure of units.

24 (4) Termination of any one or more of the following:

25 (i) Department licensing, (ii) funding, or (iii)
26 certification.

1 The Inspector General may seek the assistance of the
2 Illinois Attorney General or the office of any State's Attorney
3 in implementing sanctions.

4 (s) Health care worker registry.

5 (1) Reporting to the registry. The Inspector General
6 shall report to the Department of Public Health's health
7 care worker registry, a public registry, the identity and
8 finding of each employee of a facility or agency against
9 whom there is a final investigative report containing a
10 substantiated allegation of physical or sexual abuse or
11 egregious neglect of an individual.

12 (2) Notice to employee. Prior to reporting the name of
13 an employee, the employee shall be notified of the
14 Department's obligation to report and shall be granted an
15 opportunity to request an administrative hearing, the sole
16 purpose of which is to determine if the substantiated
17 finding warrants reporting to the registry. Notice to the
18 employee shall contain a clear and concise statement of the
19 grounds on which the report to the registry is based, offer
20 the employee an opportunity for a hearing, and identify the
21 process for requesting such a hearing. Notice is sufficient
22 if provided by certified mail to the employee's last known
23 address. If the employee fails to request a hearing within
24 30 days from the date of the notice, the Inspector General
25 shall report the name of the employee to the registry.
26 Nothing in this subdivision (s) (2) shall diminish or impair

1 the rights of a person who is a member of a collective
2 bargaining unit under the Illinois Public Labor Relations
3 Act or under any other federal labor statute.

4 (3) Registry hearings. If the employee requests an
5 administrative hearing, the employee shall be granted an
6 opportunity to appear before an administrative law judge to
7 present reasons why the employee's name should not be
8 reported to the registry. The Department shall bear the
9 burden of presenting evidence that establishes, by a
10 preponderance of the evidence, that the substantiated
11 finding warrants reporting to the registry. After
12 considering all the evidence presented, the administrative
13 law judge shall make a recommendation to the Secretary as
14 to whether the substantiated finding warrants reporting
15 the name of the employee to the registry. The Secretary
16 shall render the final decision. The Department and the
17 employee shall have the right to request that the
18 administrative law judge consider a stipulated disposition
19 of these proceedings.

20 (4) Testimony at registry hearings. A person who makes
21 a report or who investigates a report under this Act shall
22 testify fully in any judicial proceeding resulting from
23 such a report, as to any evidence of abuse or neglect, or
24 the cause thereof. No evidence shall be excluded by reason
25 of any common law or statutory privilege relating to
26 communications between the alleged perpetrator of abuse or

1 neglect, or the individual alleged as the victim in the
2 report, and the person making or investigating the report.
3 Testimony at hearings is exempt from the confidentiality
4 requirements of subsection (f) of Section 10 of the Mental
5 Health and Developmental Disabilities Confidentiality Act.

6 (5) Employee's rights to collateral action. No
7 reporting to the registry shall occur and no hearing shall
8 be set or proceed if an employee notifies the Inspector
9 General in writing, including any supporting
10 documentation, that he or she is formally contesting an
11 adverse employment action resulting from a substantiated
12 finding by complaint filed with the Illinois Civil Service
13 Commission, or which otherwise seeks to enforce the
14 employee's rights pursuant to any applicable collective
15 bargaining agreement. If an action taken by an employer
16 against an employee as a result of a finding of physical
17 abuse, sexual abuse, or egregious neglect is overturned
18 through an action filed with the Illinois Civil Service
19 Commission or under any applicable collective bargaining
20 agreement and if that employee's name has already been sent
21 to the registry, the employee's name shall be removed from
22 the registry.

23 (6) Removal from registry. At any time after the report
24 to the registry, but no more than once in any 12-month
25 period, an employee may petition the Department in writing
26 to remove his or her name from the registry. Upon receiving

1 notice of such request, the Inspector General shall conduct
2 an investigation into the petition. Upon receipt of such
3 request, an administrative hearing will be set by the
4 Department. At the hearing, the employee shall bear the
5 burden of presenting evidence that establishes, by a
6 preponderance of the evidence, that removal of the name
7 from the registry is in the public interest. The parties
8 may jointly request that the administrative law judge
9 consider a stipulated disposition of these proceedings.

10 (t) Review of Administrative Decisions. The Department
11 shall preserve a record of all proceedings at any formal
12 hearing conducted by the Department involving health care
13 worker registry hearings. Final administrative decisions of
14 the Department are subject to judicial review pursuant to
15 provisions of the Administrative Review Law.

16 (u) Quality Care Board. There is created, within the Office
17 of the Inspector General, a Quality Care Board to be composed
18 of 7 members appointed by the Governor with the advice and
19 consent of the Senate. One of the members shall be designated
20 as chairman by the Governor. Of the initial appointments made
21 by the Governor, 4 Board members shall each be appointed for a
22 term of 4 years and 3 members shall each be appointed for a
23 term of 2 years. Upon the expiration of each member's term, a
24 successor shall be appointed for a term of 4 years. In the case
25 of a vacancy in the office of any member, the Governor shall
26 appoint a successor for the remainder of the unexpired term.

1 Members appointed by the Governor shall be qualified by
2 professional knowledge or experience in the area of law,
3 investigatory techniques, or in the area of care of the
4 mentally ill or developmentally disabled. Two members
5 appointed by the Governor shall be persons with a disability or
6 a parent of a person with a disability. Members shall serve
7 without compensation, but shall be reimbursed for expenses
8 incurred in connection with the performance of their duties as
9 members.

10 The Board shall meet quarterly, and may hold other meetings
11 on the call of the chairman. Four members shall constitute a
12 quorum allowing the Board to conduct its business. The Board
13 may adopt rules and regulations it deems necessary to govern
14 its own procedures.

15 The Board shall monitor and oversee the operations,
16 policies, and procedures of the Inspector General to ensure the
17 prompt and thorough investigation of allegations of neglect and
18 abuse. In fulfilling these responsibilities, the Board may do
19 the following:

20 (1) Provide independent, expert consultation to the
21 Inspector General on policies and protocols for
22 investigations of alleged abuse, neglect, or both abuse and
23 neglect.

24 (2) Review existing regulations relating to the
25 operation of facilities.

26 (3) Advise the Inspector General as to the content of

1 training activities authorized under this Section.

2 (4) Recommend policies concerning methods for
3 improving the intergovernmental relationships between the
4 Office of the Inspector General and other State or federal
5 offices.

6 (v) Annual report. The Inspector General shall provide to
7 the General Assembly and the Governor, no later than January 1
8 of each year, a summary of reports and investigations made
9 under this Act for the prior fiscal year with respect to
10 individuals receiving mental health or developmental
11 disabilities services. The report shall detail the imposition
12 of sanctions, if any, and the final disposition of any
13 corrective or administrative action directed by the Secretary.
14 The summaries shall not contain any confidential or identifying
15 information of any individual, but shall include objective data
16 identifying any trends in the number of reported allegations,
17 the timeliness of the Office of the Inspector General's
18 investigations, and their disposition, for each facility and
19 Department-wide, for the most recent 3-year time period. The
20 report shall also identify, by facility, the staff-to-patient
21 ratios taking account of direct care staff only. The report
22 shall also include detailed recommended administrative actions
23 and matters for consideration by the General Assembly.

24 (w) Program audit. The Auditor General shall conduct a
25 program audit of the Office of the Inspector General on an
26 as-needed basis, as determined by the Auditor General. The

1 audit shall specifically include the Inspector General's
2 compliance with the Act and effectiveness in investigating
3 reports of allegations occurring in any facility or agency. The
4 Auditor General shall conduct the program audit according to
5 the provisions of the Illinois State Auditing Act and shall
6 report its findings to the General Assembly no later than
7 January 1 following the audit period.

8 (x) Nothing in this Section shall be construed to mean that
9 a patient is a victim of abuse or neglect because of health
10 care services appropriately provided or not provided by health
11 care professionals.

12 (y) Nothing in this Section shall require a facility,
13 including its employees, agents, medical staff members, and
14 health care professionals, to provide a service to a patient in
15 contravention of that patient's stated or implied objection to
16 the provision of that service on the ground that that service
17 conflicts with the patient's religious beliefs or practices,
18 nor shall the failure to provide a service to a patient be
19 considered abuse under this Section if the patient has objected
20 to the provision of that service based on his or her religious
21 beliefs or practices.

22 (Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10;
23 96-407, eff. 8-13-09; 96-555, eff. 8-18-09; 96-1000, eff.
24 7-2-10; 96-1446, eff. 8-20-10.)

25 (20 ILCS 2435/Act rep.)

1 Section 11. The Abuse of Adults with Disabilities
2 Intervention Act is repealed.

3 Section 12. The Illinois Police Training Act is amended by
4 changing Section 7 as follows:

5 (50 ILCS 705/7) (from Ch. 85, par. 507)

6 Sec. 7. Rules and standards for schools. The Board shall
7 adopt rules and minimum standards for such schools which shall
8 include but not be limited to the following:

9 a. The curriculum for probationary police officers which
10 shall be offered by all certified schools shall include but not
11 be limited to courses of arrest, search and seizure, civil
12 rights, human relations, cultural diversity, including racial
13 and ethnic sensitivity, criminal law, law of criminal
14 procedure, vehicle and traffic law including uniform and
15 non-discriminatory enforcement of the Illinois Vehicle Code,
16 traffic control and accident investigation, techniques of
17 obtaining physical evidence, court testimonies, statements,
18 reports, firearms training, first-aid (including
19 cardiopulmonary resuscitation), handling of juvenile
20 offenders, recognition of mental conditions which require
21 immediate assistance and methods to safeguard and provide
22 assistance to a person in need of mental treatment, recognition
23 of elder abuse and neglect, as defined in Section 2 of the
24 Adult Protective Services Act ~~Elder Abuse and Neglect Act,~~

1 crimes against the elderly, law of evidence, the hazards of
2 high-speed police vehicle chases with an emphasis on
3 alternatives to the high-speed chase, and physical training.
4 The curriculum shall include specific training in techniques
5 for immediate response to and investigation of cases of
6 domestic violence and of sexual assault of adults and children.
7 The curriculum shall include training in techniques designed to
8 promote effective communication at the initial contact with
9 crime victims and ways to comprehensively explain to victims
10 and witnesses their rights under the Rights of Crime Victims
11 and Witnesses Act and the Crime Victims Compensation Act. The
12 curriculum shall also include a block of instruction aimed at
13 identifying and interacting with persons with autism and other
14 developmental disabilities, reducing barriers to reporting
15 crimes against persons with autism, and addressing the unique
16 challenges presented by cases involving victims or witnesses
17 with autism and other developmental disabilities. The
18 curriculum for permanent police officers shall include but not
19 be limited to (1) refresher and in-service training in any of
20 the courses listed above in this subparagraph, (2) advanced
21 courses in any of the subjects listed above in this
22 subparagraph, (3) training for supervisory personnel, and (4)
23 specialized training in subjects and fields to be selected by
24 the board.

25 b. Minimum courses of study, attendance requirements and
26 equipment requirements.

1 c. Minimum requirements for instructors.

2 d. Minimum basic training requirements, which a
3 probationary police officer must satisfactorily complete
4 before being eligible for permanent employment as a local law
5 enforcement officer for a participating local governmental
6 agency. Those requirements shall include training in first aid
7 (including cardiopulmonary resuscitation).

8 e. Minimum basic training requirements, which a
9 probationary county corrections officer must satisfactorily
10 complete before being eligible for permanent employment as a
11 county corrections officer for a participating local
12 governmental agency.

13 f. Minimum basic training requirements which a
14 probationary court security officer must satisfactorily
15 complete before being eligible for permanent employment as a
16 court security officer for a participating local governmental
17 agency. The Board shall establish those training requirements
18 which it considers appropriate for court security officers and
19 shall certify schools to conduct that training.

20 A person hired to serve as a court security officer must
21 obtain from the Board a certificate (i) attesting to his or her
22 successful completion of the training course; (ii) attesting to
23 his or her satisfactory completion of a training program of
24 similar content and number of hours that has been found
25 acceptable by the Board under the provisions of this Act; or
26 (iii) attesting to the Board's determination that the training

1 course is unnecessary because of the person's extensive prior
2 law enforcement experience.

3 Individuals who currently serve as court security officers
4 shall be deemed qualified to continue to serve in that capacity
5 so long as they are certified as provided by this Act within 24
6 months of the effective date of this amendatory Act of 1996.
7 Failure to be so certified, absent a waiver from the Board,
8 shall cause the officer to forfeit his or her position.

9 All individuals hired as court security officers on or
10 after the effective date of this amendatory Act of 1996 shall
11 be certified within 12 months of the date of their hire, unless
12 a waiver has been obtained by the Board, or they shall forfeit
13 their positions.

14 The Sheriff's Merit Commission, if one exists, or the
15 Sheriff's Office if there is no Sheriff's Merit Commission,
16 shall maintain a list of all individuals who have filed
17 applications to become court security officers and who meet the
18 eligibility requirements established under this Act. Either
19 the Sheriff's Merit Commission, or the Sheriff's Office if no
20 Sheriff's Merit Commission exists, shall establish a schedule
21 of reasonable intervals for verification of the applicants'
22 qualifications under this Act and as established by the Board.

23 (Source: P.A. 97-815, eff. 1-1-13; 97-862, eff. 1-1-13; revised
24 8-3-12.)

25 Section 13. The Illinois Banking Act is amended by changing

1 Section 48.1 as follows:

2 (205 ILCS 5/48.1) (from Ch. 17, par. 360)

3 Sec. 48.1. Customer financial records; confidentiality.

4 (a) For the purpose of this Section, the term "financial
5 records" means any original, any copy, or any summary of:

6 (1) a document granting signature authority over a
7 deposit or account;

8 (2) a statement, ledger card or other record on any
9 deposit or account, which shows each transaction in or with
10 respect to that account;

11 (3) a check, draft or money order drawn on a bank or
12 issued and payable by a bank; or

13 (4) any other item containing information pertaining
14 to any relationship established in the ordinary course of a
15 bank's business between a bank and its customer, including
16 financial statements or other financial information
17 provided by the customer.

18 (b) This Section does not prohibit:

19 (1) The preparation, examination, handling or
20 maintenance of any financial records by any officer,
21 employee or agent of a bank having custody of the records,
22 or the examination of the records by a certified public
23 accountant engaged by the bank to perform an independent
24 audit.

25 (2) The examination of any financial records by, or the

1 furnishing of financial records by a bank to, any officer,
2 employee or agent of (i) the Commissioner of Banks and Real
3 Estate, (ii) after May 31, 1997, a state regulatory
4 authority authorized to examine a branch of a State bank
5 located in another state, (iii) the Comptroller of the
6 Currency, (iv) the Federal Reserve Board, or (v) the
7 Federal Deposit Insurance Corporation for use solely in the
8 exercise of his duties as an officer, employee, or agent.

9 (3) The publication of data furnished from financial
10 records relating to customers where the data cannot be
11 identified to any particular customer or account.

12 (4) The making of reports or returns required under
13 Chapter 61 of the Internal Revenue Code of 1986.

14 (5) Furnishing information concerning the dishonor of
15 any negotiable instrument permitted to be disclosed under
16 the Uniform Commercial Code.

17 (6) The exchange in the regular course of business of
18 (i) credit information between a bank and other banks or
19 financial institutions or commercial enterprises, directly
20 or through a consumer reporting agency or (ii) financial
21 records or information derived from financial records
22 between a bank and other banks or financial institutions or
23 commercial enterprises for the purpose of conducting due
24 diligence pursuant to a purchase or sale involving the bank
25 or assets or liabilities of the bank.

26 (7) The furnishing of information to the appropriate

1 law enforcement authorities where the bank reasonably
2 believes it has been the victim of a crime.

3 (8) The furnishing of information under the Uniform
4 Disposition of Unclaimed Property Act.

5 (9) The furnishing of information under the Illinois
6 Income Tax Act and the Illinois Estate and
7 Generation-Skipping Transfer Tax Act.

8 (10) The furnishing of information under the federal
9 Currency and Foreign Transactions Reporting Act Title 31,
10 United States Code, Section 1051 et seq.

11 (11) The furnishing of information under any other
12 statute that by its terms or by regulations promulgated
13 thereunder requires the disclosure of financial records
14 other than by subpoena, summons, warrant, or court order.

15 (12) The furnishing of information about the existence
16 of an account of a person to a judgment creditor of that
17 person who has made a written request for that information.

18 (13) The exchange in the regular course of business of
19 information between commonly owned banks in connection
20 with a transaction authorized under paragraph (23) of
21 Section 5 and conducted at an affiliate facility.

22 (14) The furnishing of information in accordance with
23 the federal Personal Responsibility and Work Opportunity
24 Reconciliation Act of 1996. Any bank governed by this Act
25 shall enter into an agreement for data exchanges with a
26 State agency provided the State agency pays to the bank a

1 reasonable fee not to exceed its actual cost incurred. A
2 bank providing information in accordance with this item
3 shall not be liable to any account holder or other person
4 for any disclosure of information to a State agency, for
5 encumbering or surrendering any assets held by the bank in
6 response to a lien or order to withhold and deliver issued
7 by a State agency, or for any other action taken pursuant
8 to this item, including individual or mechanical errors,
9 provided the action does not constitute gross negligence or
10 willful misconduct. A bank shall have no obligation to
11 hold, encumber, or surrender assets until it has been
12 served with a subpoena, summons, warrant, court or
13 administrative order, lien, or levy.

14 (15) The exchange in the regular course of business of
15 information between a bank and any commonly owned affiliate
16 of the bank, subject to the provisions of the Financial
17 Institutions Insurance Sales Law.

18 (16) The furnishing of information to law enforcement
19 authorities, the Illinois Department on Aging and its
20 regional administrative and provider agencies, the
21 Department of Human Services Office of Inspector General,
22 or public guardians: (i) upon subpoena by the investigatory
23 entity or the guardian, or (ii) if there is suspicion by
24 the bank that a customer who is an elderly or disabled
25 person has been or may become the victim of financial
26 exploitation. For the purposes of this item (16), the term:

1 (i) "elderly person" means a person who is 60 or more years
2 of age, (ii) "disabled person" means a person who has or
3 reasonably appears to the bank to have a physical or mental
4 disability that impairs his or her ability to seek or
5 obtain protection from or prevent financial exploitation,
6 and (iii) "financial exploitation" means tortious or
7 illegal use of the assets or resources of an elderly or
8 disabled person, and includes, without limitation,
9 misappropriation of the elderly or disabled person's
10 assets or resources by undue influence, breach of fiduciary
11 relationship, intimidation, fraud, deception, extortion,
12 or the use of assets or resources in any manner contrary to
13 law. A bank or person furnishing information pursuant to
14 this item (16) shall be entitled to the same rights and
15 protections as a person furnishing information under the
16 Adult Protective Services Act ~~Elder Abuse and Neglect Act~~,
17 the Illinois Domestic Violence Act of 1986, and the Abuse
18 of Adults with Disabilities Intervention Act.

19 (17) The disclosure of financial records or
20 information as necessary to effect, administer, or enforce
21 a transaction requested or authorized by the customer, or
22 in connection with:

23 (A) servicing or processing a financial product or
24 service requested or authorized by the customer;

25 (B) maintaining or servicing a customer's account
26 with the bank; or

1 (C) a proposed or actual securitization or
2 secondary market sale (including sales of servicing
3 rights) related to a transaction of a customer.

4 Nothing in this item (17), however, authorizes the sale
5 of the financial records or information of a customer
6 without the consent of the customer.

7 (18) The disclosure of financial records or
8 information as necessary to protect against actual or
9 potential fraud, unauthorized transactions, claims, or
10 other liability.

11 (19) (a) The disclosure of financial records or
12 information related to a private label credit program
13 between a financial institution and a private label party
14 in connection with that private label credit program. Such
15 information is limited to outstanding balance, available
16 credit, payment and performance and account history,
17 product references, purchase information, and information
18 related to the identity of the customer.

19 (b) (1) For purposes of this paragraph (19) of
20 subsection (b) of Section 48.1, a "private label credit
21 program" means a credit program involving a financial
22 institution and a private label party that is used by a
23 customer of the financial institution and the private label
24 party primarily for payment for goods or services sold,
25 manufactured, or distributed by a private label party.

26 (2) For purposes of this paragraph (19) of subsection

1 (b) of Section 48.1, a "private label party" means, with
2 respect to a private label credit program, any of the
3 following: a retailer, a merchant, a manufacturer, a trade
4 group, or any such person's affiliate, subsidiary, member,
5 agent, or service provider.

6 (c) Except as otherwise provided by this Act, a bank may
7 not disclose to any person, except to the customer or his duly
8 authorized agent, any financial records or financial
9 information obtained from financial records relating to that
10 customer of that bank unless:

11 (1) the customer has authorized disclosure to the
12 person;

13 (2) the financial records are disclosed in response to
14 a lawful subpoena, summons, warrant, citation to discover
15 assets, or court order which meets the requirements of
16 subsection (d) of this Section; or

17 (3) the bank is attempting to collect an obligation
18 owed to the bank and the bank complies with the provisions
19 of Section 2I of the Consumer Fraud and Deceptive Business
20 Practices Act.

21 (d) A bank shall disclose financial records under paragraph
22 (2) of subsection (c) of this Section under a lawful subpoena,
23 summons, warrant, citation to discover assets, or court order
24 only after the bank mails a copy of the subpoena, summons,
25 warrant, citation to discover assets, or court order to the
26 person establishing the relationship with the bank, if living,

1 and, otherwise his personal representative, if known, at his
2 last known address by first class mail, postage prepaid, unless
3 the bank is specifically prohibited from notifying the person
4 by order of court or by applicable State or federal law. A bank
5 shall not mail a copy of a subpoena to any person pursuant to
6 this subsection if the subpoena was issued by a grand jury
7 under the Statewide Grand Jury Act.

8 (e) Any officer or employee of a bank who knowingly and
9 willfully furnishes financial records in violation of this
10 Section is guilty of a business offense and, upon conviction,
11 shall be fined not more than \$1,000.

12 (f) Any person who knowingly and willfully induces or
13 attempts to induce any officer or employee of a bank to
14 disclose financial records in violation of this Section is
15 guilty of a business offense and, upon conviction, shall be
16 fined not more than \$1,000.

17 (g) A bank shall be reimbursed for costs that are
18 reasonably necessary and that have been directly incurred in
19 searching for, reproducing, or transporting books, papers,
20 records, or other data of a customer required or requested to
21 be produced pursuant to a lawful subpoena, summons, warrant,
22 citation to discover assets, or court order. The Commissioner
23 shall determine the rates and conditions under which payment
24 may be made.

25 (Source: P.A. 94-495, eff. 8-8-05; 94-851, eff. 6-13-06;
26 95-661, eff. 1-1-08.)

1 Section 14. The Illinois Savings and Loan Act of 1985 is
2 amended by changing Section 3-8 as follows:

3 (205 ILCS 105/3-8) (from Ch. 17, par. 3303-8)

4 Sec. 3-8. Access to books and records; communication with
5 members.

6 (a) Every member or holder of capital shall have the right
7 to inspect the books and records of the association that
8 pertain to his account. Otherwise, the right of inspection and
9 examination of the books and records shall be limited as
10 provided in this Act, and no other person shall have access to
11 the books and records or shall be entitled to a list of the
12 members.

13 (b) For the purpose of this Section, the term "financial
14 records" means any original, any copy, or any summary of (i) a
15 document granting signature authority over a deposit or
16 account; (ii) a statement, ledger card, or other record on any
17 deposit or account that shows each transaction in or with
18 respect to that account; (iii) a check, draft, or money order
19 drawn on an association or issued and payable by an
20 association; or (iv) any other item containing information
21 pertaining to any relationship established in the ordinary
22 course of an association's business between an association and
23 its customer, including financial statements or other
24 financial information provided by the member or holder of

1 capital.

2 (c) This Section does not prohibit:

3 (1) The preparation, examination, handling, or
4 maintenance of any financial records by any officer,
5 employee, or agent of an association having custody of
6 those records or the examination of those records by a
7 certified public accountant engaged by the association to
8 perform an independent audit.

9 (2) The examination of any financial records by, or the
10 furnishing of financial records by an association to, any
11 officer, employee, or agent of the Commissioner of Banks
12 and Real Estate or federal depository institution
13 regulator for use solely in the exercise of his duties as
14 an officer, employee, or agent.

15 (3) The publication of data furnished from financial
16 records relating to members or holders of capital where the
17 data cannot be identified to any particular member, holder
18 of capital, or account.

19 (4) The making of reports or returns required under
20 Chapter 61 of the Internal Revenue Code of 1986.

21 (5) Furnishing information concerning the dishonor of
22 any negotiable instrument permitted to be disclosed under
23 the Uniform Commercial Code.

24 (6) The exchange in the regular course of business of
25 (i) credit information between an association and other
26 associations or financial institutions or commercial

1 enterprises, directly or through a consumer reporting
2 agency or (ii) financial records or information derived
3 from financial records between an association and other
4 associations or financial institutions or commercial
5 enterprises for the purpose of conducting due diligence
6 pursuant to a purchase or sale involving the association or
7 assets or liabilities of the association.

8 (7) The furnishing of information to the appropriate
9 law enforcement authorities where the association
10 reasonably believes it has been the victim of a crime.

11 (8) The furnishing of information pursuant to the
12 Uniform Disposition of Unclaimed Property Act.

13 (9) The furnishing of information pursuant to the
14 Illinois Income Tax Act and the Illinois Estate and
15 Generation-Skipping Transfer Tax Act.

16 (10) The furnishing of information pursuant to the
17 federal "Currency and Foreign Transactions Reporting Act",
18 (Title 31, United States Code, Section 1051 et seq.).

19 (11) The furnishing of information pursuant to any
20 other statute that by its terms or by regulations
21 promulgated thereunder requires the disclosure of
22 financial records other than by subpoena, summons,
23 warrant, or court order.

24 (12) The exchange of information between an
25 association and an affiliate of the association; as used in
26 this item, "affiliate" includes any company, partnership,

1 or organization that controls, is controlled by, or is
2 under common control with an association.

3 (13) The furnishing of information in accordance with
4 the federal Personal Responsibility and Work Opportunity
5 Reconciliation Act of 1996. Any association governed by
6 this Act shall enter into an agreement for data exchanges
7 with a State agency provided the State agency pays to the
8 association a reasonable fee not to exceed its actual cost
9 incurred. An association providing information in
10 accordance with this item shall not be liable to any
11 account holder or other person for any disclosure of
12 information to a State agency, for encumbering or
13 surrendering any assets held by the association in response
14 to a lien or order to withhold and deliver issued by a
15 State agency, or for any other action taken pursuant to
16 this item, including individual or mechanical errors,
17 provided the action does not constitute gross negligence or
18 willful misconduct. An association shall have no
19 obligation to hold, encumber, or surrender assets until it
20 has been served with a subpoena, summons, warrant, court or
21 administrative order, lien, or levy.

22 (14) The furnishing of information to law enforcement
23 authorities, the Illinois Department on Aging and its
24 regional administrative and provider agencies, the
25 Department of Human Services Office of Inspector General,
26 or public guardians: (i) upon subpoena by the investigatory

1 entity or the guardian, or (ii) if there is suspicion by
2 the association that a customer who is an elderly or
3 disabled person has been or may become the victim of
4 financial exploitation. For the purposes of this item (14),
5 the term: (i) "elderly person" means a person who is 60 or
6 more years of age, (ii) "disabled person" means a person
7 who has or reasonably appears to the association to have a
8 physical or mental disability that impairs his or her
9 ability to seek or obtain protection from or prevent
10 financial exploitation, and (iii) "financial exploitation"
11 means tortious or illegal use of the assets or resources of
12 an elderly or disabled person, and includes, without
13 limitation, misappropriation of the elderly or disabled
14 person's assets or resources by undue influence, breach of
15 fiduciary relationship, intimidation, fraud, deception,
16 extortion, or the use of assets or resources in any manner
17 contrary to law. An association or person furnishing
18 information pursuant to this item (14) shall be entitled to
19 the same rights and protections as a person furnishing
20 information under the Adult Protective Services Act ~~Elder~~
21 ~~Abuse and Neglect Act~~, the Illinois Domestic Violence Act
22 of 1986, and the Abuse of Adults with Disabilities
23 Intervention Act.

24 (15) The disclosure of financial records or
25 information as necessary to effect, administer, or enforce
26 a transaction requested or authorized by the member or

1 holder of capital, or in connection with:

2 (A) servicing or processing a financial product or
3 service requested or authorized by the member or holder
4 of capital;

5 (B) maintaining or servicing an account of a member
6 or holder of capital with the association; or

7 (C) a proposed or actual securitization or
8 secondary market sale (including sales of servicing
9 rights) related to a transaction of a member or holder
10 of capital.

11 Nothing in this item (15), however, authorizes the sale
12 of the financial records or information of a member or
13 holder of capital without the consent of the member or
14 holder of capital.

15 (16) The disclosure of financial records or
16 information as necessary to protect against or prevent
17 actual or potential fraud, unauthorized transactions,
18 claims, or other liability.

19 (17) (a) The disclosure of financial records or
20 information related to a private label credit program
21 between a financial institution and a private label party
22 in connection with that private label credit program. Such
23 information is limited to outstanding balance, available
24 credit, payment and performance and account history,
25 product references, purchase information, and information
26 related to the identity of the customer.

1 (b) (1) For purposes of this paragraph (17) of
2 subsection (c) of Section 3-8, a "private label credit
3 program" means a credit program involving a financial
4 institution and a private label party that is used by a
5 customer of the financial institution and the private label
6 party primarily for payment for goods or services sold,
7 manufactured, or distributed by a private label party.

8 (2) For purposes of this paragraph (17) of subsection
9 (c) of Section 3-8, a "private label party" means, with
10 respect to a private label credit program, any of the
11 following: a retailer, a merchant, a manufacturer, a trade
12 group, or any such person's affiliate, subsidiary, member,
13 agent, or service provider.

14 (d) An association may not disclose to any person, except
15 to the member or holder of capital or his duly authorized
16 agent, any financial records relating to that member or holder
17 of capital of that association unless:

18 (1) The member or holder of capital has authorized
19 disclosure to the person; or

20 (2) The financial records are disclosed in response to
21 a lawful subpoena, summons, warrant, citation to discover
22 assets, or court order that meets the requirements of
23 subsection (e) of this Section.

24 (e) An association shall disclose financial records under
25 subsection (d) of this Section pursuant to a lawful subpoena,
26 summons, warrant, citation to discover assets, or court order

1 only after the association mails a copy of the subpoena,
2 summons, warrant, citation to discover assets, or court order
3 to the person establishing the relationship with the
4 association, if living, and, otherwise, his personal
5 representative, if known, at his last known address by first
6 class mail, postage prepaid, unless the association is
7 specifically prohibited from notifying that person by order of
8 court.

9 (f)(1) Any officer or employee of an association who
10 knowingly and willfully furnishes financial records in
11 violation of this Section is guilty of a business offense and,
12 upon conviction, shall be fined not more than \$1,000.

13 (2) Any person who knowingly and willfully induces or
14 attempts to induce any officer or employee of an association to
15 disclose financial records in violation of this Section is
16 guilty of a business offense and, upon conviction, shall be
17 fined not more than \$1,000.

18 (g) However, if any member desires to communicate with the
19 other members of the association with reference to any question
20 pending or to be presented at a meeting of the members, the
21 association shall give him upon request a statement of the
22 approximate number of members entitled to vote at the meeting
23 and an estimate of the cost of preparing and mailing the
24 communication. The requesting member then shall submit the
25 communication to the Commissioner who, if he finds it to be
26 appropriate and truthful, shall direct that it be prepared and

1 mailed to the members upon the requesting member's payment or
2 adequate provision for payment of the expenses of preparation
3 and mailing.

4 (h) An association shall be reimbursed for costs that are
5 necessary and that have been directly incurred in searching
6 for, reproducing, or transporting books, papers, records, or
7 other data of a customer required to be reproduced pursuant to
8 a lawful subpoena, warrant, citation to discover assets, or
9 court order.

10 (Source: P.A. 94-495, eff. 8-8-05; 94-851, eff. 6-13-06;
11 95-661, eff. 1-1-08.)

12 Section 15. The Savings Bank Act is amended by changing
13 Section 4013 as follows:

14 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

15 Sec. 4013. Access to books and records; communication with
16 members and shareholders.

17 (a) Every member or shareholder shall have the right to
18 inspect books and records of the savings bank that pertain to
19 his accounts. Otherwise, the right of inspection and
20 examination of the books and records shall be limited as
21 provided in this Act, and no other person shall have access to
22 the books and records nor shall be entitled to a list of the
23 members or shareholders.

24 (b) For the purpose of this Section, the term "financial

1 records" means any original, any copy, or any summary of (1) a
2 document granting signature authority over a deposit or
3 account; (2) a statement, ledger card, or other record on any
4 deposit or account that shows each transaction in or with
5 respect to that account; (3) a check, draft, or money order
6 drawn on a savings bank or issued and payable by a savings
7 bank; or (4) any other item containing information pertaining
8 to any relationship established in the ordinary course of a
9 savings bank's business between a savings bank and its
10 customer, including financial statements or other financial
11 information provided by the member or shareholder.

12 (c) This Section does not prohibit:

13 (1) The preparation examination, handling, or
14 maintenance of any financial records by any officer,
15 employee, or agent of a savings bank having custody of
16 records or examination of records by a certified public
17 accountant engaged by the savings bank to perform an
18 independent audit.

19 (2) The examination of any financial records by, or the
20 furnishing of financial records by a savings bank to, any
21 officer, employee, or agent of the Commissioner of Banks
22 and Real Estate or the federal depository institution
23 regulator for use solely in the exercise of his duties as
24 an officer, employee, or agent.

25 (3) The publication of data furnished from financial
26 records relating to members or holders of capital where the

1 data cannot be identified to any particular member,
2 shareholder, or account.

3 (4) The making of reports or returns required under
4 Chapter 61 of the Internal Revenue Code of 1986.

5 (5) Furnishing information concerning the dishonor of
6 any negotiable instrument permitted to be disclosed under
7 the Uniform Commercial Code.

8 (6) The exchange in the regular course of business of
9 (i) credit information between a savings bank and other
10 savings banks or financial institutions or commercial
11 enterprises, directly or through a consumer reporting
12 agency or (ii) financial records or information derived
13 from financial records between a savings bank and other
14 savings banks or financial institutions or commercial
15 enterprises for the purpose of conducting due diligence
16 pursuant to a purchase or sale involving the savings bank
17 or assets or liabilities of the savings bank.

18 (7) The furnishing of information to the appropriate
19 law enforcement authorities where the savings bank
20 reasonably believes it has been the victim of a crime.

21 (8) The furnishing of information pursuant to the
22 Uniform Disposition of Unclaimed Property Act.

23 (9) The furnishing of information pursuant to the
24 Illinois Income Tax Act and the Illinois Estate and
25 Generation-Skipping Transfer Tax Act.

26 (10) The furnishing of information pursuant to the

1 federal "Currency and Foreign Transactions Reporting Act",
2 (Title 31, United States Code, Section 1051 et seq.).

3 (11) The furnishing of information pursuant to any
4 other statute which by its terms or by regulations
5 promulgated thereunder requires the disclosure of
6 financial records other than by subpoena, summons,
7 warrant, or court order.

8 (12) The furnishing of information in accordance with
9 the federal Personal Responsibility and Work Opportunity
10 Reconciliation Act of 1996. Any savings bank governed by
11 this Act shall enter into an agreement for data exchanges
12 with a State agency provided the State agency pays to the
13 savings bank a reasonable fee not to exceed its actual cost
14 incurred. A savings bank providing information in
15 accordance with this item shall not be liable to any
16 account holder or other person for any disclosure of
17 information to a State agency, for encumbering or
18 surrendering any assets held by the savings bank in
19 response to a lien or order to withhold and deliver issued
20 by a State agency, or for any other action taken pursuant
21 to this item, including individual or mechanical errors,
22 provided the action does not constitute gross negligence or
23 willful misconduct. A savings bank shall have no obligation
24 to hold, encumber, or surrender assets until it has been
25 served with a subpoena, summons, warrant, court or
26 administrative order, lien, or levy.

1 (13) The furnishing of information to law enforcement
2 authorities, the Illinois Department on Aging and its
3 regional administrative and provider agencies, the
4 Department of Human Services Office of Inspector General,
5 or public guardians: (i) upon subpoena by the investigatory
6 entity or the guardian, or (ii) if there is suspicion by
7 the savings bank that a customer who is an elderly or
8 disabled person has been or may become the victim of
9 financial exploitation. For the purposes of this item (13),
10 the term: (i) "elderly person" means a person who is 60 or
11 more years of age, (ii) "disabled person" means a person
12 who has or reasonably appears to the savings bank to have a
13 physical or mental disability that impairs his or her
14 ability to seek or obtain protection from or prevent
15 financial exploitation, and (iii) "financial exploitation"
16 means tortious or illegal use of the assets or resources of
17 an elderly or disabled person, and includes, without
18 limitation, misappropriation of the elderly or disabled
19 person's assets or resources by undue influence, breach of
20 fiduciary relationship, intimidation, fraud, deception,
21 extortion, or the use of assets or resources in any manner
22 contrary to law. A savings bank or person furnishing
23 information pursuant to this item (13) shall be entitled to
24 the same rights and protections as a person furnishing
25 information under the Adult Protective Services Act ~~Elder~~
26 ~~Abuse and Neglect Act~~, the Illinois Domestic Violence Act

1 of 1986, and the Abuse of Adults with Disabilities
2 Intervention Act.

3 (14) The disclosure of financial records or
4 information as necessary to effect, administer, or enforce
5 a transaction requested or authorized by the member or
6 holder of capital, or in connection with:

7 (A) servicing or processing a financial product or
8 service requested or authorized by the member or holder
9 of capital;

10 (B) maintaining or servicing an account of a member
11 or holder of capital with the savings bank; or

12 (C) a proposed or actual securitization or
13 secondary market sale (including sales of servicing
14 rights) related to a transaction of a member or holder
15 of capital.

16 Nothing in this item (14), however, authorizes the sale
17 of the financial records or information of a member or
18 holder of capital without the consent of the member or
19 holder of capital.

20 (15) The exchange in the regular course of business of
21 information between a savings bank and any commonly owned
22 affiliate of the savings bank, subject to the provisions of
23 the Financial Institutions Insurance Sales Law.

24 (16) The disclosure of financial records or
25 information as necessary to protect against or prevent
26 actual or potential fraud, unauthorized transactions,

1 claims, or other liability.

2 (17) (a) The disclosure of financial records or
3 information related to a private label credit program
4 between a financial institution and a private label party
5 in connection with that private label credit program. Such
6 information is limited to outstanding balance, available
7 credit, payment and performance and account history,
8 product references, purchase information, and information
9 related to the identity of the customer.

10 (b) (1) For purposes of this paragraph (17) of
11 subsection (c) of Section 4013, a "private label credit
12 program" means a credit program involving a financial
13 institution and a private label party that is used by a
14 customer of the financial institution and the private label
15 party primarily for payment for goods or services sold,
16 manufactured, or distributed by a private label party.

17 (2) For purposes of this paragraph (17) of subsection
18 (c) of Section 4013, a "private label party" means, with
19 respect to a private label credit program, any of the
20 following: a retailer, a merchant, a manufacturer, a trade
21 group, or any such person's affiliate, subsidiary, member,
22 agent, or service provider.

23 (d) A savings bank may not disclose to any person, except
24 to the member or holder of capital or his duly authorized
25 agent, any financial records relating to that member or
26 shareholder of the savings bank unless:

1 (1) the member or shareholder has authorized
2 disclosure to the person; or

3 (2) the financial records are disclosed in response to
4 a lawful subpoena, summons, warrant, citation to discover
5 assets, or court order that meets the requirements of
6 subsection (e) of this Section.

7 (e) A savings bank shall disclose financial records under
8 subsection (d) of this Section pursuant to a lawful subpoena,
9 summons, warrant, citation to discover assets, or court order
10 only after the savings bank mails a copy of the subpoena,
11 summons, warrant, citation to discover assets, or court order
12 to the person establishing the relationship with the savings
13 bank, if living, and otherwise, his personal representative, if
14 known, at his last known address by first class mail, postage
15 prepaid, unless the savings bank is specifically prohibited
16 from notifying the person by order of court.

17 (f) Any officer or employee of a savings bank who knowingly
18 and willfully furnishes financial records in violation of this
19 Section is guilty of a business offense and, upon conviction,
20 shall be fined not more than \$1,000.

21 (g) Any person who knowingly and willfully induces or
22 attempts to induce any officer or employee of a savings bank to
23 disclose financial records in violation of this Section is
24 guilty of a business offense and, upon conviction, shall be
25 fined not more than \$1,000.

26 (h) If any member or shareholder desires to communicate

1 with the other members or shareholders of the savings bank with
2 reference to any question pending or to be presented at an
3 annual or special meeting, the savings bank shall give that
4 person, upon request, a statement of the approximate number of
5 members or shareholders entitled to vote at the meeting and an
6 estimate of the cost of preparing and mailing the
7 communication. The requesting member shall submit the
8 communication to the Commissioner who, upon finding it to be
9 appropriate and truthful, shall direct that it be prepared and
10 mailed to the members upon the requesting member's or
11 shareholder's payment or adequate provision for payment of the
12 expenses of preparation and mailing.

13 (i) A savings bank shall be reimbursed for costs that are
14 necessary and that have been directly incurred in searching
15 for, reproducing, or transporting books, papers, records, or
16 other data of a customer required to be reproduced pursuant to
17 a lawful subpoena, warrant, citation to discover assets, or
18 court order.

19 (j) Notwithstanding the provisions of this Section, a
20 savings bank may sell or otherwise make use of lists of
21 customers' names and addresses. All other information
22 regarding a customer's account are subject to the disclosure
23 provisions of this Section. At the request of any customer,
24 that customer's name and address shall be deleted from any list
25 that is to be sold or used in any other manner beyond
26 identification of the customer's accounts.

1 (Source: P.A. 94-495, eff. 8-8-05; 94-851, eff. 6-13-06;
2 95-661, eff. 1-1-08.)

3 Section 16. The Illinois Credit Union Act is amended by
4 changing Section 10 as follows:

5 (205 ILCS 305/10) (from Ch. 17, par. 4411)

6 Sec. 10. Credit union records; member financial records.

7 (1) A credit union shall establish and maintain books,
8 records, accounting systems and procedures which accurately
9 reflect its operations and which enable the Department to
10 readily ascertain the true financial condition of the credit
11 union and whether it is complying with this Act.

12 (2) A photostatic or photographic reproduction of any
13 credit union records shall be admissible as evidence of
14 transactions with the credit union.

15 (3) (a) For the purpose of this Section, the term "financial
16 records" means any original, any copy, or any summary of (1) a
17 document granting signature authority over an account, (2) a
18 statement, ledger card or other record on any account which
19 shows each transaction in or with respect to that account, (3)
20 a check, draft or money order drawn on a financial institution
21 or other entity or issued and payable by or through a financial
22 institution or other entity, or (4) any other item containing
23 information pertaining to any relationship established in the
24 ordinary course of business between a credit union and its

1 member, including financial statements or other financial
2 information provided by the member.

3 (b) This Section does not prohibit:

4 (1) The preparation, examination, handling or
5 maintenance of any financial records by any officer,
6 employee or agent of a credit union having custody of such
7 records, or the examination of such records by a certified
8 public accountant engaged by the credit union to perform an
9 independent audit.

10 (2) The examination of any financial records by or the
11 furnishing of financial records by a credit union to any
12 officer, employee or agent of the Department, the National
13 Credit Union Administration, Federal Reserve board or any
14 insurer of share accounts for use solely in the exercise of
15 his duties as an officer, employee or agent.

16 (3) The publication of data furnished from financial
17 records relating to members where the data cannot be
18 identified to any particular customer of account.

19 (4) The making of reports or returns required under
20 Chapter 61 of the Internal Revenue Code of 1954.

21 (5) Furnishing information concerning the dishonor of
22 any negotiable instrument permitted to be disclosed under
23 the Uniform Commercial Code.

24 (6) The exchange in the regular course of business of
25 (i) credit information between a credit union and other
26 credit unions or financial institutions or commercial

1 enterprises, directly or through a consumer reporting
2 agency or (ii) financial records or information derived
3 from financial records between a credit union and other
4 credit unions or financial institutions or commercial
5 enterprises for the purpose of conducting due diligence
6 pursuant to a merger or a purchase or sale of assets or
7 liabilities of the credit union.

8 (7) The furnishing of information to the appropriate
9 law enforcement authorities where the credit union
10 reasonably believes it has been the victim of a crime.

11 (8) The furnishing of information pursuant to the
12 Uniform Disposition of Unclaimed Property Act.

13 (9) The furnishing of information pursuant to the
14 Illinois Income Tax Act and the Illinois Estate and
15 Generation-Skipping Transfer Tax Act.

16 (10) The furnishing of information pursuant to the
17 federal "Currency and Foreign Transactions Reporting Act",
18 Title 31, United States Code, Section 1051 et sequentia.

19 (11) The furnishing of information pursuant to any
20 other statute which by its terms or by regulations
21 promulgated thereunder requires the disclosure of
22 financial records other than by subpoena, summons, warrant
23 or court order.

24 (12) The furnishing of information in accordance with
25 the federal Personal Responsibility and Work Opportunity
26 Reconciliation Act of 1996. Any credit union governed by

1 this Act shall enter into an agreement for data exchanges
2 with a State agency provided the State agency pays to the
3 credit union a reasonable fee not to exceed its actual cost
4 incurred. A credit union providing information in
5 accordance with this item shall not be liable to any
6 account holder or other person for any disclosure of
7 information to a State agency, for encumbering or
8 surrendering any assets held by the credit union in
9 response to a lien or order to withhold and deliver issued
10 by a State agency, or for any other action taken pursuant
11 to this item, including individual or mechanical errors,
12 provided the action does not constitute gross negligence or
13 willful misconduct. A credit union shall have no obligation
14 to hold, encumber, or surrender assets until it has been
15 served with a subpoena, summons, warrant, court or
16 administrative order, lien, or levy.

17 (13) The furnishing of information to law enforcement
18 authorities, the Illinois Department on Aging and its
19 regional administrative and provider agencies, the
20 Department of Human Services Office of Inspector General,
21 or public guardians: (i) upon subpoena by the investigatory
22 entity or the guardian, or (ii) if there is suspicion by
23 the credit union that a member who is an elderly or
24 disabled person has been or may become the victim of
25 financial exploitation. For the purposes of this item (13),
26 the term: (i) "elderly person" means a person who is 60 or

1 more years of age, (ii) "disabled person" means a person
2 who has or reasonably appears to the credit union to have a
3 physical or mental disability that impairs his or her
4 ability to seek or obtain protection from or prevent
5 financial exploitation, and (iii) "financial exploitation"
6 means tortious or illegal use of the assets or resources of
7 an elderly or disabled person, and includes, without
8 limitation, misappropriation of the elderly or disabled
9 person's assets or resources by undue influence, breach of
10 fiduciary relationship, intimidation, fraud, deception,
11 extortion, or the use of assets or resources in any manner
12 contrary to law. A credit union or person furnishing
13 information pursuant to this item (13) shall be entitled to
14 the same rights and protections as a person furnishing
15 information under the Adult Protective Services Act ~~Elder~~
16 ~~Abuse and Neglect Act~~, the Illinois Domestic Violence Act
17 of 1986, and the Abuse of Adults with Disabilities
18 Intervention Act.

19 (14) The disclosure of financial records or
20 information as necessary to effect, administer, or enforce
21 a transaction requested or authorized by the member, or in
22 connection with:

23 (A) servicing or processing a financial product or
24 service requested or authorized by the member;

25 (B) maintaining or servicing a member's account
26 with the credit union; or

1 (C) a proposed or actual securitization or
2 secondary market sale (including sales of servicing
3 rights) related to a transaction of a member.

4 Nothing in this item (14), however, authorizes the sale
5 of the financial records or information of a member without
6 the consent of the member.

7 (15) The disclosure of financial records or
8 information as necessary to protect against or prevent
9 actual or potential fraud, unauthorized transactions,
10 claims, or other liability.

11 (16) (a) The disclosure of financial records or
12 information related to a private label credit program
13 between a financial institution and a private label party
14 in connection with that private label credit program. Such
15 information is limited to outstanding balance, available
16 credit, payment and performance and account history,
17 product references, purchase information, and information
18 related to the identity of the customer.

19 (b) (1) For purposes of this paragraph (16) of
20 subsection (b) of Section 10, a "private label credit
21 program" means a credit program involving a financial
22 institution and a private label party that is used by a
23 customer of the financial institution and the private label
24 party primarily for payment for goods or services sold,
25 manufactured, or distributed by a private label party.

26 (2) For purposes of this paragraph (16) of subsection

1 (b) of Section 10, a "private label party" means, with
2 respect to a private label credit program, any of the
3 following: a retailer, a merchant, a manufacturer, a trade
4 group, or any such person's affiliate, subsidiary, member,
5 agent, or service provider.

6 (c) Except as otherwise provided by this Act, a credit
7 union may not disclose to any person, except to the member or
8 his duly authorized agent, any financial records relating to
9 that member of the credit union unless:

10 (1) the member has authorized disclosure to the person;

11 (2) the financial records are disclosed in response to
12 a lawful subpoena, summons, warrant, citation to discover
13 assets, or court order that meets the requirements of
14 subparagraph (d) of this Section; or

15 (3) the credit union is attempting to collect an
16 obligation owed to the credit union and the credit union
17 complies with the provisions of Section 2I of the Consumer
18 Fraud and Deceptive Business Practices Act.

19 (d) A credit union shall disclose financial records under
20 subparagraph (c)(2) of this Section pursuant to a lawful
21 subpoena, summons, warrant, citation to discover assets, or
22 court order only after the credit union mails a copy of the
23 subpoena, summons, warrant, citation to discover assets, or
24 court order to the person establishing the relationship with
25 the credit union, if living, and otherwise his personal
26 representative, if known, at his last known address by first

1 class mail, postage prepaid unless the credit union is
2 specifically prohibited from notifying the person by order of
3 court or by applicable State or federal law. In the case of a
4 grand jury subpoena, a credit union shall not mail a copy of a
5 subpoena to any person pursuant to this subsection if the
6 subpoena was issued by a grand jury under the Statewide Grand
7 Jury Act or notifying the person would constitute a violation
8 of the federal Right to Financial Privacy Act of 1978.

9 (e)(1) Any officer or employee of a credit union who
10 knowingly and wilfully furnishes financial records in
11 violation of this Section is guilty of a business offense and
12 upon conviction thereof shall be fined not more than \$1,000.

13 (2) Any person who knowingly and wilfully induces or
14 attempts to induce any officer or employee of a credit union to
15 disclose financial records in violation of this Section is
16 guilty of a business offense and upon conviction thereof shall
17 be fined not more than \$1,000.

18 (f) A credit union shall be reimbursed for costs which are
19 reasonably necessary and which have been directly incurred in
20 searching for, reproducing or transporting books, papers,
21 records or other data of a member required or requested to be
22 produced pursuant to a lawful subpoena, summons, warrant,
23 citation to discover assets, or court order. The Secretary and
24 the Director may determine, by rule, the rates and conditions
25 under which payment shall be made. Delivery of requested
26 documents may be delayed until final reimbursement of all costs

1 is received.

2 (Source: P.A. 97-133, eff. 1-1-12.)

3 Section 17. The Home Health, Home Services, and Home
4 Nursing Agency Licensing Act is amended by changing Sections
5 6.3 and 6.7 as follows:

6 (210 ILCS 55/6.3)

7 Sec. 6.3. Home services agencies; standards; fees.

8 (a) Before January 1, 2008, the Department shall adopt
9 standards for the licensure and operation of home services
10 agencies operated in this State. The structure of the standards
11 shall be based on the concept of home services and its focus on
12 assistance with activities of daily living, housekeeping,
13 personal laundry, and companionship being provided to an
14 individual intended to enable that individual to remain safely
15 and comfortably in his or her own personal residence. As home
16 services do not include services that would be required to be
17 performed by an individual licensed under the Nurse Practice
18 Act, the standards shall be developed from a similar concept.
19 After consideration and recommendations by the Home Health and
20 Home Services Advisory Committee, the Department shall adopt
21 such rules and regulations as are necessary for the proper
22 regulation of home services agencies. Requirements for
23 licensure as a home services agency shall include the
24 following:

1 (1) Compliance with the requirements of the Health Care
2 Worker Background Check Act.

3 (2) Notification, in a form and manner established by
4 the Department by rule, to home services workers and
5 consumers as to the party or parties responsible under
6 State and federal laws for payment of employment taxes,
7 social security taxes, and workers' compensation,
8 liability, the day-to-day supervision of workers, and the
9 hiring, firing, and discipline of workers with the
10 placement arrangement for home services.

11 (3) Compliance with rules, as adopted by the
12 Department, in regard to (i) reporting by the licensee of
13 any known or suspected incidences of abuse, neglect, or
14 financial exploitation of an eligible adult, as defined in
15 the Adult Protective Services Act ~~Elder Abuse and Neglect~~
16 ~~Act~~, by a home services worker employed by or placed by the
17 licensee or (ii) reports to a law enforcement agency in
18 connection with any other individual protected under the
19 laws of the State of Illinois.

20 (4) Compliance with rules, as adopted by the
21 Department, addressing the health, safety, and well-being
22 of clients receiving home services.

23 (b) The Department may establish fees for home services
24 agency licensure in rules in a manner that will make the
25 program self-supporting. The amount of the licensure fees shall
26 be based on the funding required for operation of the licensure

1 program. Notwithstanding any other provision of this Section,
2 the Department may not charge any fee to a certified local
3 health department in connection with the licensure of a home
4 services agency.

5 (Source: P.A. 95-639, eff. 10-5-07; 96-577, eff. 8-18-09.)

6 (210 ILCS 55/6.7)

7 Sec. 6.7. Home nursing agencies; standards; fees.

8 (a) Before January 1, 2008, the Department shall adopt
9 standards for the licensure and operation of home nursing
10 agencies operated in this State. After consideration and
11 recommendations by the Home Health and Home Services Advisory
12 Committee, the Department shall adopt such rules as are
13 necessary for the proper regulation of home nursing agencies.
14 Requirements for licensure as a home nursing agency shall
15 include the following:

16 (1) Compliance with the requirements of the Health Care
17 Worker Background Check Act.

18 (2) Notification, in a form and manner established by
19 the Department by rule, to home nursing agency workers and
20 consumers as to the party or parties responsible under
21 State and federal laws for payment of employment taxes,
22 social security taxes, and workers' compensation,
23 liability, the day-to-day supervision of workers, and the
24 hiring, firing, and discipline of workers with the
25 placement arrangement for home nursing services.

1 (3) Compliance with rules, as adopted by the
2 Department, in regard to (i) reporting by the licensee of
3 any known or suspected incidences of abuse, neglect, or
4 financial exploitation of an eligible adult, as defined in
5 the Adult Protective Services Act ~~Elder Abuse and Neglect~~
6 ~~Act~~, by a home nursing care worker employed by or placed by
7 the licensee or (ii) reports to a law enforcement agency in
8 connection with any other individual protected under the
9 laws of the State of Illinois.

10 (4) Compliance with rules, as adopted by the
11 Department, addressing the health, safety, and well-being
12 of clients receiving home nursing services.

13 (b) The Department may establish fees for home nursing
14 agency licensure in rules in a manner that will make the
15 program self-supporting. The amount of the licensure fees shall
16 be based on the funding required for the operation of the
17 licensure program. Notwithstanding any other provision of this
18 Section, the Department may not charge any fee to a certified
19 local health department in connection with the licensure of a
20 home nursing agency.

21 (Source: P.A. 96-577, eff. 8-18-09.)

22 Section 18. The Clinical Social Work and Social Work
23 Practice Act is amended by changing Section 16 as follows:

24 (225 ILCS 20/16) (from Ch. 111, par. 6366)

1 (Section scheduled to be repealed on January 1, 2018)

2 Sec. 16. Privileged Communications and Exceptions.

3 1. No licensed clinical social worker or licensed social
4 worker shall disclose any information acquired from persons
5 consulting the social worker in a professional capacity, except
6 that which may be voluntarily disclosed under the following
7 circumstances:

8 (a) In the course of formally reporting, conferring or
9 consulting with administrative superiors, colleagues or
10 consultants who share professional responsibility,
11 including a professional responsibility to maintain
12 confidentiality, in which instance all recipients of such
13 information are similarly bound to regard the
14 communication as privileged;

15 (b) With the written consent of the person who provided
16 the information;

17 (c) In case of death or disability, with the written
18 consent of a personal representative, other person
19 authorized to sue, or the beneficiary of an insurance
20 policy on the person's life, health or physical condition;

21 (d) When a communication reveals the intended
22 commission of a crime or harmful act and such disclosure is
23 judged necessary by the licensed clinical social worker or
24 licensed social worker to protect any person from a clear,
25 imminent risk of serious mental or physical harm or injury,
26 or to forestall a serious threat to the public safety;

1 (e) When the person waives the privilege by bringing
2 any public charges against the licensee; or

3 (f) When the information is acquired during the course
4 of investigating a report or working on a case of elder
5 abuse, neglect, or financial exploitation by a designated
6 Elder Abuse Provider Agency and disclosure of the
7 information is in accordance with the provisions of Section
8 of the Adult Protective Services Act ~~Elder Abuse and~~
9 ~~Neglect Act.~~

10 2. When the person is a minor under the laws of the State
11 of Illinois and the information acquired by the licensed
12 clinical social worker or licensed social worker indicates the
13 minor was the victim or subject of a crime, the licensed
14 clinical social worker or licensed social worker may be
15 required to testify in any judicial proceedings in which the
16 commission of that crime is the subject of inquiry and when,
17 after in camera review of the information that the licensed
18 clinical social worker or licensed social worker acquired, the
19 court determines that the interests of the minor in having the
20 information held privileged are outweighed by the requirements
21 of justice, the need to protect the public safety or the need
22 to protect the minor, except as provided under the Abused and
23 Neglected Child Reporting Act.

24 3. Any person having access to records or any one who
25 participates in providing social work services or who, in
26 providing any human services, is supervised by a licensed

1 clinical social worker or licensed social worker, is similarly
2 bound to regard all information and communications as
3 privileged in accord with this Section.

4 4. Nothing shall be construed to prohibit a licensed
5 clinical social worker or licensed social worker from
6 voluntarily testifying in court hearings concerning matters of
7 adoption, child abuse, child neglect or other matters
8 pertaining to children, except as provided under the Abused and
9 Neglected Child Reporting Act.

10 5. The Mental Health and Developmental Disabilities
11 Confidentiality Act, as now or hereafter amended, is
12 incorporated herein as if all of its provisions were included
13 in this Act.

14 (Source: P.A. 96-71, eff. 7-23-09.)

15 Section 19. The Respiratory Care Practice Act is amended by
16 changing Section 95 as follows:

17 (225 ILCS 106/95)

18 (Section scheduled to be repealed on January 1, 2016)

19 Sec. 95. Grounds for discipline.

20 (a) The Department may refuse to issue, renew, or may
21 revoke, suspend, place on probation, reprimand, or take other
22 disciplinary action as the Department considers appropriate,
23 including the issuance of fines not to exceed \$5,000 for each
24 violation, with regard to any license for any one or more of

1 the following:

2 (1) Material misstatement in furnishing information to
3 the Department or to any other State or federal agency.

4 (2) Violations of this Act, or any of its rules.

5 (3) Conviction of any crime under the laws of the
6 United States or any state or territory thereof that is a
7 felony or a misdemeanor, an essential element of which is
8 dishonesty, or of any crime that is directly related to the
9 practice of the profession.

10 (4) Making any misrepresentation for the purpose of
11 obtaining a license.

12 (5) Professional incompetence or negligence in the
13 rendering of respiratory care services.

14 (6) Malpractice.

15 (7) Aiding or assisting another person in violating any
16 rules or provisions of this Act.

17 (8) Failing to provide information within 60 days in
18 response to a written request made by the Department.

19 (9) Engaging in dishonorable, unethical, or
20 unprofessional conduct of a character likely to deceive,
21 defraud, or harm the public.

22 (10) Violating the rules of professional conduct
23 adopted by the Department.

24 (11) Discipline by another jurisdiction, if at least
25 one of the grounds for the discipline is the same or
26 substantially equivalent to those set forth in this Act.

1 (12) Directly or indirectly giving to or receiving from
2 any person, firm, corporation, partnership, or association
3 any fee, commission, rebate, or other form of compensation
4 for any professional services not actually rendered.
5 Nothing in this paragraph (12) affects any bona fide
6 independent contractor or employment arrangements among
7 health care professionals, health facilities, health care
8 providers, or other entities, except as otherwise
9 prohibited by law. Any employment arrangements may include
10 provisions for compensation, health insurance, pension, or
11 other employment benefits for the provision of services
12 within the scope of the licensee's practice under this Act.
13 Nothing in this paragraph (12) shall be construed to
14 require an employment arrangement to receive professional
15 fees for services rendered.

16 (13) A finding by the Department that the licensee,
17 after having the license placed on probationary status, has
18 violated the terms of the probation.

19 (14) Abandonment of a patient.

20 (15) Willfully filing false reports relating to a
21 licensee's practice including, but not limited to, false
22 records filed with a federal or State agency or department.

23 (16) Willfully failing to report an instance of
24 suspected child abuse or neglect as required by the Abused
25 and Neglected Child Reporting Act.

26 (17) Providing respiratory care, other than pursuant

1 to an order.

2 (18) Physical or mental disability including, but not
3 limited to, deterioration through the aging process or loss
4 of motor skills that results in the inability to practice
5 the profession with reasonable judgment, skill, or safety.

6 (19) Solicitation of professional services by using
7 false or misleading advertising.

8 (20) Failure to file a tax return, or to pay the tax,
9 penalty, or interest shown in a filed return, or to pay any
10 final assessment of tax penalty, or interest, as required
11 by any tax Act administered by the Illinois Department of
12 Revenue or any successor agency or the Internal Revenue
13 Service or any successor agency.

14 (21) Irregularities in billing a third party for
15 services rendered or in reporting charges for services not
16 rendered.

17 (22) Being named as a perpetrator in an indicated
18 report by the Department of Children and Family Services
19 under the Abused and Neglected Child Reporting Act, and
20 upon proof by clear and convincing evidence that the
21 licensee has caused a child to be an abused child or
22 neglected child as defined in the Abused and Neglected
23 Child Reporting Act.

24 (23) Habitual or excessive use or addiction to alcohol,
25 narcotics, stimulants, or any other chemical agent or drug
26 that results in an inability to practice with reasonable

1 skill, judgment, or safety.

2 (24) Being named as a perpetrator in an indicated
3 report by the Department on Aging under the Adult
4 Protective Services Act ~~Elder Abuse and Neglect Act~~, and
5 upon proof by clear and convincing evidence that the
6 licensee has caused an elderly person to be abused or
7 neglected as defined in the Elder Abuse and Neglect Act.

8 (25) Willfully failing to report an instance of
9 suspected elder abuse or neglect as required by the Adult
10 Protective Services Act ~~Elder Abuse and Neglect Act~~.

11 (b) The determination by a court that a licensee is subject
12 to involuntary admission or judicial admission as provided in
13 the Mental Health and Developmental Disabilities Code will
14 result in an automatic suspension of his or her license. The
15 suspension will end upon a finding by a court that the licensee
16 is no longer subject to involuntary admission or judicial
17 admission, the issuance of an order so finding and discharging
18 the patient, and the recommendation of the Board to the
19 Director that the licensee be allowed to resume his or her
20 practice.

21 (Source: P.A. 96-1482, eff. 11-29-10.)

22 Section 20. The Professional Counselor and Clinical
23 Professional Counselor Licensing and Practice Act is amended by
24 changing Sections 75 and 80 as follows:

1 (225 ILCS 107/75)

2 (Section scheduled to be repealed on January 1, 2023)

3 Sec. 75. Privileged communications and exceptions.

4 (a) No licensed professional counselor or licensed
5 clinical professional counselor shall disclose any information
6 acquired from persons consulting the counselor in a
7 professional capacity, except that which may be voluntarily
8 disclosed under the following circumstances:

9 (1) In the course of formally reporting, conferring, or
10 consulting with administrative superiors, colleagues, or
11 consultants who share professional responsibility, in
12 which instance all recipients of the information are
13 similarly bound to regard the communication as privileged;

14 (2) With the written consent of the person who provided
15 the information;

16 (3) In the case of death or disability, with the
17 written consent of a personal representative, other person
18 authorized to sue, or the beneficiary of an insurance
19 policy on the person's life, health or physical condition;

20 (4) When a communication reveals the intended
21 commission of a crime or harmful act and such disclosure is
22 judged necessary by the licensed professional counselor or
23 licensed clinical professional counselor to protect any
24 person from a clear, imminent risk of serious mental or
25 physical harm or injury, or to forestall a serious threat
26 to the public safety; or

1 (5) When the person waives the privilege by bringing
2 any public charges against the licensee.

3 (b) When the person is a minor under the laws of the State
4 of Illinois and the information acquired by the licensed
5 professional counselor or licensed clinical professional
6 counselor indicates the minor was the victim or subject of a
7 crime, the licensed professional counselor or licensed
8 clinical professional counselor may be required to testify in
9 any judicial proceedings in which the commission of that crime
10 is the subject of inquiry when, after in camera review of the
11 information that the licensed professional counselor or
12 licensed clinical professional counselor acquired, the court
13 determines that the interests of the minor in having the
14 information held privileged are outweighed by the requirements
15 of justice, the need to protect the public safety or the need
16 to protect the minor, except as provided under the Abused and
17 Neglected Child Reporting Act.

18 (c) Any person having access to records or anyone who
19 participates in providing professional counseling or clinical
20 professional counseling services, or, in providing any human
21 services, is supervised by a licensed professional counselor or
22 licensed clinical professional counselor, is similarly bound
23 to regard all information and communications as privileged in
24 accord with this Section.

25 (d) Nothing in this Act shall be construed to prohibit a
26 licensed professional counselor or licensed clinical

1 professional counselor from voluntarily testifying in court
2 hearings concerning matters of adoption, child abuse, child
3 neglect or other matters pertaining to children, except as
4 provided under the Abused and Neglected Child Reporting Act and
5 matters pertaining to elders as set forth in the Adult
6 Protective Services Act ~~Elder Abuse and Neglect Act~~.

7 (e) The Mental Health and Developmental Disabilities
8 Confidentiality Act is incorporated herein as if all of its
9 provisions were included in this Act. In the event of a
10 conflict between the application of this Section and the Mental
11 Health and Developmental Disabilities Confidentiality Act to a
12 specific situation, the provisions of the Mental Health and
13 Developmental Disabilities Confidentiality Act shall control.

14 (f) Licensed professional counselors and licensed clinical
15 professional counselors when performing professional
16 counseling services or clinical professional counseling
17 services shall comply with counselor licensure rules and laws
18 contained in this Section and Section 80 of this Act regardless
19 of their employment or work setting.

20 (Source: P.A. 97-706, eff. 6-25-12.)

21 (225 ILCS 107/80)

22 (Section scheduled to be repealed on January 1, 2023)

23 Sec. 80. Grounds for discipline.

24 (a) The Department may refuse to issue, renew, or may
25 revoke, suspend, place on probation, reprimand, or take other

1 disciplinary or non-disciplinary action as the Department
2 deems appropriate, including the issuance of fines not to
3 exceed \$10,000 for each violation, with regard to any license
4 for any one or more of the following:

5 (1) Material misstatement in furnishing information to
6 the Department or to any other State agency.

7 (2) Violations or negligent or intentional disregard
8 of this Act or rules adopted under this Act.

9 (3) Conviction by plea of guilty or nolo contendere,
10 finding of guilt, jury verdict, or entry of judgment or by
11 sentencing of any crime, including, but not limited to,
12 convictions, preceding sentences of supervision,
13 conditional discharge, or first offender probation, under
14 the laws of any jurisdiction of the United States: (i) that
15 is a felony or (ii) that is a misdemeanor, an essential
16 element of which is dishonesty, or that is directly related
17 to the practice of the profession.

18 (4) Fraud or any misrepresentation in applying for or
19 procuring a license under this Act or in connection with
20 applying for renewal of a license under this Act.

21 (5) Professional incompetence or gross negligence in
22 the rendering of professional counseling or clinical
23 professional counseling services.

24 (6) Malpractice.

25 (7) Aiding or assisting another person in violating any
26 provision of this Act or any rules.

1 (8) Failing to provide information within 60 days in
2 response to a written request made by the Department.

3 (9) Engaging in dishonorable, unethical, or
4 unprofessional conduct of a character likely to deceive,
5 defraud, or harm the public and violating the rules of
6 professional conduct adopted by the Department.

7 (10) Habitual or excessive use or abuse of drugs as
8 defined in law as controlled substances, alcohol, or any
9 other substance which results in inability to practice with
10 reasonable skill, judgment, or safety.

11 (11) Discipline by another jurisdiction, the District
12 of Columbia, territory, county, or governmental agency, if
13 at least one of the grounds for the discipline is the same
14 or substantially equivalent to those set forth in this
15 Section.

16 (12) Directly or indirectly giving to or receiving from
17 any person, firm, corporation, partnership, or association
18 any fee, commission, rebate or other form of compensation
19 for any professional service not actually rendered.
20 Nothing in this paragraph (12) affects any bona fide
21 independent contractor or employment arrangements among
22 health care professionals, health facilities, health care
23 providers, or other entities, except as otherwise
24 prohibited by law. Any employment arrangements may include
25 provisions for compensation, health insurance, pension, or
26 other employment benefits for the provision of services

1 within the scope of the licensee's practice under this Act.
2 Nothing in this paragraph (12) shall be construed to
3 require an employment arrangement to receive professional
4 fees for services rendered.

5 (13) A finding by the Board that the licensee, after
6 having the license placed on probationary status, has
7 violated the terms of probation.

8 (14) Abandonment of a client.

9 (15) Willfully filing false reports relating to a
10 licensee's practice, including but not limited to false
11 records filed with federal or State agencies or
12 departments.

13 (16) Willfully failing to report an instance of
14 suspected child abuse or neglect as required by the Abused
15 and Neglected Child Reporting Act and in matters pertaining
16 to elders or suspected elder abuse as set forth in the
17 Adult Protective Services Act ~~Elder Abuse and Neglect Act~~.

18 (17) Being named as a perpetrator in an indicated
19 report by the Department of Children and Family Services
20 pursuant to the Abused and Neglected Child Reporting Act,
21 and upon proof by clear and convincing evidence that the
22 licensee has caused a child to be an abused child or
23 neglected child as defined in the Abused and Neglected
24 Child Reporting Act.

25 (18) Physical or mental illness or disability,
26 including, but not limited to, deterioration through the

1 aging process or loss of abilities and skills which results
2 in the inability to practice the profession with reasonable
3 judgment, skill, or safety.

4 (19) Solicitation of professional services by using
5 false or misleading advertising.

6 (20) Allowing one's license under this Act to be used
7 by an unlicensed person in violation of this Act.

8 (21) A finding that licensure has been applied for or
9 obtained by fraudulent means.

10 (22) Practicing under a false or, except as provided by
11 law, an assumed name.

12 (23) Gross and willful overcharging for professional
13 services including filing statements for collection of
14 fees or monies for which services are not rendered.

15 (24) Rendering professional counseling or clinical
16 professional counseling services without a license or
17 practicing outside the scope of a license.

18 (25) Clinical supervisors failing to adequately and
19 responsibly monitor supervisees.

20 All fines imposed under this Section shall be paid within
21 60 days after the effective date of the order imposing the
22 fine.

23 (b) The Department shall deny, without hearing, any
24 application or renewal for a license under this Act to any
25 person who has defaulted on an educational loan guaranteed by
26 the Illinois State Assistance Commission or any governmental

1 agency of this State in accordance with item (5) of subsection
2 (a) of Section 2105-15 of the Department of Professional
3 Regulation Law of the Civil Administrative Code of Illinois.

4 (b-5) The Department may refuse to issue or may suspend
5 without hearing, as provided for in the Code of Civil
6 Procedure, the license of any person who fails to file a
7 return, pay the tax, penalty, or interest shown in a filed
8 return, or pay any final assessment of the tax, penalty, or
9 interest as required by any tax Act administered by the
10 Illinois Department of Revenue, until such time as the
11 requirements of any such tax Act are satisfied in accordance
12 with subsection (g) of Section 2105-15 of the Department of
13 Professional Regulation Law of the Civil Administrative Code of
14 Illinois.

15 (b-10) In cases where the Department of Healthcare and
16 Family Services has previously determined a licensee or a
17 potential licensee is more than 30 days delinquent in the
18 payment of child support and has subsequently certified the
19 delinquency to the Department, the Department may refuse to
20 issue or renew or may revoke or suspend that person's license
21 or may take other disciplinary action against that person based
22 solely upon the certification of delinquency made by the
23 Department of Healthcare and Family Services in accordance with
24 item (5) of subsection (a) of Section 2105-15 of the Department
25 of Professional Regulation Law of the Civil Administrative Code
26 of Illinois.

1 (c) The determination by a court that a licensee is subject
2 to involuntary admission or judicial admission as provided in
3 the Mental Health and Developmental Disabilities Code will
4 result in an automatic suspension of his or her license. The
5 suspension will end upon a finding by a court that the licensee
6 is no longer subject to involuntary admission or judicial
7 admission, the issuance of an order so finding and discharging
8 the patient, and the recommendation of the Board to the
9 Secretary that the licensee be allowed to resume professional
10 practice.

11 (c-5) In enforcing this Act, the Department, upon a showing
12 of a possible violation, may compel an individual licensed to
13 practice under this Act, or who has applied for licensure under
14 this Act, to submit to a mental or physical examination, or
15 both, as required by and at the expense of the Department. The
16 Department may order the examining physician to present
17 testimony concerning the mental or physical examination of the
18 licensee or applicant. No information shall be excluded by
19 reason of any common law or statutory privilege relating to
20 communications between the licensee or applicant and the
21 examining physician. The examining physicians shall be
22 specifically designated by the Department. The individual to be
23 examined may have, at his or her own expense, another physician
24 of his or her choice present during all aspects of this
25 examination. The examination shall be performed by a physician
26 licensed to practice medicine in all its branches. Failure of

1 an individual to submit to a mental or physical examination,
2 when directed, shall result in an automatic suspension without
3 hearing.

4 A person holding a license under this Act or who has
5 applied for a license under this Act who, because of a physical
6 or mental illness or disability, including, but not limited to,
7 deterioration through the aging process or loss of motor skill,
8 is unable to practice the profession with reasonable judgment,
9 skill, or safety, may be required by the Department to submit
10 to care, counseling, or treatment by physicians approved or
11 designated by the Department as a condition, term, or
12 restriction for continued, reinstated, or renewed licensure to
13 practice. Submission to care, counseling, or treatment as
14 required by the Department shall not be considered discipline
15 of a license. If the licensee refuses to enter into a care,
16 counseling, or treatment agreement or fails to abide by the
17 terms of the agreement, the Department may file a complaint to
18 revoke, suspend, or otherwise discipline the license of the
19 individual. The Secretary may order the license suspended
20 immediately, pending a hearing by the Department. Fines shall
21 not be assessed in disciplinary actions involving physical or
22 mental illness or impairment.

23 In instances in which the Secretary immediately suspends a
24 person's license under this Section, a hearing on that person's
25 license must be convened by the Department within 15 days after
26 the suspension and completed without appreciable delay. The

1 Department shall have the authority to review the subject
2 individual's record of treatment and counseling regarding the
3 impairment to the extent permitted by applicable federal
4 statutes and regulations safeguarding the confidentiality of
5 medical records.

6 An individual licensed under this Act and affected under
7 this Section shall be afforded an opportunity to demonstrate to
8 the Department that he or she can resume practice in compliance
9 with acceptable and prevailing standards under the provisions
10 of his or her license.

11 (d) (Blank).

12 (Source: P.A. 96-1482, eff. 11-29-10; 97-706, eff. 6-25-12.)

13 Section 21. The Elder Abuse and Neglect Act is amended by
14 changing the title of the Act and by changing Sections 1, 2, 3,
15 3.5, 4, 4.1, 5, 8, 9, and 15 and by adding Section 7.5 as
16 follows:

17 (320 ILCS 20/Act title)

18 An Act in relation to adult protective services ~~the abuse~~
19 ~~and neglect of elderly persons.~~

20 (320 ILCS 20/1) (from Ch. 23, par. 6601)

21 Sec. 1. Short title. This Act shall be known and may be
22 cited as the Adult Protective Services Act ~~"Elder Abuse and~~
23 ~~Neglect Act"~~.

1 (Source: P.A. 85-1184.)

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

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

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

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

14 Nothing in this Act shall be construed to mean that an
15 eligible adult is a victim of abuse because of health care
16 services provided or not provided by licensed health care
17 professionals.

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

20 (a-6) "Adult with disabilities" means a person aged 18
21 through 59 who resides in a domestic living situation and whose
22 disability impairs his or her ability to seek or obtain
23 protection from abuse, neglect, or exploitation.

24 (a-7) "Caregiver" means a person who either as a result of
25 a family relationship, voluntarily, or in exchange for

1 compensation has assumed responsibility for all or a portion of
2 the care of an eligible adult who needs assistance with
3 activities of daily living.

4 (b) "Department" means the Department on Aging of the State
5 of Illinois.

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

7 (c-5) "Disability" means a physical or mental disability,
8 including, but not limited to, a developmental disability, an
9 intellectual disability, or a mental illness as defined under
10 the Mental Health and Developmental Disabilities Code.

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

16 (1) A licensed facility as defined in Section 1-113 of
17 the Nursing Home Care Act, Section 1-113 of the ID/DD
18 Community Care Act, or Section 1-113 of the Specialized
19 Mental Health Rehabilitation Act;

20 (1.5) A facility licensed under the ID/DD Community
21 Care Act;

22 (1.7) A facility licensed under the Specialized Mental
23 Health Rehabilitation Act;

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

26 (3) A home, institution, or other place operated by the

1 federal government or agency thereof or by the State of
2 Illinois;

3 (4) A hospital, sanitarium, or other institution, the
4 principal activity or business of which is the diagnosis,
5 care, and treatment of human illness through the
6 maintenance and operation of organized facilities
7 therefor, which is required to be licensed under the
8 Hospital Licensing Act;

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

11 (6) (Blank);

12 (7) A "community-integrated living arrangement" as
13 defined in the Community-Integrated Living Arrangements
14 Licensure and Certification Act or a "community
15 residential alternative" as licensed under that Act;

16 (8) An assisted living or shared housing establishment
17 as defined in the Assisted Living and Shared Housing Act;
18 or

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

21 (e) "Eligible adult" means either an adult with
22 disabilities age 18 through 59 or a person aged 60 ~~years of age~~
23 or older who resides in a domestic living situation and is, or
24 is alleged to be, abused, neglected, or financially exploited
25 by another individual or who neglects himself or herself.

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-5) "Mandated reporter" means any of the following
6 persons while engaged in carrying out their professional
7 duties:

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

1 Surgery Practice Act of 2004, and the Illinois Public
2 Accounting Act;

3 (2) an employee of a vocational rehabilitation
4 facility prescribed or supervised by the Department of
5 Human Services;

6 (3) an administrator, employee, or person providing
7 services in or through an unlicensed community based
8 facility;

9 (4) any religious practitioner who provides treatment
10 by prayer or spiritual means alone in accordance with the
11 tenets and practices of a recognized church or religious
12 denomination, except as to information received in any
13 confession or sacred communication enjoined by the
14 discipline of the religious denomination to be held
15 confidential;

16 (5) field personnel of the Department of Healthcare and
17 Family Services, Department of Public Health, and
18 Department of Human Services, and any county or municipal
19 health department;

20 (6) personnel of the Department of Human Services, the
21 Guardianship and Advocacy Commission, the State Fire
22 Marshal, local fire departments, the Department on Aging
23 and its subsidiary Area Agencies on Aging and provider
24 agencies, and the Office of State Long Term Care Ombudsman;

25 (7) any employee of the State of Illinois not otherwise
26 specified herein who is involved in providing services to

1 eligible adults, including professionals providing medical
2 or rehabilitation services and all other persons having
3 direct contact with eligible adults;

4 (8) a person who performs the duties of a coroner or
5 medical examiner; or

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

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

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

22 (i) "Regional administrative agency" means any public or
23 nonprofit agency in a planning and service area so designated
24 by the Department, provided that the designated Area Agency on
25 Aging shall be designated the regional administrative agency if
26 it so requests. The Department shall assume the functions of

1 the regional administrative agency for any planning and service
2 area where another agency is not so designated.

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

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

21 (Source: P.A. 96-339, eff. 7-1-10; 96-526, eff. 1-1-10; 96-572,
22 eff. 1-1-10; 96-1000, eff. 7-2-10; 97-38, eff. 6-28-11; 97-227,
23 eff. 1-1-12; 97-300, eff. 8-11-11; 97-706, eff. 6-25-12;
24 97-813, eff. 7-13-12; 97-1141, eff. 12-28-12.)

25 (320 ILCS 20/3) (from Ch. 23, par. 6603)

1 Sec. 3. Responsibilities.

2 (a) The Department shall establish, design, and manage a
3 protective services program ~~of response and services~~ for
4 eligible adults ~~persons 60 years of age and older~~ who have
5 been, or are alleged to be, victims of abuse, neglect,
6 financial exploitation, or self-neglect. The Department shall
7 contract with or fund or, contract with and fund, regional
8 administrative agencies, provider agencies, or both, for the
9 provision of protective services ~~those functions~~, and,
10 contingent on adequate funding, with attorneys or legal
11 services provider agencies for the provision of legal
12 assistance pursuant to this Act. The program shall include the
13 following services for eligible adults who have been removed
14 from their residences for the purpose of cleanup or repairs:
15 temporary housing; counseling; and caseworker services to try
16 to ensure that the conditions necessitating the removal do not
17 reoccur.

18 (a-1) Within 6 months after the effective date of this
19 amendatory Act of the 98th General Assembly, the Department
20 shall establish a centralized Adult Protective Services
21 Helpline for the purposes of reporting the abuse, neglect, or
22 financial exploitation of an eligible adult. The helpline shall
23 perform intake and determine appropriate referrals, as
24 necessary. The Department shall make the helpline accessible 24
25 hours a day, 7 days a week and shall post its telephone number
26 online.

1 (b) Each regional administrative agency shall designate
2 provider agencies within its planning and service area with
3 prior approval by the Department on Aging, monitor the use of
4 services, provide technical assistance to the provider
5 agencies and be involved in program development activities.

6 (c) Provider agencies shall assist, to the extent possible,
7 eligible adults who need agency services to allow them to
8 continue to function independently. Such assistance shall
9 include but not be limited to receiving reports of alleged or
10 suspected abuse, neglect, financial exploitation, or
11 self-neglect, conducting face-to-face assessments of such
12 reported cases, determination of substantiated cases, referral
13 of substantiated cases for necessary support services,
14 referral of criminal conduct to law enforcement in accordance
15 with Department guidelines, and provision of case work and
16 follow-up services on substantiated cases. In the case of a
17 report of alleged or suspected abuse or neglect that places an
18 eligible adult at risk of injury or death, a provider agency
19 shall respond to the report on an emergency basis in accordance
20 with guidelines established by the Department by
21 administrative rule and shall ensure that it is capable of
22 responding to such a report 24 hours per day, 7 days per week.
23 A provider agency may use an on-call system to respond to
24 reports of alleged or suspected abuse or neglect after hours
25 and on weekends.

26 (d) Upon sufficient appropriations to implement a

1 statewide program, the Department shall implement a program,
2 based on the recommendations of the ~~Elder~~ Self-Neglect Steering
3 Committee, for (i) responding to reports of possible
4 self-neglect, (ii) protecting the autonomy, rights, privacy,
5 and privileges of adults during investigations of possible
6 self-neglect and consequential judicial proceedings regarding
7 competency, (iii) collecting and sharing relevant information
8 and data among the Department, provider agencies, regional
9 administrative agencies, and relevant seniors, (iv) developing
10 working agreements between provider agencies and law
11 enforcement, where practicable, and (v) developing procedures
12 for collecting data regarding incidents of self-neglect.

13 (Source: P.A. 95-76, eff. 6-1-08; 96-526, eff. 1-1-10; 96-572,
14 eff. 1-1-10; 96-1000, eff. 7-2-10.)

15 (320 ILCS 20/3.5)

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

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

1 social, and health systems;

2 (b) coordination of efforts with other agencies, councils,
3 and like entities, to include but not be limited to, the Office
4 of the Attorney General, the State Police, the Illinois Law
5 Enforcement Training Standards Board, the State Triad, the
6 Illinois Criminal Justice Information Authority, the
7 Departments of Public Health, Public Aid, and Human Services,
8 the Family Violence Coordinating Council, the Illinois
9 Violence Prevention Authority, and other entities which may
10 impact awareness of, and response to, ~~elder~~ abuse, neglect,
11 financial exploitation, and self-neglect;

12 (c) collection and analysis of data;

13 (d) monitoring of the performance of regional
14 administrative agencies and adult ~~elder~~ abuse provider
15 agencies;

16 (e) promotion of prevention activities;

17 (f) establishing and coordinating an aggressive training
18 program on the unique nature of adult ~~elder~~ abuse cases with
19 other agencies, councils, and like entities, to include but not
20 be limited to the Office of the Attorney General, the State
21 Police, the Illinois Law Enforcement Training Standards Board,
22 the State Triad, the Illinois Criminal Justice Information
23 Authority, the State Departments of Public Health, Healthcare
24 and Family Services ~~Public Aid~~, and Human Services, the Family
25 Violence Coordinating Council, the Illinois Violence
26 Prevention Authority, and other entities that may impact

1 awareness of and response to ~~elder~~ abuse, neglect, financial
2 exploitation, and self-neglect;

3 (g) solicitation of financial institutions for the purpose
4 of making information available to the general public warning
5 of financial exploitation of adults ~~the elderly~~ and related
6 financial fraud or abuse, including such information and
7 warnings available through signage or other written materials
8 provided by the Department on the premises of such financial
9 institutions, provided that the manner of displaying or
10 distributing such information is subject to the sole discretion
11 of each financial institution;

12 (g-1) developing by joint rulemaking with the Department of
13 Financial and Professional Regulation minimum training
14 standards which shall be used by financial institutions for
15 their current and new employees with direct customer contact;
16 the Department of Financial and Professional Regulation shall
17 retain sole visitation and enforcement authority under this
18 subsection (g-1); the Department of Financial and Professional
19 Regulation shall provide bi-annual reports to the Department
20 setting forth aggregate statistics on the training programs
21 required under this subsection (g-1); and

22 (h) coordinating efforts with utility and electric
23 companies to send notices in utility bills to explain to
24 persons 60 years of age or older their rights regarding
25 telemarketing and home repair fraud.

26 (Source: P.A. 96-1103, eff. 7-19-10.)

1 (320 ILCS 20/4) (from Ch. 23, par. 6604)

2 Sec. 4. Reports of abuse or neglect.

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

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

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

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

24 (a-9) Law enforcement officers shall continue to report
25 incidents of alleged abuse pursuant to the Illinois Domestic
26 Violence Act of 1986, notwithstanding any requirements under

1 this Act.

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

24 (c) The identity of a person making a report of alleged or
25 suspected abuse, neglect, financial exploitation, or
26 self-neglect under this Act may be disclosed by the Department

1 or other agency provided for in this Act only with such
2 person's written consent or by court order, but is otherwise
3 confidential.

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

6 (e) Any physician who willfully fails to report as required
7 by this Act shall be referred to the Illinois State Medical
8 Disciplinary Board for action in accordance with subdivision
9 (A) (22) of Section 22 of the Medical Practice Act of 1987. Any
10 dentist or dental hygienist who willfully fails to report as
11 required by this Act shall be referred to the Department of
12 Professional Regulation for action in accordance with
13 paragraph 19 of Section 23 of the Illinois Dental Practice Act.
14 Any optometrist who willfully fails to report as required by
15 this Act shall be referred to the Department of Financial and
16 Professional Regulation for action in accordance with
17 paragraph (15) of subsection (a) of Section 24 of the Illinois
18 Optometric Practice Act of 1987. Any other mandated reporter
19 required by this Act to report suspected abuse, neglect, or
20 financial exploitation who willfully fails to report the same
21 is guilty of a Class A misdemeanor.

22 (Source: P.A. 96-378, eff. 1-1-10; 96-526, eff. 1-1-10;
23 96-1000, eff. 7-2-10; 97-860, eff. 7-30-12.)

24 (320 ILCS 20/4.1)

25 Sec. 4.1. Employer discrimination. No employer shall

1 discharge, demote or suspend, or threaten to discharge, demote
2 or suspend, or in any manner discriminate against any employee
3 who makes any good faith oral or written report of suspected
4 ~~elder~~ abuse, neglect, or financial exploitation or who is or
5 will be a witness or testify in any investigation or proceeding
6 concerning a report of suspected ~~elder~~ abuse, neglect, or
7 financial exploitation.

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

9 (320 ILCS 20/5) (from Ch. 23, par. 6605)

10 Sec. 5. Procedure.

11 (a) A provider agency designated to receive reports of
12 alleged or suspected abuse, neglect, financial exploitation,
13 or self-neglect under this Act shall, upon receiving such a
14 report, conduct a face-to-face assessment with respect to such
15 report, in accord with established law and Department
16 protocols, procedures, and policies. Face-to-face assessments,
17 casework, and follow-up of reports of self-neglect by the
18 provider agencies designated to receive reports of
19 self-neglect shall be subject to sufficient appropriation for
20 statewide implementation of assessments, casework, and
21 follow-up of reports of self-neglect. In the absence of
22 sufficient appropriation for statewide implementation of
23 assessments, casework, and follow-up of reports of
24 self-neglect, the designated adult protective services ~~elder~~
25 ~~abuse~~ provider agency shall refer all reports of self-neglect

1 to the appropriate agency or agencies as designated by the
2 Department for any follow-up. The assessment shall include, but
3 not be limited to, a visit to the residence of the eligible
4 adult who is the subject of the report and may include
5 interviews or consultations with service agencies or
6 individuals who may have knowledge of the eligible adult's
7 circumstances. If, after the assessment, the provider agency
8 determines that the case is substantiated it shall develop a
9 service care plan for the eligible adult and may report its
10 findings to the appropriate law enforcement agency in accord
11 with established law and Department protocols, procedures, and
12 policies. In developing a case ~~the~~ plan, the provider agency
13 may consult with any other appropriate provider of services,
14 and such providers shall be immune from civil or criminal
15 liability on account of such acts. The plan shall include
16 alternative suggested or recommended services which are
17 appropriate to the needs of the eligible adult and which
18 involve the least restriction of the eligible adult's
19 activities commensurate with his or her needs. Only those
20 services to which consent is provided in accordance with
21 Section 9 of this Act shall be provided, contingent upon the
22 availability of such services.

23 (b) A provider agency shall refer evidence of crimes
24 against an eligible adult to the appropriate law enforcement
25 agency according to Department policies. A referral to law
26 enforcement may be made at intake or any time during the case.

1 Where a provider agency has reason to believe the death of an
2 eligible adult may be the result of abuse or neglect, the
3 agency shall immediately report the matter to the coroner or
4 medical examiner and shall cooperate fully with any subsequent
5 investigation.

6 (c) If any person other than the alleged victim refuses to
7 allow the provider agency to begin an investigation, interferes
8 with the provider agency's ability to conduct an investigation,
9 or refuses to give access to an eligible adult, the appropriate
10 law enforcement agency must be consulted regarding the
11 investigation.

12 (Source: P.A. 94-1064, eff. 1-1-07.)

13 (320 ILCS 20/7.5 new)

14 Sec. 7.5. Health Care Worker Registry.

15 (a) Reporting to the registry. The Department on Aging
16 shall report to the Department of Public Health's health care
17 worker registry the identity and administrative finding
18 against any caregiver of a verified and substantiated decision
19 of significant abuse, neglect, or financial exploitation of an
20 eligible adult under this Act. An administrative finding placed
21 in the registry will preclude any caregiver from providing
22 direct care in exchange for compensation in Illinois.

23 (b) Definitions. As used in this Section:

24 "Direct care" includes, but is not limited to, the
25 provision of nursing care or assistance with feeding, dressing,

1 movement, bathing, toileting, or other personal needs or
2 assistance with financial transactions.

3 "Significant" means a finding of abuse, neglect, or
4 financial exploitation as determined by the Department that (i)
5 represents a meaningful failure to adequately provide for, or a
6 material indifference to, the financial, health, safety, or
7 medical needs of an eligible adult or (ii) results in an
8 eligible adult's death or other serious deterioration of an
9 eligible adult's financial resources, physical condition, or
10 mental condition.

11 (c) Notice to caregiver. Prior to reporting, the Department
12 on Aging shall notify the caregiver of its obligation to make a
13 report to the registry. Notice to the caregiver shall contain a
14 clear and concise statement of the grounds upon which the
15 report to the registry is based and shall set forth the
16 procedures for challenging a report to the registry. Notice is
17 sufficient if provided by certified mail to the caregiver's
18 last known address. If the caregiver does not reply within 30
19 calendar days after the date of the notice, the Department
20 shall report the name of the caregiver to the registry. Nothing
21 in this subsection shall diminish or impair the rights of a
22 person who is a member of a collective bargaining unit under
23 the Illinois Public Labor Relations Act or under any other
24 federal labor statute.

25 (d) Report challenges. The process by which a challenge to
26 reporting is filed shall be established through the

1 Department's administrative rules. Upon receiving a timely
2 challenge by a caregiver in response to the notice of a
3 registry report, the Department shall conduct an investigation
4 and issue an administrative decision as to whether the verified
5 and substantiated decision warrants reporting the caregiver's
6 name to the registry. A written copy of the decision shall be
7 provided to the caregiver.

8 (e) Registry hearings. If a caregiver's report challenge is
9 not successful, then he or she may request an administrative
10 hearing within 30 calendar days after the date of decision. If
11 the request is timely, the Department on Aging shall not make a
12 report to the registry and the caregiver shall be granted an
13 opportunity to appear in person at a hearing. The caregiver
14 shall present reasons why the abuse, neglect, or financial
15 exploitation is not significant or should not otherwise be
16 reported to the registry. The administrative law judge
17 presiding over the hearing shall summarize pertinent findings
18 of fact and conclusions of law and make a recommendation to the
19 Director of the Department on Aging as to whether the verified
20 and substantiated finding warrants reporting the name of the
21 caregiver to the registry. The Director shall render and adopt
22 the final decision. The parties may jointly request that the
23 administrative law judge consider a stipulated disposition of
24 these proceedings.

25 (f) Caregiver's rights to collateral action. The
26 Department on Aging shall not make any report to the registry

1 if a caregiver notifies the Department in writing, including
2 any supporting documentation, that he or she is formally
3 challenging an adverse employment action resulting from a
4 verified and substantiated finding of abuse, neglect, or
5 financial exploitation by complaint filed with the Illinois
6 Civil Service Commission, or which otherwise seeks to enforce
7 the caregiver's rights pursuant to any applicable collective
8 bargaining agreement. If an action taken by an employer against
9 a caregiver as a result of a finding of abuse, neglect, or
10 financial exploitation is overturned through an action filed
11 with the Illinois Civil Service Commission or under any
12 applicable collective bargaining agreement and if that
13 caregiver's name has already been sent to the registry, the
14 caregiver's name shall be removed from the registry.

15 (g) Removal from registry. At any time after a report to
16 the registry, but no more than once in each successive 3-year
17 period thereafter, for a maximum of 3 such requests, a
18 caregiver may write to the Director of the Department on Aging
19 to request removal of his or her name from the registry. The
20 caregiver shall bear the burden of showing cause that
21 establishes, by a preponderance of the evidence, that removal
22 of his or her name from the registry is in the public interest.
23 Upon receiving such a request, the Department on Aging shall
24 conduct an investigation and consider any evidentiary material
25 provided. The Department shall issue a decision either granting
26 or denying removal within 60 calendar days, and shall issue

1 such decision to the caregiver and the registry. The waiver
2 process at the Department of Public Health does not apply to
3 registry reports from the Department on Aging.

4 (h) Referral of registry reports to health care facilities.
5 In the event an eligible adult receiving services from a
6 provider agency changes his or her residence from a domestic
7 living situation to that of a health care facility, the
8 provider agency shall use reasonable efforts to promptly inform
9 the health care facility and the State Long Term Care Ombudsman
10 about any registry reports relating to the eligible adult. For
11 purposes of this Section, a health care facility includes, but
12 is not limited to, a long-term care facility, a hospital, a
13 hospice, a shared housing or assisted living establishment, a
14 community living facility, or other government-operated
15 facility.

16 (320 ILCS 20/8) (from Ch. 23, par. 6608)

17 Sec. 8. Access to records. All records concerning reports
18 of ~~elder~~ abuse, neglect, financial exploitation, or
19 self-neglect and all records generated as a result of such
20 reports shall be confidential and shall not be disclosed except
21 as specifically authorized by this Act or other applicable law.
22 In accord with established law and Department protocols,
23 procedures, and policies, access to such records, but not
24 access to the identity of the person or persons making a report
25 of alleged abuse, neglect, financial exploitation, or

1 self-neglect as contained in such records, shall be provided,
2 upon request, to the following persons and for the following
3 persons:

4 (1) Department staff, provider agency staff, other
5 aging network staff, and regional administrative agency
6 staff, including staff of the Chicago Department on Aging
7 while that agency is designated as a regional
8 administrative agency, in the furtherance of their
9 responsibilities under this Act;

10 (2) A law enforcement agency investigating known or
11 suspected ~~elder~~ abuse, neglect, financial exploitation, or
12 self-neglect. Where a provider agency has reason to believe
13 that the death of an eligible adult may be the result of
14 abuse or neglect, the agency shall immediately provide the
15 appropriate law enforcement agency with all records
16 pertaining to the eligible adult;

17 (2.5) A law enforcement agency, fire department
18 agency, or fire protection district having proper
19 jurisdiction pursuant to a written agreement between a
20 provider agency and the law enforcement agency, fire
21 department agency, or fire protection district under which
22 the provider agency may furnish to the law enforcement
23 agency, fire department agency, or fire protection
24 district a list of all eligible adults who may be at
25 imminent risk of ~~elder~~ abuse, neglect, financial
26 exploitation, or self-neglect;

1 (3) A physician who has before him or her or who is
2 involved in the treatment of an eligible adult whom he or
3 she reasonably suspects may be abused, neglected,
4 financially exploited, or self-neglected or who has been
5 referred to the Adult Protective Services ~~Elder Abuse and~~
6 ~~Neglect~~ Program;

7 (4) An eligible adult reported to be abused, neglected,
8 financially exploited, or self-neglected, or such adult's
9 authorized guardian or agent, unless such guardian or agent
10 is the abuser or the alleged abuser;

11 (4.5) An executor or administrator of the estate of an
12 eligible adult who is deceased;

13 (5) In cases regarding ~~elder~~ abuse, neglect, or
14 financial exploitation, a court or a guardian ad litem,
15 upon its or his or her finding that access to such records
16 may be necessary for the determination of an issue before
17 the court. However, such access shall be limited to an in
18 camera inspection of the records, unless the court
19 determines that disclosure of the information contained
20 therein is necessary for the resolution of an issue then
21 pending before it;

22 (5.5) In cases regarding self-neglect, a guardian ad
23 litem;

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

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

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

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

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

24 (10) Department staff in the course of conducting an
25 administrative hearing to determine whether a verified and
26 substantiated finding of significant abuse, neglect, or

1 financial exploitation of an eligible adult by a caregiver
2 warrants reporting to the health care worker registry.

3 (Source: P.A. 96-526, eff. 1-1-10; 97-864, eff. 1-1-13.)

4 (320 ILCS 20/9) (from Ch. 23, par. 6609)

5 Sec. 9. Authority to consent to services.

6 (a) If an eligible adult consents to services being
7 provided according to the case plan, such services shall be
8 arranged to meet the adult's needs, based upon the availability
9 of resources to provide such services. If an adult withdraws
10 his or her consent or refuses to accept such services, the
11 services shall not be provided.

12 (b) If it reasonably appears to the Department or other
13 agency designated under this Act that a person is an eligible
14 adult and lacks the capacity to consent to necessary services,
15 including an assessment, the Department or other agency may
16 seek the appointment of a guardian as provided in Article XIa
17 of the Probate Act of 1975 for the purpose of consenting to
18 such services, together with an order for an evaluation of the
19 eligible adult's physical, psychological, and medical
20 condition and decisional capacity.

21 (c) A guardian of the person of an eligible adult may
22 consent to services being provided according to the case plan.
23 If an eligible adult lacks capacity to consent to services, an
24 agent having authority under a power of attorney may consent to
25 services. If the guardian or agent is the alleged abuser and he

1 or she withdraws ~~his or her~~ consent, or refuses to allow
2 services to be provided to the eligible adult, the Department,
3 an agency designated under this Act, or the office of the
4 Attorney General may request a court order seeking appropriate
5 remedies, and may in addition request removal of the guardian
6 and appointment of a successor guardian or request removal of
7 the agent and appointment of a guardian.

8 (d) If an emergency exists and the Department or other
9 agency designated under this Act reasonably believes that a
10 person is an eligible adult and lacks the capacity to consent
11 to necessary services, the Department or other agency may
12 request an ex parte order from the circuit court of the county
13 in which the petitioner or respondent resides or in which the
14 alleged abuse, neglect, financial exploitation, or
15 self-neglect occurred, authorizing an assessment of a report of
16 alleged or suspected abuse, neglect, financial exploitation,
17 or self-neglect or the provision of necessary services, or
18 both, including relief available under the Illinois Domestic
19 Violence Act of 1986 in accord with established law and
20 Department protocols, procedures, and policies. Petitions
21 filed under this subsection shall be treated as expedited
22 proceedings.

23 (d-5) For purposes of this Section, an eligible adult
24 "lacks the capacity to consent" if he or she reasonably appears
25 either (i) unable to receive and evaluate information related
26 to the assessment or services or (ii) unable to communicate

1 decisions related to the assessment or services.

2 (e) Within 15 days after the entry of the ex parte
3 emergency order, the order shall expire, or, if the need for
4 assessment or services continues, the provider agency shall
5 petition for the appointment of a guardian as provided in
6 Article XIa of the Probate Act of 1975 for the purpose of
7 consenting to such assessment or services or to protect the
8 eligible adult from further harm.

9 (f) If the court enters an ex parte order under subsection
10 (d) for an assessment of a report of alleged or suspected
11 self-neglect, or for the provision of necessary services in
12 connection with alleged or suspected self-neglect, or for both,
13 the court, as soon as is practicable thereafter, shall appoint
14 a guardian ad litem for the eligible adult who is the subject
15 of the order, for the purpose of reviewing the reasonableness
16 of the order. The guardian ad litem shall review the order and,
17 if the guardian ad litem reasonably believes that the order is
18 unreasonable, the guardian ad litem shall file a petition with
19 the court stating the guardian ad litem's belief and requesting
20 that the order be vacated.

21 (Source: P.A. 96-526, eff. 1-1-10.)

22 (320 ILCS 20/15)

23 Sec. 15. Abuse ~~Elder abuse~~ fatality review teams.

24 (a) In this Section, "review team" means a regional
25 interagency ~~elder~~ abuse fatality review team established under

1 this Section.

2 (a-5) The Department shall establish, lead, and direct a
3 Statewide Fatality Review Team. The Team shall have authority
4 to consider suspicious deaths of victims of alleged, suspected,
5 or substantiated abuse or neglect in domestic living situations
6 in areas in which there is no regional interagency abuse team.

7 (b) The Department, or any other State or county agency
8 with Department approval, may establish, lead, and direct
9 regional interagency ~~elder~~ abuse fatality review teams (i) to
10 assist local agencies in identifying and reviewing suspicious
11 deaths of ~~elderly~~ victims of alleged, suspected, or
12 substantiated abuse or neglect in domestic living situations
13 and (ii) to facilitate communications between officials
14 responsible for autopsies and inquests and persons involved in
15 reporting or investigating alleged or suspected cases of abuse,
16 neglect, or financial exploitation of eligible adults under
17 this Act ~~persons 60 years of age or older.~~

18 (b-5) The Statewide Fatality Review Team and each regional
19 ~~Each such~~ team shall be composed of representatives of entities
20 and individuals including, but not limited to, the Department
21 on Aging, coroners or medical examiners (or both), State's
22 Attorneys, local police departments, forensic units, and
23 service providers ~~of services for persons 60 years of age or~~
24 ~~elder~~ in domestic living situations.

25 (c) The Statewide Fatality Review Team and each regional ~~A~~
26 review team shall review cases of deaths of eligible adults

1 ~~persons 60 years of age or older in domestic living situations~~
2 (i) involving blunt force trauma or an undetermined manner or
3 suspicious cause of death, (ii) if requested by the deceased's
4 attending physician, (iii) upon referral by a health care
5 provider, or (iv) constituting an open or closed case from a
6 senior protective services agency, law enforcement agency, or
7 State's Attorney's office that involves alleged or suspected
8 abuse, neglect, or financial exploitation. A team may also
9 review other cases of deaths of eligible adults ~~persons 60~~
10 ~~years of age or older~~ if the alleged abuse or neglect occurred
11 while the person was residing in a domestic living situation.

12 A review team shall meet not less than 6 times a year to
13 discuss cases for its possible review. Each review team, with
14 the advice and consent of the Department, shall establish
15 criteria to be used by review teams in discussing cases of
16 alleged, suspected, or substantiated abuse or neglect for
17 review and shall conduct its activities in accordance with any
18 applicable policies and procedures established by the
19 Department.

20 (d) Any document or oral or written communication shared
21 within or produced by a review team relating to a case
22 discussed or reviewed by the review team is confidential and is
23 not subject to disclosure to or discoverable by another party
24 except for use by a local State's Attorney's office in
25 investigating and pursuing a criminal prosecution against a
26 caregiver.

1 Any document or oral or written communication provided to a
2 review team by an individual or entity, and created by that
3 individual or entity solely for the use of the review team, is
4 confidential and is not subject to disclosure to or
5 discoverable by another party except for use by a local State's
6 Attorney's office in investigating and pursuing a criminal
7 prosecution against a caregiver.

8 Each entity or individual represented on an ~~elder~~ abuse
9 fatality review team may share with other members of the team
10 information in the entity's or individual's possession
11 concerning the decedent who is the subject of the review or
12 concerning any person who was in contact with the decedent, as
13 well as any other information deemed by the entity or
14 individual to be pertinent to the review. Any such information
15 shared by an entity or individual with other members of a team
16 is confidential. The intent of this paragraph is to permit the
17 disclosure to members of a team of any information deemed
18 confidential or privileged or prohibited from disclosure by any
19 other provision of law. Release of confidential communication
20 between domestic violence advocates and a domestic violence
21 victim shall follow subsection (d) of Section 227 of the
22 Illinois Domestic Violence Act of 1986 which allows for the
23 waiver of privilege afforded to guardians, executors, or
24 administrators of the estate of the domestic violence victim.
25 This provision relating to the release of confidential
26 communication between domestic violence advocates and a

1 domestic violence victim shall exclude adult protective
2 service providers.

3 A coroner's or medical examiner's office may share with a
4 review team medical records that have been made available to
5 the coroner's or medical examiner's office in connection with
6 that office's investigation of a death.

7 (e) The Statewide Fatality Review Team or the regional
8 review team's ~~A review team's~~ recommendation in relation to a
9 case ~~discussed or reviewed by the review team,~~ including, but
10 not limited to, a recommendation concerning a resulting an
11 investigation or prosecution ~~in relation to such a case,~~ may be
12 disclosed by such a ~~the review~~ team upon the completion of its
13 review and at the discretion of a majority of its members
14 considering such matters ~~who reviewed the case.~~

15 (f) The Department, in consultation with coroners, medical
16 examiners, and law enforcement agencies, shall use aggregate
17 data gathered by review teams and review teams' recommendations
18 to create an annual report and may use those data and
19 recommendations to develop education, prevention, prosecution,
20 or other strategies designed to improve the coordination of
21 services for persons 60 years of age or older and their
22 families. The Department or other State or county agency, in
23 consultation with coroners, medical examiners, and law
24 enforcement agencies, also may use aggregate data gathered by
25 review teams to create a database of at-risk individuals.

26 (Source: P.A. 95-402, eff. 6-1-08.)

1 Section 25. The Code of Criminal Procedure of 1963 is
2 amended by changing Sections 114-13.5 and 115-10.3 as follows:

3 (725 ILCS 5/114-13.5)

4 Sec. 114-13.5. Evidence deposition; elder abuse. In a
5 prosecution for abuse, neglect, or financial exploitation of an
6 eligible adult as defined in the Adult Protective Services Act
7 ~~Elder Abuse and Neglect Act~~, the eligible adult may give
8 testimony in the form of an evidence deposition and not be
9 required to appear in court to testify.

10 (Source: P.A. 93-301, eff. 1-1-04.)

11 (725 ILCS 5/115-10.3)

12 Sec. 115-10.3. Hearsay exception regarding elder adults.

13 (a) In a prosecution for a physical act, abuse, neglect, or
14 financial exploitation perpetrated upon or against an eligible
15 adult, as defined in the Adult Protective Services Act ~~Elder~~
16 ~~Abuse and Neglect Act~~, who has been diagnosed by a physician to
17 suffer from (i) any form of dementia, developmental disability,
18 or other form of mental incapacity or (ii) any physical
19 infirmity, including but not limited to prosecutions for
20 violations of Sections 10-1, 10-2, 10-3, 10-3.1, 10-4, 11-1.20,
21 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-11, 12-1, 12-2, 12-3,
22 12-3.05, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.5, 12-4.6,
23 12-4.7, 12-5, 12-6, 12-7.3, 12-7.4, 12-11, 12-11.1, 12-13,

1 12-14, 12-15, 12-16, 12-21, 16-1, 16-1.3, 17-1, 17-3, 17-56,
2 18-1, 18-2, 18-3, 18-4, 18-5, 18-6, 19-6, 20-1.1, 24-1.2, and
3 33A-2, or subsection (b) of Section 12-4.4a, of the Criminal
4 Code of 1961, the following evidence shall be admitted as an
5 exception to the hearsay rule:

6 (1) testimony by an eligible adult, of an out of court
7 statement made by the eligible adult, that he or she
8 complained of such act to another; and

9 (2) testimony of an out of court statement made by the
10 eligible adult, describing any complaint of such act or
11 matter or detail pertaining to any act which is an element
12 of an offense which is the subject of a prosecution for a
13 physical act, abuse, neglect, or financial exploitation
14 perpetrated upon or against the eligible adult.

15 (b) Such testimony shall only be admitted if:

16 (1) The court finds in a hearing conducted outside the
17 presence of the jury that the time, content, and
18 circumstances of the statement provide sufficient
19 safeguards of reliability; and

20 (2) The eligible adult either:

21 (A) testifies at the proceeding; or

22 (B) is unavailable as a witness and there is
23 corroborative evidence of the act which is the subject
24 of the statement.

25 (c) If a statement is admitted pursuant to this Section,
26 the court shall instruct the jury that it is for the jury to

1 determine the weight and credibility to be given the statement
2 and that, in making the determination, it shall consider the
3 condition of the eligible adult, the nature of the statement,
4 the circumstances under which the statement was made, and any
5 other relevant factor.

6 (d) The proponent of the statement shall give the adverse
7 party reasonable notice of his or her intention to offer the
8 statement and the particulars of the statement.

9 (Source: P.A. 96-1551, Article 1, Section 965, eff. 7-1-11;
10 96-1551, Article 2, Section 1040, eff. 7-1-11; 96-1551, Article
11 10, Section 10-145, eff. 7-1-11; 97-1108, eff. 1-1-13; 97-1109,
12 eff. 1-1-13.)

13 Section 30. The Code of Civil Procedure is amended by
14 changing Section 8-2701 as follows:

15 (735 ILCS 5/8-2701)

16 Sec. 8-2701. Admissibility of evidence; out of court
17 statements; elder abuse.

18 (a) An out of court statement made by an eligible adult, as
19 defined in the Adult Protective Services Act ~~Elder Abuse and~~
20 ~~Neglect Act~~, who has been diagnosed by a physician to suffer
21 from (i) any form of dementia, developmental disability, or
22 other form of mental incapacity or (ii) any physical infirmity
23 which prevents the eligible adult's appearance in court,
24 describing any act of elder abuse, neglect, or financial

1 exploitation, or testimony by an eligible adult of an out of
2 court statement made by the eligible adult that he or she
3 complained of such acts to another, is admissible in any civil
4 proceeding, if:

5 (1) the court conducts a hearing outside the presence
6 of the jury and finds that the time, content, and
7 circumstances of the statement provide sufficient
8 safeguards of reliability; and

9 (2) the eligible adult either:

10 (A) testifies at the proceeding; or

11 (B) is unavailable as a witness and there is
12 corroborative evidence of the act which is the subject
13 of the statement.

14 (b) If a statement is admitted pursuant to this Section,
15 the court shall instruct the jury that it is for the jury to
16 determine the weight and credibility to be given to the
17 statement and that, in making its determination, it shall
18 consider the condition of the eligible adult, the nature of the
19 statement, the circumstances under which the statement was
20 made, and any other relevant factors.

21 (c) The proponent of the statement shall give the adverse
22 party reasonable notice of an intention to offer the statement
23 and the particulars of the statement.

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

25 Section 35. The Probate Act of 1975 is amended by changing

1 Section 11a-10 as follows:

2 (755 ILCS 5/11a-10) (from Ch. 110 1/2, par. 11a-10)

3 Sec. 11a-10. Procedures preliminary to hearing.

4 (a) Upon the filing of a petition pursuant to Section
5 11a-8, the court shall set a date and place for hearing to take
6 place within 30 days. The court shall appoint a guardian ad
7 litem to report to the court concerning the respondent's best
8 interests consistent with the provisions of this Section,
9 except that the appointment of a guardian ad litem shall not be
10 required when the court determines that such appointment is not
11 necessary for the protection of the respondent or a reasonably
12 informed decision on the petition. If the guardian ad litem is
13 not a licensed attorney, he or she shall be qualified, by
14 training or experience, to work with or advocate for the
15 developmentally disabled, mentally ill, physically disabled,
16 the elderly, or persons disabled because of mental
17 deterioration, depending on the type of disability that is
18 alleged in the petition. The court may allow the guardian ad
19 litem reasonable compensation. The guardian ad litem may
20 consult with a person who by training or experience is
21 qualified to work with persons with a developmental disability,
22 persons with mental illness, or physically disabled persons, or
23 persons disabled because of mental deterioration, depending on
24 the type of disability that is alleged. The guardian ad litem
25 shall personally observe the respondent prior to the hearing

1 and shall inform him orally and in writing of the contents of
2 the petition and of his rights under Section 11a-11. The
3 guardian ad litem shall also attempt to elicit the respondent's
4 position concerning the adjudication of disability, the
5 proposed guardian, a proposed change in residential placement,
6 changes in care that might result from the guardianship, and
7 other areas of inquiry deemed appropriate by the court.
8 Notwithstanding any provision in the Mental Health and
9 Developmental Disabilities Confidentiality Act or any other
10 law, a guardian ad litem shall have the right to inspect and
11 copy any medical or mental health record of the respondent
12 which the guardian ad litem deems necessary, provided that the
13 information so disclosed shall not be utilized for any other
14 purpose nor be redisclosed except in connection with the
15 proceedings. At or before the hearing, the guardian ad litem
16 shall file a written report detailing his or her observations
17 of the respondent, the responses of the respondent to any of
18 the inquires detailed in this Section, the opinion of the
19 guardian ad litem or other professionals with whom the guardian
20 ad litem consulted concerning the appropriateness of
21 guardianship, and any other material issue discovered by the
22 guardian ad litem. The guardian ad litem shall appear at the
23 hearing and testify as to any issues presented in his or her
24 report.

25 (b) The court (1) may appoint counsel for the respondent,
26 if the court finds that the interests of the respondent will be

1 best served by the appointment, and (2) shall appoint counsel
2 upon respondent's request or if the respondent takes a position
3 adverse to that of the guardian ad litem. The respondent shall
4 be permitted to obtain the appointment of counsel either at the
5 hearing or by any written or oral request communicated to the
6 court prior to the hearing. The summons shall inform the
7 respondent of this right to obtain appointed counsel. The court
8 may allow counsel for the respondent reasonable compensation.

9 (c) If the respondent is unable to pay the fee of the
10 guardian ad litem or appointed counsel, or both, the court may
11 enter an order for the petitioner to pay all such fees or such
12 amounts as the respondent or the respondent's estate may be
13 unable to pay. However, in cases where the Office of State
14 Guardian is the petitioner, consistent with Section 30 of the
15 Guardianship and Advocacy Act, where the public guardian is the
16 petitioner, consistent with Section 13-5 of the Probate Act of
17 1975, where an elder abuse provider agency is the petitioner,
18 pursuant to Section 9 of the Adult Protective Services Act
19 ~~Elder Abuse and Neglect Act~~, or where the Department of Human
20 Services Office of Inspector General is the petitioner,
21 consistent with Section 45 of the Abuse of Adults with
22 Disabilities Intervention Act, no guardian ad litem or legal
23 fees shall be assessed against the Office of State Guardian,
24 the public guardian, the elder abuse provider agency, or the
25 Department of Human Services Office of Inspector General.

26 (d) The hearing may be held at such convenient place as the

1 court directs, including at a facility in which the respondent
2 resides.

3 (e) Unless he is the petitioner, the respondent shall be
4 personally served with a copy of the petition and a summons not
5 less than 14 days before the hearing. The summons shall be
6 printed in large, bold type and shall include the following
7 notice:

8 NOTICE OF RIGHTS OF RESPONDENT

9 You have been named as a respondent in a guardianship
10 petition asking that you be declared a disabled person. If the
11 court grants the petition, a guardian will be appointed for
12 you. A copy of the guardianship petition is attached for your
13 convenience.

14 The date and time of the hearing are:

15 The place where the hearing will occur is:

16 The Judge's name and phone number is:

17 If a guardian is appointed for you, the guardian may be
18 given the right to make all important personal decisions for
19 you, such as where you may live, what medical treatment you may
20 receive, what places you may visit, and who may visit you. A
21 guardian may also be given the right to control and manage your
22 money and other property, including your home, if you own one.
23 You may lose the right to make these decisions for yourself.

24 You have the following legal rights:

25 (1) You have the right to be present at the court
26 hearing.

1 (2) You have the right to be represented by a lawyer,
2 either one that you retain, or one appointed by the Judge.

3 (3) You have the right to ask for a jury of six persons
4 to hear your case.

5 (4) You have the right to present evidence to the court
6 and to confront and cross-examine witnesses.

7 (5) You have the right to ask the Judge to appoint an
8 independent expert to examine you and give an opinion about
9 your need for a guardian.

10 (6) You have the right to ask that the court hearing be
11 closed to the public.

12 (7) You have the right to tell the court whom you
13 prefer to have for your guardian.

14 You do not have to attend the court hearing if you do not
15 want to be there. If you do not attend, the Judge may appoint a
16 guardian if the Judge finds that a guardian would be of benefit
17 to you. The hearing will not be postponed or canceled if you do
18 not attend.

19 IT IS VERY IMPORTANT THAT YOU ATTEND THE HEARING IF YOU DO
20 NOT WANT A GUARDIAN OR IF YOU WANT SOMEONE OTHER THAN THE
21 PERSON NAMED IN THE GUARDIANSHIP PETITION TO BE YOUR GUARDIAN.
22 IF YOU DO NOT WANT A GUARDIAN OR IF YOU HAVE ANY OTHER
23 PROBLEMS, YOU SHOULD CONTACT AN ATTORNEY OR COME TO COURT AND
24 TELL THE JUDGE.

25 Service of summons and the petition may be made by a
26 private person 18 years of age or over who is not a party to the

1 action.

2 (f) Notice of the time and place of the hearing shall be
3 given by the petitioner by mail or in person to those persons,
4 including the proposed guardian, whose names and addresses
5 appear in the petition and who do not waive notice, not less
6 than 14 days before the hearing.

7 (Source: P.A. 96-1052, eff. 7-14-10; 97-375, eff. 8-15-11;
8 97-1095, eff. 8-24-12.)

9 Section 40. The Illinois Power of Attorney Act is amended
10 by changing Sections 2-7 and 2-10 as follows:

11 (755 ILCS 45/2-7) (from Ch. 110 1/2, par. 802-7)

12 Sec. 2-7. Duty - standard of care - record-keeping -
13 exoneration.

14 (a) The agent shall be under no duty to exercise the powers
15 granted by the agency or to assume control of or responsibility
16 for any of the principal's property, care or affairs,
17 regardless of the principal's physical or mental condition.
18 Whenever a power is exercised, the agent shall act in good
19 faith for the benefit of the principal using due care,
20 competence, and diligence in accordance with the terms of the
21 agency and shall be liable for negligent exercise. An agent who
22 acts with due care for the benefit of the principal shall not
23 be liable or limited merely because the agent also benefits
24 from the act, has individual or conflicting interests in

1 relation to the property, care or affairs of the principal or
2 acts in a different manner with respect to the agency and the
3 agent's individual interests. The agent shall not be affected
4 by any amendment or termination of the agency until the agent
5 has actual knowledge thereof. The agent shall not be liable for
6 any loss due to error of judgment nor for the act or default of
7 any other person.

8 (b) An agent that has accepted appointment must act in
9 accordance with the principal's expectations to the extent
10 actually known to the agent and otherwise in the principal's
11 best interests.

12 (c) An agent shall keep a record of all receipts,
13 disbursements, and significant actions taken under the
14 authority of the agency and shall provide a copy of this record
15 when requested to do so by:

16 (1) the principal, a guardian, another fiduciary
17 acting on behalf of the principal, and, after the death of
18 the principal, the personal representative or successors
19 in interest of the principal's estate;

20 (2) a representative of a provider agency, as defined
21 in Section 2 of the Adult Protective Services Act ~~Elder~~
22 ~~Abuse and Neglect Act~~, acting in the course of an
23 assessment of a complaint of elder abuse or neglect under
24 that Act;

25 (3) a representative of the Office of the State Long
26 Term Care Ombudsman, acting in the course of an

1 investigation of a complaint of financial exploitation of a
2 nursing home resident under Section 4.04 of the Illinois
3 Act on the Aging;

4 (4) a representative of the Office of Inspector General
5 for the Department of Human Services, acting in the course
6 of an assessment of a complaint of financial exploitation
7 of an adult with disabilities pursuant to Section 35 of the
8 Abuse of Adults with Disabilities Intervention Act; or

9 (5) a court under Section 2-10 of this Act.

10 (d) If the agent fails to provide his or her record of all
11 receipts, disbursements, and significant actions within 21
12 days after a request under subsection (c), the elder abuse
13 provider agency or the State Long Term Care Ombudsman may
14 petition the court for an order requiring the agent to produce
15 his or her record of receipts, disbursements, and significant
16 actions. If the court finds that the agent's failure to provide
17 his or her record in a timely manner to the elder abuse
18 provider agency or the State Long Term Care Ombudsman was
19 without good cause, the court may assess reasonable costs and
20 attorney's fees against the agent, and order such other relief
21 as is appropriate.

22 (e) An agent is not required to disclose receipts,
23 disbursements, or other significant actions conducted on
24 behalf of the principal except as otherwise provided in the
25 power of attorney or as required under subsection (c).

26 (f) An agent that violates this Act is liable to the

1 principal or the principal's successors in interest for the
2 amount required (i) to restore the value of the principal's
3 property to what it would have been had the violation not
4 occurred, and (ii) to reimburse the principal or the
5 principal's successors in interest for the attorney's fees and
6 costs paid on the agent's behalf. This subsection does not
7 limit any other applicable legal or equitable remedies.

8 (Source: P.A. 96-1195, eff. 7-1-11.)

9 (755 ILCS 45/2-10) (from Ch. 110 1/2, par. 802-10)

10 Sec. 2-10. Agency-court relationship.

11 (a) Upon petition by any interested person (including the
12 agent), with such notice to interested persons as the court
13 directs and a finding by the court that the principal lacks
14 either the capacity to control or the capacity to revoke the
15 agency, the court may construe a power of attorney, review the
16 agent's conduct, and grant appropriate relief including
17 compensatory damages.

18 (b) If the court finds that the agent is not acting for the
19 benefit of the principal in accordance with the terms of the
20 agency or that the agent's action or inaction has caused or
21 threatens substantial harm to the principal's person or
22 property in a manner not authorized or intended by the
23 principal, the court may order a guardian of the principal's
24 person or estate to exercise any powers of the principal under
25 the agency, including the power to revoke the agency, or may

1 enter such other orders without appointment of a guardian as
2 the court deems necessary to provide for the best interests of
3 the principal.

4 (c) If the court finds that the agency requires
5 interpretation, the court may construe the agency and instruct
6 the agent, but the court may not amend the agency.

7 (d) If the court finds that the agent has not acted for the
8 benefit of the principal in accordance with the terms of the
9 agency and the Illinois Power of Attorney Act, or that the
10 agent's action caused or threatened substantial harm to the
11 principal's person or property in a manner not authorized or
12 intended by the principal, then the agent shall not be
13 authorized to pay or be reimbursed from the estate of the
14 principal the attorneys' fees and costs of the agent in
15 defending a proceeding brought pursuant to this Section.

16 (e) Upon a finding that the agent's action has caused
17 substantial harm to the principal's person or property, the
18 court may assess against the agent reasonable costs and
19 attorney's fees to a prevailing party who is a provider agency
20 as defined in Section 2 of the Adult Protective Services Act
21 ~~Elder Abuse and Neglect Act~~, a representative of the Office of
22 the State Long Term Care Ombudsman, or a governmental agency
23 having regulatory authority to protect the welfare of the
24 principal.

25 (f) As used in this Section, the term "interested person"
26 includes (1) the principal or the agent; (2) a guardian of the

1 person, guardian of the estate, or other fiduciary charged with
2 management of the principal's property; (3) the principal's
3 spouse, parent, or descendant; (4) a person who would be a
4 presumptive heir-at-law of the principal; (5) a person named as
5 a beneficiary to receive any property, benefit, or contractual
6 right upon the principal's death, or as a beneficiary of a
7 trust created by or for the principal; (6) a provider agency as
8 defined in Section 2 of the Adult Protective Services Act ~~Elder~~
9 ~~Abuse and Neglect Act~~, a representative of the Office of the
10 State Long Term Care Ombudsman, or a governmental agency having
11 regulatory authority to protect the welfare of the principal;
12 and (7) the principal's caregiver or another person who
13 demonstrates sufficient interest in the principal's welfare.

14 (g) Absent court order directing a guardian to exercise
15 powers of the principal under the agency, a guardian will have
16 no power, duty or liability with respect to any property
17 subject to the agency or any personal or health care matters
18 covered by the agency.

19 (h) Proceedings under this Section shall be commenced in
20 the county where the guardian was appointed or, if no Illinois
21 guardian is acting, then in the county where the agent or
22 principal resides or where the principal owns real property.

23 (i) This Section shall not be construed to limit any other
24 remedies available.

25 (Source: P.A. 96-1195, eff. 7-1-11.)

26 Section 99. Effective date. This Act takes effect July 1,

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4	5 ILCS 350/1	from Ch. 127, par. 1301
5	20 ILCS 105/4.01	from Ch. 23, par. 6104.01
6	20 ILCS 1305/1-17	
7	20 ILCS 2435/Act rep.	
8	50 ILCS 705/7	from Ch. 85, par. 507
9	205 ILCS 5/48.1	from Ch. 17, par. 360
10	205 ILCS 105/3-8	from Ch. 17, par. 3303-8
11	205 ILCS 205/4013	from Ch. 17, par. 7304-13
12	205 ILCS 305/10	from Ch. 17, par. 4411
13	210 ILCS 55/6.3	
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- 4 320 ILCS 20/9 from Ch. 23, par. 6609
- 5 320 ILCS 20/15
- 6 725 ILCS 5/114-13.5
- 7 725 ILCS 5/115-10.3
- 8 735 ILCS 5/8-2701
- 9 755 ILCS 5/11a-10 from Ch. 110 1/2, par. 11a-10
- 10 755 ILCS 45/2-7 from Ch. 110 1/2, par. 802-7
- 11 755 ILCS 45/2-10 from Ch. 110 1/2, par. 802-10