

1 AN ACT concerning civil law.

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

4 Section 5. The Probate Act of 1975 is amended by changing
5 Sections 2-6.2 and 2-6.6 as follows:

6 (755 ILCS 5/2-6.2)

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

9 (a) In this Section:

10 "Abuse" means any offense described in Section 12-21 or
11 subsection (b) of Section 12-4.4a of the Criminal Code of 1961
12 or the Criminal Code of 2012.

13 "Financial exploitation" means any offense or act
14 described or defined in Section 16-1.3 or 17-56 of the Criminal
15 Code of 1961 or the Criminal Code of 2012, and, in the context
16 of civil proceedings, the taking, use, or other
17 misappropriation of the assets or resources of an elderly
18 person or a person with a disability contrary to law,
19 including, but not limited to, misappropriation of assets or
20 resources by undue influence, breach of a fiduciary
21 relationship, fraud, deception, extortion, and conversion.

22 "Neglect" means any offense described in Section 12-19 or
23 subsection (a) of Section 12-4.4a of the Criminal Code of 1961

1 or the Criminal Code of 2012.

2 (b) Persons convicted of financial exploitation, abuse, or
3 neglect of an elderly person or a person with a disability or
4 persons who have been found by a preponderance of the evidence
5 to be civilly liable for financial exploitation shall not
6 receive any property, benefit, or other interest by reason of
7 the death of that elderly person or person with a disability,
8 whether as heir, legatee, beneficiary, survivor, appointee,
9 claimant under Section 18-1.1, or in any other capacity and
10 whether the property, benefit, or other interest passes
11 pursuant to any form of title registration, testamentary or
12 nontestamentary instrument, intestacy, renunciation, or any
13 other circumstance. Except as provided in subsection (f) of
14 this Section, the ~~The~~ property, benefit, or other interest
15 shall pass as if the person convicted of the financial
16 exploitation, abuse, or neglect or person found civilly liable
17 for financial exploitation died before the decedent, provided
18 that with respect to joint tenancy property the interest
19 possessed prior to the death by the person convicted of the
20 financial exploitation, abuse, or neglect shall not be
21 diminished by the application of this Section. Notwithstanding
22 the foregoing, a person convicted of financial exploitation,
23 abuse, or neglect of an elderly person or a person with a
24 disability or a person who has been found by a preponderance of
25 the evidence to be civilly liable for financial exploitation
26 shall be entitled to receive property, a benefit, or an

1 interest in any capacity and under any circumstances described
2 in this subsection (b) if it is demonstrated by clear and
3 convincing evidence that the victim of that offense knew of the
4 conviction or finding of civil liability and subsequent to the
5 conviction or finding of civil liability expressed or ratified
6 his or her intent to transfer the property, benefit, or
7 interest to the person convicted of financial exploitation,
8 abuse, or neglect of an elderly person or a person with a
9 disability or the person found by a preponderance of the
10 evidence to be civilly liable for financial exploitation in any
11 manner contemplated by this subsection (b).

12 (c) (1) The holder of any property subject to the provisions
13 of this Section shall not be liable for distributing or
14 releasing the property to the person convicted of financial
15 exploitation, abuse, or neglect of an elderly person or a
16 person with a disability or the person who has been found by a
17 preponderance of the evidence to be civilly liable for
18 financial exploitation if the distribution or release occurs
19 prior to the conviction or finding of civil liability.

20 (2) If the holder is a financial institution, trust
21 company, trustee, or similar entity or person, the holder shall
22 not be liable for any distribution or release of the property,
23 benefit, or other interest to the person convicted of a
24 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or
25 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code
26 of 1961 or the Criminal Code of 2012 or the person who has been

1 found by a preponderance of the evidence to be civilly liable
2 for financial exploitation unless the holder knowingly
3 distributes or releases the property, benefit, or other
4 interest to the person so convicted or found civilly liable
5 after first having received actual written notice of the
6 conviction in sufficient time to act upon the notice.

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

25 (e) A civil action against a person for financial
26 exploitation may be brought by an interested person, pursuant

1 to this Section, after the death of the victim or during the
2 lifetime of the victim if the victim is adjudicated disabled. A
3 guardian is under no duty to bring a civil action under this
4 subsection during the ward's lifetime, but may do so if the
5 guardian believes it is in the best interests of the ward.

6 (f) The court may, in its discretion, consider such facts
7 and circumstances as it deems appropriate to allow the person
8 found civilly liable for financial exploitation to receive a
9 reduction in interest or benefit rather than no interest or
10 benefit as stated under subsection (b) of this Section.

11 (Source: P.A. 96-1551, Article 1, Section 995, eff. 7-1-11;
12 96-1551, Article 10, Section 10-155, eff. 7-1-11; 97-1109, eff.
13 1-1-13; 97-1150, eff. 1-25-13.)

14 (755 ILCS 5/2-6.6)

15 Sec. 2-6.6. Person convicted of or found civilly liable for
16 certain offenses against the elderly or a person with a
17 disability disabled.

18 (a) A person who is convicted of a violation of Section
19 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of
20 Section 12-4.4a, of the Criminal Code of 1961 or the Criminal
21 Code of 2012 or a person who has been found by a preponderance
22 of the evidence to be civilly liable for financial
23 exploitation, as defined in subsection (a) of Section 2-6.2 of
24 this Act, may not receive any property, benefit, or other
25 interest by reason of the death of the victim of that offense,

1 whether as heir, legatee, beneficiary, joint tenant, tenant by
2 the entirety, survivor, appointee, or in any other capacity and
3 whether the property, benefit, or other interest passes
4 pursuant to any form of title registration, testamentary or
5 nontestamentary instrument, intestacy, renunciation, or any
6 other circumstance. Except as provided in subsection (f) of
7 this Section, the ~~The~~ property, benefit, or other interest
8 shall pass as if the person convicted of a violation of Section
9 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of
10 Section 12-4.4a, of the Criminal Code of 1961 or the Criminal
11 Code of 2012 or the person found by a preponderance of the
12 evidence to be civilly liable for financial exploitation, as
13 defined in subsection (a) of Section 2-6.2 of this Act, died
14 before the decedent; provided that with respect to joint
15 tenancy property or property held in tenancy by the entirety,
16 the interest possessed prior to the death by the person
17 convicted or found civilly liable may not be diminished by the
18 application of this Section. Notwithstanding the foregoing, a
19 person convicted of a violation of Section 12-19, 12-21,
20 16-1.3, or 17-56, or subsection (a) or (b) of Section 12-4.4a,
21 of the Criminal Code of 1961 or the Criminal Code of 2012 or a
22 person who has been found by a preponderance of the evidence to
23 be civilly liable for financial exploitation, as defined in
24 subsection (a) of Section 2-6.2 of this Act, shall be entitled
25 to receive property, a benefit, or an interest in any capacity
26 and under any circumstances described in this Section if it is

1 demonstrated by clear and convincing evidence that the victim
2 of that offense knew of the conviction or finding of civil
3 liability and subsequent to the conviction or finding of civil
4 liability expressed or ratified his or her intent to transfer
5 the property, benefit, or interest to the person convicted of a
6 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or
7 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code
8 of 1961 or the Criminal Code of 2012 or the person found by a
9 preponderance of the evidence to be civilly liable for
10 financial exploitation, as defined in subsection (a) of Section
11 2-6.2 of this Act, in any manner contemplated by this Section.

12 (b) The holder of any property subject to the provisions of
13 this Section is not liable for distributing or releasing the
14 property to the person convicted of violating Section 12-19,
15 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of Section
16 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of
17 2012 or to the person found by a preponderance of the evidence
18 to be civilly liable for financial exploitation as defined in
19 subsection (a) of Section 2-6.2 of this Act.

20 (c) If the holder is a financial institution, trust
21 company, trustee, or similar entity or person, the holder shall
22 not be liable for any distribution or release of the property,
23 benefit, or other interest to the person convicted of a
24 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or
25 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code
26 of 1961 or the Criminal Code of 2012 or person found by a

1 preponderance of the evidence to be civilly liable for
2 financial exploitation, as defined in subsection (a) of Section
3 2-6.2 of this Act, unless the holder knowingly distributes or
4 releases the property, benefit, or other interest to the person
5 so convicted or found civilly liable after first having
6 received actual written notice of the conviction or finding of
7 civil liability in sufficient time to act upon the notice.

8 (d) The Department of State Police shall have access to
9 State of Illinois databases containing information that may
10 help in the identification or location of persons convicted of
11 or found civilly liable for the offenses enumerated in this
12 Section. Interagency agreements shall be implemented,
13 consistent with security and procedures established by the
14 State agency and consistent with the laws governing the
15 confidentiality of the information in the databases.
16 Information shall be used only for administration of this
17 Section.

18 (e) A civil action against a person for financial
19 exploitation, as defined in subsection (a) of Section 2-6.2 of
20 this Act, may be brought by an interested person, pursuant to
21 this Section, after the death of the victim or during the
22 lifetime of the victim if the victim is adjudicated disabled. A
23 guardian is under no duty to bring a civil action under this
24 subsection during the ward's lifetime, but may do so if the
25 guardian believes it is in the best interests of the ward.

26 (f) The court may, in its discretion, consider such facts

1 and circumstances as it deems appropriate to allow the person
2 convicted or found civilly liable for financial exploitation,
3 as defined in subsection (a) of Section 2-6.2 of this Act, to
4 receive a reduction in interest or benefit rather than no
5 interest or benefit as stated under subsection (a) of this
6 Section.

7 (Source: P.A. 96-1551, Article 1, Section 955, eff. 7-1-11;
8 96-1551, Article 10, Section 10-155, eff. 7-1-11; 97-1109, eff.
9 1-1-13; 97-1150, eff. 1-25-13.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.