

1 AN ACT in relation to criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by
5 changing Section 16-1.3 as follows:

6 (720 ILCS 5/16-1.3) (from Ch. 38, par. 16-1.3)

7 Sec. 16-1.3. Financial exploitation of an elderly person
8 or a person with a disability.

9 (a) A person commits the offense of financial
10 exploitation of an elderly person or a person with a
11 disability when he or she stands in a position of trust or
12 confidence with the elderly person or a person with a
13 disability and he or she knowingly and by deception or
14 intimidation obtains control over the property of an elderly
15 person or a person with a disability with the intent to
16 permanently deprive the elderly person or the person with a
17 disability of the use, benefit, or possession of his or her
18 property.

19 Financial exploitation of an elderly person or a person
20 with a disability is a Class 4 felony if the value of the
21 property is \$300 or less, a Class 3 felony if the value of
22 the property is more than \$300 but less than \$5,000, a Class
23 2 felony if the value of the property is \$5,000 or more but
24 less than \$100,000 and a Class 1 felony if the value of the
25 property is \$100,000 or more or if the elderly person is over
26 70 years of age and the value of the property is \$15,000 or
27 more or if the elderly person is 80 years of age or older and
28 the value of the property is \$5,000 or more.

29 (b) For purposes of this Section:

30 (1) "Elderly person" means a person 60 years of age
31 or older who is suffering from a disease or infirmity

1 that impairs the individual's mental or physical ability
2 to independently manage his or her property or financial
3 resources, or both.

4 (2) "Person with a disability" means a person who
5 suffers from a permanent physical or mental impairment
6 resulting from disease, injury, functional disorder or
7 congenital condition that impairs the individual's mental
8 or physical ability to independently manage his or her
9 property or financial resources, or both.

10 (3) "Intimidation" means the communication to an
11 elderly person or a person with a disability that he or
12 she shall be deprived of food and nutrition, shelter,
13 prescribed medication or medical care and treatment.

14 (4) "Deception" means, in addition to its meaning
15 as defined in Section 15-4 of this Code, a
16 misrepresentation or concealment of material fact
17 relating to the terms of a contract or agreement entered
18 into with the elderly person or person with a disability
19 or to the existing or pre-existing condition of any of
20 the property involved in such contract or agreement; or
21 the use or employment of any misrepresentation, false
22 pretense or false promise in order to induce, encourage
23 or solicit the elderly person or person with a disability
24 to enter into a contract or agreement.

25 (c) For purposes of this Section, a person stands in a
26 position of trust and confidence with an elderly person or
27 person with a disability when he (1) is a parent, spouse,
28 adult child or other relative by blood or marriage of the
29 elderly person or person with a disability, (2) is a joint
30 tenant or tenant in common with the elderly person or person
31 with a disability, ~~or~~ (3) has a legal or fiduciary
32 relationship with the elderly person or person with a
33 disability, or (4) is a financial planning or investment
34 professional.

1 (d) Nothing in this Section shall be construed to limit
2 the remedies available to the victim under the Illinois
3 Domestic Violence Act of 1986.

4 (e) Nothing in this Section shall be construed to impose
5 criminal liability on a person who has made a good faith
6 effort to assist the elderly person or person with a
7 disability in the management of his or her property, but
8 through no fault of his or her own has been unable to provide
9 such assistance.

10 (f) It shall not be a defense to financial exploitation
11 of an elderly person or person with a disability that the
12 accused reasonably believed that the victim was not an
13 elderly person or person with a disability.

14 (g) Civil Liability. A person who is charged by
15 information or indictment with the offense of financial
16 exploitation of an elderly person or person with a disability
17 and who fails or refuses to return the victim's property
18 within 60 days following a written demand from the victim or
19 the victim's legal representative shall be liable to the
20 victim or to the estate of the victim in damages of treble
21 the amount of the value of the property obtained, plus
22 reasonable attorney fees and court costs. The burden of
23 proof that the defendant unlawfully obtained the victim's
24 property shall be by a preponderance of the evidence. This
25 subsection shall be operative whether or not the defendant
26 has been convicted of the offense.

27 (Source: P.A. 91-236, eff. 7-22-99.)

28 Section 99. Effective date. This Act takes effect upon
29 becoming law.