

1 AN ACT in relation to the elderly.

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 the a person with a
13 disability and he or she knowingly and by deception or
14 intimidation obtains control over the property of the an
15 elderly person or the a person with a disability with the
16 intent to permanently deprive the elderly person or the
17 person with a disability of the use, benefit, or possession
18 of his or her 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.

26 (b) For purposes of this Section:

27 (1) "Elderly person" means a person 60 years of age
28 or older who is suffering from a disease or infirmity
29 that impairs the individual's mental or physical ability
30 to independently manage his or her property or financial
31 resources, or both.

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

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

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

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

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

34 (e) Nothing in this Section shall be construed to impose

1 criminal liability on a person who has made a good faith
2 effort to assist the elderly person or person with a
3 disability in the management of his or her property, but
4 through no fault of his or her own has been unable to provide
5 such assistance.

6 (f) It shall not be a defense to financial exploitation
7 of an elderly person or person with a disability that the
8 accused reasonably believed that the victim was not an
9 elderly person or person with a disability.

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

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