

AN ACT concerning elder abuse.

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

Section 5. The Elder Abuse and Neglect Act is amended by
changing Sections 2, 3.5, 4, and 7 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) A "community residential alternative" as defined in the Community Residential Alternatives Licensing Act; and

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

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

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

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

(1) a professional or professional's delegate while engaged in: (i) social services, (ii) law enforcement, (iii) education, (iv) the care of an eligible adult or eligible adults, or (v) any of the occupations required to be licensed under the Clinical Psychologist Licensing Act, the Clinical Social Work and Social Work Practice Act, the Illinois Dental Practice Act, the Dietetic and Nutrition Services Practice Act, the Marriage and Family Therapy Licensing Act, the Medical Practice Act of 1987, the Naprapathic Practice Act, the Nursing and Advanced Practice Nursing Act, the Nursing Home Administrators Licensing and Disciplinary Act, the Illinois Occupational Therapy Practice Act, the Illinois Optometric Practice Act of 1987, the Pharmacy Practice Act of 1987, the Illinois Physical Therapy Act, the Physician Assistant Practice Act of 1987, the Podiatric Medical Practice Act of 1987, the Respiratory Care Practice Act, the Professional Counselor and Clinical Professional Counselor Licensing Act, the Illinois Speech-Language Pathology and Audiology Practice Act, the Veterinary Medicine and Surgery Practice Act of 1994, and the Illinois Public Accounting Act;

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

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

(4) a Christian Science Practitioner;

(5) field personnel of the Department of Public Aid, Department of Public Health, and Department of Human

Services, and any county or municipal health department;

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

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

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

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

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

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

(i) "Regional administrative agency" means any public or nonprofit agency in a planning and service area so designated by the Department, provided that the designated Area Agency

on Aging shall be designated the regional administrative agency if it so requests. The Department shall assume the functions of the regional administrative agency for any planning and service area where another agency is not so designated.

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

(Source: P.A. 91-259, eff. 1-1-00; 91-357, eff. 7-29-99; 91-533, eff. 8-13-99; 92-16, eff. 6-28-01.)

(320 ILCS 20/3.5)

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

(a) promotion of a wide range of endeavors for the purpose of preventing elder abuse, neglect, and financial exploitation in both domestic and institutional settings, including, but not limited to, promotion of public and professional education to increase awareness of elder abuse, neglect, and financial exploitation, to increase reports, and to improve response by various legal, financial, social, and health systems;

(b) coordination of efforts with other agencies, councils, and like entities, to include but not be limited to, the Office of the Attorney General, the State Police, the Illinois Law Enforcement Training Standards Board, the State Triad, the Criminal Justice Information Authority, the Departments of Public Health, Public Aid, and Human Services, the Family Violence Coordinating Council, the Violence Prevention Authority, and other entities which may impact awareness of, and response to, elder abuse, neglect, and

financial exploitation;

(c) collection and analysis of data;

(d) monitoring of the performance of regional administrative agencies and elder abuse provider agencies; and

(e) promotion of prevention activities;

(f) establishment and coordination of an aggressive training program about the unique nature of elder abuse cases with other agencies, councils, and like entities, including but not limited to the Office of the Attorney General, the State Police, the Illinois Law Enforcement Training Standards Board, the State Triad, the Criminal Justice Information Authority, the Departments of Public Health, Public Aid, and Human Services, the Family Violence Coordinating Council, the Illinois Violence Prevention Authority, and other entities that may impact awareness of, and response to, elder abuse, neglect, and financial exploitation;

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

(h) coordination of efforts with utility companies to send notices in utility bills which explain elder rights regarding telemarketing home repair frauds.

(Source: P.A. 92-16, eff. 6-28-01.)

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

Sec. 4. Reports of abuse or neglect.

(a) Any person who suspects the abuse, neglect, or

financial exploitation of an eligible adult may report this suspicion to an agency designated to receive such reports under this Act or to the Department.

(a-5) If any mandated reporter has reason to believe that an eligible adult, who because of dysfunction is unable to seek assistance for himself or herself, has, within the previous 12 months, been subjected to abuse, neglect, or financial exploitation, the mandated reporter shall, within 24 hours after developing such belief, report this suspicion to an agency designated to receive such reports under this Act or to the Department. Whenever a mandated reporter is required to report under this Act in his or her capacity as a member of the staff of a medical or other public or private institution, facility, board and care home, or agency, he or she shall make a report to an agency designated to receive such reports under this Act or to the Department in accordance with the provisions of this Act and may also notify the person in charge of the institution, facility, board and care home, or agency or his or her designated agent that the report has been made. Under no circumstances shall any person in charge of such institution, facility, board and care home, or agency, or his or her designated agent to whom the notification has been made, exercise any control, restraint, modification, or other change in the report or the forwarding of the report to an agency designated to receive such reports under this Act or to the Department. The privileged quality of communication between any professional person required to report and his or her patient or client shall not apply to situations involving abused, neglected, or financially exploited eligible adults and shall not constitute grounds for failure to report as required by this Act.

(a-7) A person making a report under this Act in the belief that it is in the alleged victim's best interest shall

be immune from criminal or civil liability or professional disciplinary action on account of making the report, notwithstanding any requirements concerning the confidentiality of information with respect to such eligible adult which might otherwise be applicable.

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

(b) Any person, institution or agency participating in the making of a report, providing information or records related to a report, assessment, or services, or participating in the investigation of a report under this Act in good faith, or taking photographs or x-rays as a result of an authorized assessment, shall have immunity from any civil, criminal or other liability in any civil, criminal or other proceeding brought in consequence of making such report or assessment or on account of submitting or otherwise disclosing such photographs or x-rays to any agency designated to receive reports of alleged or suspected abuse or neglect. Any person, institution or agency authorized by the Department to provide assessment, intervention, or administrative services under this Act shall, in the good faith performance of those services, have immunity from any civil, criminal or other liability in any civil, criminal, or other proceeding brought as a consequence of the performance of those services. For the purposes of any civil, criminal, or other proceeding, the good faith of any person required to report, permitted to report, or participating in an investigation of a report of alleged or suspected abuse, neglect, or financial exploitation shall be presumed.

(c) The identity of a person making a report of alleged or suspected abuse or neglect under this Act may be disclosed by the Department or other agency provided for in this Act

only with such person's written consent or by court order.

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

(e) Any physician who willfully fails to report as required by this Act shall be referred to the Illinois State Medical Disciplinary Board for action in accordance with subdivision (A)(22) of Section 22 of the Medical Practice Act of 1987. Any dentist or dental hygienist who willfully fails to report as required by this Act shall be referred to the Department of Professional Regulation for action in accordance with paragraph 19 of Section 23 of the Illinois Dental Practice Act. Any other mandated reporter required by this Act to report suspected abuse, neglect, or financial exploitation who willfully fails to report the same is guilty of a Class A misdemeanor.

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

(320 ILCS 20/7) (from Ch. 23, par. 6607)

Sec. 7. Review. All services provided to an eligible adult shall be reviewed by the provider agency on at least a quarterly basis for up to one year to determine whether the service care plan should be continued or modified, except that the Department on Aging, upon review, may grant a waiver to extend the service care plan for up to an additional one year period.

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