

AN ACT concerning criminal law.

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

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

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

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

(a) A person commits the offense of financial exploitation of an elderly person or a person with a disability when he or she stands in a position of trust or confidence with the elderly person or a person with a disability and he or she knowingly and by deception or intimidation obtains control over the property of an elderly person or a person with a disability or illegally uses the assets or resources of an elderly person or a person with a disability. The illegal use of the assets or resources of an elderly person or a person with a disability includes, but is not limited to, the misappropriation of those assets or resources by undue influence, breach of a fiduciary relationship, fraud, deception, extortion, or use of the assets or resources contrary to law.

Financial exploitation of an elderly person or a person with a disability is a Class 4 felony if the value of the

property is \$300 or less, a Class 3 felony if the value of the property is more than \$300 but less than \$5,000, a Class 2 felony if the value of the property is \$5,000 or more but less than \$100,000 and a Class 1 felony if the value of the property is \$100,000 or more or if the elderly person is over 70 years of age and the value of the property is \$15,000 or more or if the elderly person is 80 years of age or older and the value of the property is \$5,000 or more.

(b) For purposes of this Section:

(1) "Elderly person" means a person 60 years of age or older.

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

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

(4) "Deception" means, in addition to its meaning as defined in Section 15-4 of this Code, a misrepresentation or concealment of material fact relating to the terms of a contract or agreement entered into with the elderly person or person with a disability or to the existing or

pre-existing condition of any of the property involved in such contract or agreement; or the use or employment of any misrepresentation, false pretense or false promise in order to induce, encourage or solicit the elderly person or person with a disability to enter into a contract or agreement.

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

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

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

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

or person with a disability.

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

(Source: P.A. 92-808, eff. 8-21-02; 93-301, eff. 1-1-04.)