

AN ACT concerning aging.

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

Section 5. The Illinois Act on the Aging is amended by changing Section 4.04 as follows:

(20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

Sec. 4.04. Long Term Care Ombudsman Program. The purpose of the Long Term Care Ombudsman Program is to ensure that older persons and persons with disabilities receive quality services. This is accomplished by providing advocacy services for residents of long term care facilities and participants receiving home care and community-based care. Managed care is increasingly becoming the vehicle for delivering health and long-term services and supports to seniors and persons with disabilities, including dual eligible participants. The additional ombudsman authority will allow advocacy services to be provided to Illinois participants for the first time and will produce a cost savings for the State of Illinois by supporting the rebalancing efforts of the Patient Protection and Affordable Care Act.

(a) Long Term Care Ombudsman Program. The Department shall establish a Long Term Care Ombudsman Program, through the Office of State Long Term Care Ombudsman ("the Office"), in

accordance with the provisions of the Older Americans Act of 1965, as now or hereafter amended. The Long Term Care Ombudsman Program is authorized, subject to sufficient appropriations, to advocate on behalf of older persons and persons with disabilities residing in their own homes or community-based settings, relating to matters which may adversely affect the health, safety, welfare, or rights of such individuals.

(b) Definitions. As used in this Section, unless the context requires otherwise:

(1) "Access" means the right to:

(i) Enter any long term care facility or assisted living or shared housing establishment or supportive living facility;

(ii) Communicate privately and without restriction with any resident, regardless of age, who consents to the communication;

(iii) Seek consent to communicate privately and without restriction with any participant or resident, regardless of age;

(iv) Inspect and copy the clinical and other records of a participant or resident, regardless of age, with the express written consent of the participant or resident;

(v) Observe all areas of the long term care facility or supportive living facilities, assisted

living or shared housing establishment except the living area of any resident who protests the observation; and

(vi) Subject to permission of the participant or resident requesting services or his or her representative, enter a home or community-based setting.

(2) "Long Term Care Facility" means (i) any facility as defined by Section 1-113 of the Nursing Home Care Act, as now or hereafter amended; (ii) any skilled nursing facility or a nursing facility which meets the requirements of Section 1819(a), (b), (c), and (d) or Section 1919(a), (b), (c), and (d) of the Social Security Act, as now or hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d) and 42 U.S.C. 1396r(a), (b), (c), and (d)); (iii) any facility as defined by Section 1-113 of the ID/DD Community Care Act, as now or hereafter amended; (iv) any facility as defined by Section 1-113 of MC/DD Act, as now or hereafter amended; and (v) any facility licensed under Section 4-105 or 4-201 of the Specialized Mental Health Rehabilitation Act of 2013, as now or hereafter amended.

(2.5) "Assisted living establishment" and "shared housing establishment" have the meanings given those terms in Section 10 of the Assisted Living and Shared Housing Act.

(2.7) "Supportive living facility" means a facility established under Section 5-5.01a of the Illinois Public Aid Code.

(2.8) "Community-based setting" means any place of abode other than an individual's private home.

(3) "State Long Term Care Ombudsman" means any person employed by the Department to fulfill the requirements of the Office of State Long Term Care Ombudsman as required under the Older Americans Act of 1965, as now or hereafter amended, and Departmental policy.

(3.1) "Ombudsman" means any designated representative of the State Long Term Care Ombudsman Program; provided that the representative, whether he is paid for or volunteers his ombudsman services, shall be qualified and designated by the Office to perform the duties of an ombudsman as specified by the Department in rules and in accordance with the provisions of the Older Americans Act of 1965, as now or hereafter amended.

(4) "Participant" means an older person aged 60 or over or an adult with a disability aged 18 through 59 who is eligible for services under any of the following:

(i) A medical assistance waiver administered by the State.

(ii) A managed care organization providing care coordination and other services to seniors and persons with disabilities.

(5) "Resident" means an older person aged 60 or over or an adult with a disability aged 18 through 59 who resides in a long-term care facility.

(c) Ombudsman; rules. The Office of State Long Term Care Ombudsman shall be composed of at least one full-time ombudsman and shall include a system of designated regional long term care ombudsman programs. Each regional program shall be designated by the State Long Term Care Ombudsman as a subdivision of the Office and any representative of a regional program shall be treated as a representative of the Office.

The Department, in consultation with the Office, shall promulgate administrative rules in accordance with the provisions of the Older Americans Act of 1965, as now or hereafter amended, to establish the responsibilities of the Department and the Office of State Long Term Care Ombudsman and the designated regional Ombudsman programs. The administrative rules shall include the responsibility of the Office and designated regional programs to investigate and resolve complaints made by or on behalf of residents of long term care facilities, supportive living facilities, and assisted living and shared housing establishments, and participants residing in their own homes or community-based settings, including the option to serve residents and participants under the age of 60, relating to actions, inaction, or decisions of providers, or their representatives, of such facilities and establishments, of public agencies, or

of social services agencies, which may adversely affect the health, safety, welfare, or rights of such residents and participants. The Office and designated regional programs may represent all residents and participants, but are not required by this Act to represent persons under 60 years of age, except to the extent required by federal law. When necessary and appropriate, representatives of the Office shall refer complaints to the appropriate regulatory State agency. The Department, in consultation with the Office, shall cooperate with the Department of Human Services and other State agencies in providing information and training to designated regional long term care ombudsman programs about the appropriate assessment and treatment (including information about appropriate supportive services, treatment options, and assessment of rehabilitation potential) of the participants they serve.

The State Long Term Care Ombudsman and all other ombudsmen, as defined in paragraph (3.1) of subsection (b) must submit to background checks under the Health Care Worker Background Check Act and receive training, as prescribed by the Illinois Department on Aging, before visiting facilities, private homes, or community-based settings. The training must include information specific to assisted living establishments, supportive living facilities, shared housing establishments, private homes, and community-based settings and to the rights of residents and participants guaranteed

under the corresponding Acts and administrative rules.

(c-5) Consumer Choice Information Reports. The Office shall:

(1) In collaboration with the Attorney General, create a Consumer Choice Information Report form to be completed by all licensed long term care facilities to aid Illinoisans and their families in making informed choices about long term care. The Office shall create a Consumer Choice Information Report for each type of licensed long term care facility. The Office shall collaborate with the Attorney General and the Department of Human Services to create a Consumer Choice Information Report form for facilities licensed under the ID/DD Community Care Act or the MC/DD Act.

(2) Develop a database of Consumer Choice Information Reports completed by licensed long term care facilities that includes information in the following consumer categories:

- (A) Medical Care, Services, and Treatment.
- (B) Special Services and Amenities.
- (C) Staffing.
- (D) Facility Statistics and Resident Demographics.
- (E) Ownership and Administration.
- (F) Safety and Security.
- (G) Meals and Nutrition.
- (H) Rooms, Furnishings, and Equipment.

(I) Family, Volunteer, and Visitation Provisions.

(3) Make this information accessible to the public, including on the Internet by means of a hyperlink on the Office's World Wide Web home page. Information about facilities licensed under the ID/DD Community Care Act or the MC/DD Act shall be made accessible to the public by the Department of Human Services, including on the Internet by means of a hyperlink on the Department of Human Services' "For Customers" website.

(4) Have the authority, with the Attorney General, to verify that information provided by a facility is accurate.

(5) Request a new report from any licensed facility whenever it deems necessary.

(6) Include in the Office's Consumer Choice Information Report for each type of licensed long term care facility additional information on each licensed long term care facility in the State of Illinois, including information regarding each facility's compliance with the relevant State and federal statutes, rules, and standards; customer satisfaction surveys; and information generated from quality measures developed by the Centers for Medicare and Medicaid Services.

(d) Access and visitation rights.

(1) In accordance with subparagraphs (A) and (E) of paragraph (3) of subsection (c) of Section 1819 and

subparagraphs (A) and (E) of paragraph (3) of subsection (c) of Section 1919 of the Social Security Act, as now or hereafter amended (42 U.S.C. 1395i-3 (c) (3) (A) and (E) and 42 U.S.C. 1396r (c) (3) (A) and (E)), and Section 712 of the Older Americans Act of 1965, as now or hereafter amended (42 U.S.C. 3058f), a long term care facility, supportive living facility, assisted living establishment, and shared housing establishment must:

(i) permit immediate access to any resident, regardless of age, by a designated ombudsman;

(ii) permit representatives of the Office, with the permission of the resident, the resident's legal representative, or the resident's legal guardian, to examine and copy a resident's clinical and other records, regardless of the age of the resident, and if a resident is unable to consent to such review, and has no legal guardian, permit representatives of the Office appropriate access, as defined by the Department, in consultation with the Office, in administrative rules, to the resident's records; and

(iii) permit a representative of the Program to communicate privately and without restriction with any participant who consents to the communication regardless of the consent of, or withholding of consent by, a legal guardian or an agent named in a power of attorney executed by the participant.

(2) Each long term care facility, supportive living facility, assisted living establishment, and shared housing establishment shall display, in multiple, conspicuous public places within the facility accessible to both visitors and residents and in an easily readable format, the address and phone number of the Office of the Long Term Care Ombudsman, in a manner prescribed by the Office.

(e) Immunity. An ombudsman or any representative of the Office participating in the good faith performance of his or her official duties shall have immunity from any liability (civil, criminal or otherwise) in any proceedings (civil, criminal or otherwise) brought as a consequence of the performance of his official duties.

(f) Business offenses.

(1) No person shall:

(i) Intentionally prevent, interfere with, or attempt to impede in any way any representative of the Office in the performance of his official duties under this Act and the Older Americans Act of 1965; or

(ii) Intentionally retaliate, discriminate against, or effect reprisals against any long term care facility resident or employee for contacting or providing information to any representative of the Office.

(2) A violation of this Section is a business offense,

punishable by a fine not to exceed \$501.

(3) The State Long Term Care Ombudsman shall notify the State's Attorney of the county in which the long term care facility, supportive living facility, or assisted living or shared housing establishment is located, or the Attorney General, of any violations of this Section.

(g) Confidentiality of records and identities. The Department shall establish procedures for the disclosure by the State Ombudsman or the regional ombudsmen entities of files maintained by the program. The procedures shall provide that the files and records may be disclosed only at the discretion of the State Long Term Care Ombudsman or the person designated by the State Ombudsman to disclose the files and records, and the procedures shall prohibit the disclosure of the identity of any complainant, resident, participant, witness, or employee of a long term care provider unless:

(1) the complainant, resident, participant, witness, or employee of a long term care provider or his or her legal representative consents to the disclosure and the consent is in writing;

(2) the complainant, resident, participant, witness, or employee of a long term care provider gives consent orally; and the consent is documented contemporaneously in writing in accordance with such requirements as the Department shall establish; or

(3) the disclosure is required by court order.

(h) Legal representation. The Attorney General shall provide legal representation to any representative of the Office against whom suit or other legal action is brought in connection with the performance of the representative's official duties, in accordance with the State Employee Indemnification Act.

(i) Treatment by prayer and spiritual means. Nothing in this Act shall be construed to authorize or require the medical supervision, regulation or control of remedial care or treatment of any resident in a long term care facility operated exclusively by and for members or adherents of any church or religious denomination the tenets and practices of which include reliance solely upon spiritual means through prayer for healing.

(j) The Long Term Care Ombudsman Fund is created as a special fund in the State treasury to receive moneys for the express purposes of this Section. All interest earned on moneys in the fund shall be credited to the fund. Moneys contained in the fund shall be used to support the purposes of this Section.

(k) Each Regional Ombudsman may, in accordance with rules promulgated by the Office, establish a multi-disciplinary team to act in an advisory role for the purpose of providing professional knowledge and expertise in handling complex abuse, neglect, and advocacy issues involving participants. Each multi-disciplinary team may consist of one or more

volunteer representatives from any combination of at least 7 members from the following professions: banking or finance; disability care; health care; pharmacology; law; law enforcement; emergency responder; mental health care; clergy; coroner or medical examiner; substance abuse; domestic violence; sexual assault; or other related fields. To support multi-disciplinary teams in this role, law enforcement agencies and coroners or medical examiners shall supply records as may be requested in particular cases. The Regional Ombudsman, or his or her designee, of the area in which the multi-disciplinary team is created shall be the facilitator of the multi-disciplinary team.

(Source: P.A. 102-1033, eff. 1-1-23.)

Section 10. The Adult Protective Services Act is amended by changing Sections 2, 4, 4.1, 4.2, 5, and 8 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) "Abandonment" means the desertion or willful forsaking of an eligible adult by an individual responsible for the care and custody of that eligible adult under circumstances in which a reasonable person would continue to provide care and custody. Nothing in this Act shall be construed to mean that an eligible adult is a victim of abandonment because of health

care services provided or not provided by licensed health care professionals.

(a-1) "Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources, and abandonment.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse, abandonment, neglect, or self-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.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse in cases of criminal activity by strangers, telemarketing scams, consumer fraud, internet fraud, home repair disputes, complaints against a homeowners' association, or complaints between landlords and tenants.

(a-5) "Abuser" means a person who is a family member, caregiver, or another person who has a continuing relationship with the eligible adult and abuses, abandons, neglects, or financially exploits an eligible adult.

(a-6) "Adult with disabilities" means a person aged 18

through 59 who resides in a domestic living situation and whose disability as defined in subsection (c-5) impairs his or her ability to seek or obtain protection from abuse, abandonment, neglect, or exploitation.

(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 or instrumental activities of daily living.

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

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

(c-5) "Disability" means a physical or mental disability, including, but not limited to, a developmental disability, an intellectual disability, a mental illness as defined under the Mental Health and Developmental Disabilities Code, or dementia as defined under the Alzheimer's Disease Assistance Act.

(d) "Domestic living situation" means a residence where the eligible adult at the time of the report lives alone or with his or her family or a caregiver, or others, 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;

(1.5) A facility licensed under the ID/DD Community Care Act;

(1.6) A facility licensed under the MC/DD Act;

(1.7) A facility licensed under the Specialized Mental Health Rehabilitation Act of 2013;

(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) (Blank);

(7) A "community-integrated living arrangement" as defined in the Community-Integrated Living Arrangements Licensure and Certification Act or a "community residential alternative" as licensed under that Act;

(8) An assisted living or shared housing establishment as defined in the Assisted Living and Shared Housing Act;
or

(9) A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.

(e) "Eligible adult" means either an adult with disabilities aged 18 through 59 or a person aged 60 or older who resides in a domestic living situation and is, or is alleged to be, abused, abandoned, neglected, or financially exploited by another individual or who neglects himself or herself. "Eligible adult" also includes an adult who resides in any of the facilities that are excluded from the definition of "domestic living situation" under paragraphs (1) through (9) of subsection (d), if either: (i) the alleged abuse, abandonment, or neglect occurs outside of the facility and not under facility supervision and the alleged abuser is a family member, caregiver, or another person who has a continuing relationship with the adult; or (ii) the alleged financial exploitation is perpetrated by a family member, caregiver, or another person who has a continuing relationship with the adult, but who is not an employee of the facility where the adult resides.

(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-1) "Financial exploitation" means the use of an eligible adult's resources by another to the disadvantage of that adult or the profit or advantage of a person other than that adult.

(f-3) "Investment advisor" means any person required to register as an investment adviser or investment adviser representative under Section 8 of the Illinois Securities Law of 1953, which for purposes of this Act excludes any bank, trust company, savings bank, or credit union, or their respective employees.

(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 Behavior Analyst Licensing Act, the Clinical Psychologist Licensing Act, the Clinical Social Work and Social Work Practice Act, the Illinois Dental Practice Act, the Dietitian Nutritionist Practice Act, the Marriage and Family Therapy Licensing Act, the Medical Practice Act of 1987, the Naprapathic Practice Act, the Nurse Practice 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, 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 and Practice Act, the Illinois Speech-Language Pathology and Audiology Practice Act, the Veterinary Medicine and Surgery Practice Act of 2004, and the Illinois Public Accounting Act;

(1.5) an employee of an entity providing developmental disabilities services or service coordination funded by the Department of Human Services;

(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) any religious practitioner who provides treatment by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination, except as to information received in any confession or sacred communication enjoined by the discipline of the religious denomination to be held confidential;

(5) field personnel of the Department of Healthcare and Family Services, 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, except the State Long Term Care Ombudsman and any of his or her representatives or volunteers where prohibited from making such a report pursuant to 45 CFR 1324.11(e)(3)(iv); ~~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;

(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; or ~~-~~

(10) a person who performs the duties of an investment advisor.

(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 health 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 that is selected by the Department or appointed by the regional administrative agency with prior approval by the Department on Aging to receive and assess reports of alleged or suspected abuse, abandonment, neglect, or financial exploitation. A provider agency is also referenced as a "designated agency" in this Act.

(i) "Regional administrative agency" means any public or nonprofit agency in a planning and service area that provides regional oversight and performs functions as set forth in subsection (b) of Section 3 of this Act. The Department shall designate an Area Agency on Aging as the regional administrative agency or, in the event the Area Agency on Aging in that planning and service area is deemed by the Department to be unwilling or unable to provide those functions, the Department may serve as the regional administrative agency or designate another qualified entity to serve as the regional administrative agency; any such designation shall be subject to terms set forth by the Department.

(i-5) "Self-neglect" means a condition that is the result of an eligible adult's inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including: providing essential food, clothing,

shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety. The term includes compulsive hoarding, which is characterized by the acquisition and retention of large quantities of items and materials that produce an extensively cluttered living space, which significantly impairs the performance of essential self-care tasks or otherwise substantially threatens life or safety.

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

(k) "Verified" means a determination that there is "clear and convincing evidence" that the specific injury or harm alleged was the result of abuse, abandonment, neglect, or financial exploitation.

(Source: P.A. 102-244, eff. 1-1-22; 102-953, eff. 5-27-22.)

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

Sec. 4. Reports of abuse, abandonment, or neglect.

(a) Any person who suspects the abuse, abandonment, neglect, financial exploitation, or self-neglect of an eligible adult may report this suspicion or information about the suspicious death of an eligible adult 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 a disability or other condition or impairment is unable to seek assistance for himself or herself, has, within the previous 12 months, been subjected to abuse, abandonment, 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. The agency designated to receive such reports under this Act or the Department may establish a manner in which a mandated reporter can make the required report through an Internet reporting tool. Information sent and received through the Internet reporting tool is subject to the same rules in this Act as other types of confidential reporting established by the designated agency or 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, 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, 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, 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, abandoned, neglected, or financially exploited eligible adults and shall not constitute grounds for failure to report as required by this Act.

(a-6) If a mandated reporter has reason to believe that the death of an eligible adult may be the result of abuse or neglect, the matter shall be reported to an agency designated to receive such reports under this Act or to the Department for subsequent referral to the appropriate law enforcement agency and the coroner or medical examiner in accordance with subsection (c-5) of Section 3 of 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, abandonment, 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, abandonment, neglect, financial exploitation, or self-neglect shall be presumed.

(c) The identity of a person making a report of alleged or suspected abuse, abandonment, neglect, financial exploitation, or self-neglect or a report concerning information about the suspicious death of an eligible adult 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, but is otherwise confidential.

(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 optometrist who willfully fails to report as required by this Act shall be referred to the Department of Financial and Professional Regulation for action in accordance with paragraph (15) of subsection (a) of Section 24 of the Illinois Optometric Practice Act of 1987. Any other mandated reporter required by this Act to report suspected abuse, abandonment, neglect, or financial exploitation who willfully fails to report the same is guilty of a Class A misdemeanor.

(Source: P.A. 102-244, eff. 1-1-22.)

(320 ILCS 20/4.1)

Sec. 4.1. Employer discrimination. No employer shall discharge, demote or suspend, or threaten to discharge, demote or suspend, or in any manner discriminate against any employee: (i) who makes any good faith oral or written report of suspected abuse, abandonment, neglect, or financial exploitation; (ii) who makes any good faith oral or written report concerning information about the suspicious death of an eligible adult; or (iii) who is or will be a witness or testify in any investigation or proceeding concerning a report of suspected abuse, abandonment, neglect, or financial exploitation.

(Source: P.A. 102-244, eff. 1-1-22.)

(320 ILCS 20/4.2)

Sec. 4.2. Testimony by mandated reporter and investigator. Any mandated reporter who makes a report or any person who investigates a report under this Act shall testify fully in any judicial proceeding resulting from such report, as to any evidence of abuse, abandonment, neglect, or financial exploitation or the cause thereof. Any mandated reporter who is required to report a suspected case of or a suspicious death due to abuse, abandonment, neglect, or financial exploitation under Section 4 of this Act shall testify fully in any administrative hearing resulting from such report, as to any

evidence of abuse, abandonment, neglect, or financial exploitation or the cause thereof. No evidence shall be excluded by reason of any common law or statutory privilege relating to communications between the alleged abuser or the eligible adult subject of the report under this Act and the person making or investigating the report.

(Source: P.A. 102-244, eff. 1-1-22.)

(320 ILCS 20/5) (from Ch. 23, par. 6605)

Sec. 5. Procedure.

(a) A provider agency designated to receive reports of alleged or suspected abuse, abandonment, neglect, financial exploitation, or self-neglect under this Act shall, upon receiving such a report, conduct a face-to-face assessment with respect to such report, in accord with established law and Department protocols, procedures, and policies. Face-to-face assessments, casework, and follow-up of reports of self-neglect by the provider agencies designated to receive reports of self-neglect shall be subject to sufficient appropriation for statewide implementation of assessments, casework, and follow-up of reports of self-neglect. In the absence of sufficient appropriation for statewide implementation of assessments, casework, and follow-up of reports of self-neglect, the designated adult protective services provider agency shall refer all reports of self-neglect to the appropriate agency or agencies as

designated by the Department for any follow-up. The assessment shall include, but not be limited to, a visit to the residence of the eligible adult who is the subject of the report and shall include interviews or consultations regarding the allegations with service agencies, immediate family members, and individuals who may have knowledge of the eligible adult's circumstances based on the consent of the eligible adult in all instances, except where the provider agency is acting in the best interest of an eligible adult who is unable to seek assistance for himself or herself and where there are allegations against a caregiver who has assumed responsibilities in exchange for compensation. If, after the assessment, the provider agency determines that the case is substantiated it shall develop a service care plan for the eligible adult and may report its findings at any time during the case to the appropriate law enforcement agency in accord with established law and Department protocols, procedures, and policies. In developing a case plan, the provider agency may consult with any other appropriate provider of services, and such providers shall be immune from civil or criminal liability on account of such acts. The plan shall include alternative suggested or recommended services which are appropriate to the needs of the eligible adult and which involve the least restriction of the eligible adult's activities commensurate with his or her needs. Only those services to which consent is provided in accordance with

Section 9 of this Act shall be provided, contingent upon the availability of such services.

(b) A provider agency shall refer evidence of crimes against an eligible adult to the appropriate law enforcement agency according to Department policies. A referral to law enforcement may be made at intake, at ~~or~~ any time during the case, or after a report of a suspicious death, depending upon the circumstances. Where a provider agency has reason to believe the death of an eligible adult may be the result of abuse, abandonment, or neglect, the agency shall immediately report the matter to the coroner or medical examiner and shall cooperate fully with any subsequent investigation.

(c) If any person other than the alleged victim refuses to allow the provider agency to begin an investigation, interferes with the provider agency's ability to conduct an investigation, or refuses to give access to an eligible adult, the appropriate law enforcement agency must be consulted regarding the investigation.

(Source: P.A. 101-496, eff. 1-1-20; 102-244, eff. 1-1-22.)

(320 ILCS 20/8) (from Ch. 23, par. 6608)

Sec. 8. Access to records. All records concerning reports of abuse, abandonment, neglect, financial exploitation, or self-neglect or reports of suspicious deaths due to abuse, neglect, or financial exploitation and all records generated as a result of such reports shall be confidential and shall not

be disclosed except as specifically authorized by this Act or other applicable law. In accord with established law and Department protocols, procedures, and policies, access to such records, but not access to the identity of the person or persons making a report of alleged abuse, abandonment, neglect, financial exploitation, or self-neglect as contained in such records, shall be provided, upon request, to the following persons and for the following persons:

(1) Department staff, provider agency staff, other aging network staff, and regional administrative agency staff, including staff of the Chicago Department on Aging while that agency is designated as a regional administrative agency, in the furtherance of their responsibilities under this Act;

(1.5) A representative of the public guardian acting in the course of investigating the appropriateness of guardianship for the eligible adult or while pursuing a petition for guardianship of the eligible adult pursuant to the Probate Act of 1975;

(2) A law enforcement agency or State's Attorney's office investigating known or suspected abuse, abandonment, neglect, financial exploitation, or self-neglect. Where a provider agency has reason to believe that the death of an eligible adult may be the result of abuse, abandonment, or neglect, including any reports made after death, the agency shall immediately

provide the appropriate law enforcement agency with all records pertaining to the eligible adult;

(2.5) A law enforcement agency, fire department agency, or fire protection district having proper jurisdiction pursuant to a written agreement between a provider agency and the law enforcement agency, fire department agency, or fire protection district under which the provider agency may furnish to the law enforcement agency, fire department agency, or fire protection district a list of all eligible adults who may be at imminent risk of abuse, abandonment, neglect, financial exploitation, or self-neglect;

(3) A physician who has before him or her or who is involved in the treatment of an eligible adult whom he or she reasonably suspects may be abused, abandoned, neglected, financially exploited, or self-neglected or who has been referred to the Adult Protective Services Program;

(4) An eligible adult reported to be abused, abandoned, neglected, financially exploited, or self-neglected, or such adult's authorized guardian or agent, unless such guardian or agent is the abuser or the alleged abuser;

(4.5) An executor or administrator of the estate of an eligible adult who is deceased;

(5) A probate court with jurisdiction over the

guardianship of an alleged victim for an in camera inspection ~~In cases regarding abuse, abandonment, neglect, or financial exploitation, a court or a guardian ad litem, upon its or his or her finding that access to such records may be necessary for the determination of an issue before the court. However, such access shall be limited to an in camera inspection of the records, unless the court determines that disclosure of the information contained therein is necessary for the resolution of an issue then pending before it;~~

(5.5) A ~~In cases regarding self-neglect, a guardian ad litem, unless such guardian ad litem is the abuser or alleged abuser;~~

(6) A grand jury, upon its determination that access to such records is necessary in the conduct of its official business;

(7) Any person authorized by the Director, in writing, for audit or bona fide research purposes;

(8) A coroner or medical examiner who has reason to believe that an eligible adult has died as the result of abuse, abandonment, neglect, financial exploitation, or self-neglect. The provider agency shall immediately provide the coroner or medical examiner with all records pertaining to the eligible adult;

(8.5) A coroner or medical examiner having proper jurisdiction, pursuant to a written agreement between a

provider agency and the coroner or medical examiner, under which the provider agency may furnish to the office of the coroner or medical examiner a list of all eligible adults who may be at imminent risk of death as a result of abuse, abandonment, neglect, financial exploitation, or self-neglect;

(9) Department of Financial and Professional Regulation staff and members of the Illinois Medical Disciplinary Board or the Social Work Examining and Disciplinary Board in the course of investigating alleged violations of the Clinical Social Work and Social Work Practice Act by provider agency staff or other licensing bodies at the discretion of the Director of the Department on Aging;

(9-a) Department of Healthcare and Family Services staff and provider agency staff when that Department is funding services to the eligible adult, including access to the identity of the eligible adult;

(9-b) Department of Human Services staff and provider agency staff when that Department is funding services to the eligible adult or is providing reimbursement for services provided by the abuser or alleged abuser, including access to the identity of the eligible adult;

(10) Hearing officers in the course of conducting an administrative hearing under this Act; parties to such hearing shall be entitled to discovery as established by

rule;

(11) A caregiver who challenges placement on the Registry shall be given the statement of allegations in the abuse report and the substantiation decision in the final investigative report; and

(12) The Illinois Guardianship and Advocacy Commission and the agency designated by the Governor under Section 1 of the Protection and Advocacy for Persons with Developmental Disabilities Act shall have access, through the Department, to records, including the findings, pertaining to a completed or closed investigation of a report of suspected abuse, abandonment, neglect, financial exploitation, or self-neglect of an eligible adult.

(Source: P.A. 102-244, eff. 1-1-22.)

Section 99. Effective date. This Act takes effect January 1, 2024.