

1 AN ACT to amend the Elder Abuse and Neglect Act
2 concerning extending protection of elders against abuse,
3 neglect, and financial exploitation.

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

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

8 (320 ILCS 20/2) (from Ch. 23, par. 6602)

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

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

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

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

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

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

31 (b) "Department" means the Department on Aging of the

1 State of Illinois.

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

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

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

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

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

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

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

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

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

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

32 (f) "Emergency" means a situation in which an eligible
33 adult is living in conditions presenting a risk of death or
34 physical, mental or sexual injury and the provider agency has

1 reason to believe the eligible adult is unable to consent to
2 services which would alleviate that risk.

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

6 (1) a professional or professional's delegate while
7 engaged in: (i) social services, (ii) law enforcement,
8 (iii) education, (iv) the care of an eligible adult or
9 eligible adults, or (v) any of the occupations required
10 to be licensed under the Clinical Psychologist Licensing
11 Act, the Clinical Social Work and Social Work Practice
12 Act, the Illinois Dental Practice Act, the Dietetic and
13 Nutrition Services Practice Act, the Marriage and Family
14 Therapy Licensing Act, the Medical Practice Act of 1987,
15 the Naprapathic Practice Act, the Nursing and Advanced
16 Practice Nursing Act, the Nursing Home Administrators
17 Licensing and Disciplinary Act, the Illinois
18 Occupational Therapy Practice Act, the Illinois
19 Optometric Practice Act of 1987, the Pharmacy Practice
20 Act of 1987, the Illinois Physical Therapy Act, the
21 Physician Assistant Practice Act of 1987, the Podiatric
22 Medical Practice Act of 1987, the Respiratory Care
23 Practice Act, the Professional Counselor and Clinical
24 Professional Counselor Licensing Act, the Illinois
25 Speech-Language Pathology and Audiology Practice Act, the
26 Veterinary Medicine and Surgery Practice Act of 1994, and
27 the Illinois Public Accounting Act;

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

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

34 (4) a Christian Science Practitioner;

1 (5) field personnel of the Department of Public
2 Aid, Department of Public Health, and Department of Human
3 Services, and any county or municipal health department;

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

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

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

18 (9) a banker or any employee of a banking or
19 financial institution; or

20 (10) a lawyer or any employee or professional
21 engaged in providing legal assistance or advice.

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

31 (h) "Provider agency" means any public or nonprofit
32 agency in a planning and service area appointed by the
33 regional administrative agency with prior approval by the
34 Department on Aging to receive and assess reports of alleged

1 or suspected abuse, neglect, or financial exploitation.

2 (i) "Regional administrative agency" means any public or
3 nonprofit agency in a planning and service area so designated
4 by the Department, provided that the designated Area Agency
5 on Aging shall be designated the regional administrative
6 agency if it so requests. The Department shall assume the
7 functions of the regional administrative agency for any
8 planning and service area where another agency is not so
9 designated.

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

15 (Source: P.A. 90-628, eff. 1-1-99; 91-259, eff. 1-1-00;
16 91-357, eff. 7-29-99; 91-533, eff. 8-13-99; revised 8-30-99.)

17 (320 ILCS 20/3.5)

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

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

29 (b) coordination of efforts with other agencies,
30 councils, and like entities, to include but not be limited
31 to, the Office of the Attorney General, the State Police, the
32 Illinois Law Enforcement Training and Standards Board, the
33 State Triad, the Criminal Justice Information Authority, the

1 Departments of Public Health, Public Aid, and Human Services,
2 the Family Violence Coordinating Council, the Violence
3 Prevention Authority, and other entities which may impact
4 awareness of, and response to, elder abuse, neglect, and
5 financial exploitation;

6 (c) collection and analysis of data;

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

10 (e) promotion of prevention activities.

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

22 (g) coordination of efforts with banks and other
23 financial institutions to educate elders about investing and
24 to warn them about financial exploitation and telemarketing
25 frauds, including: (i) an ombudsman program and (ii) efforts
26 by banks and other financial institutions, in conjunction
27 with the Department on Aging, to send with customers'
28 statements flyers containing this information; and

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

32 (Source: P.A. 90-628, eff. 1-1-99; revised 2-23-00.)

33 (320 ILCS 20/4) (from Ch. 23, par. 6604)

1 Sec. 4. Reports of abuse or neglect.

2 (a) Any person who suspects the abuse, neglect, or
3 financial exploitation of an eligible adult may report this
4 suspicion to an agency designated to receive such reports
5 under this Act or to the Department.

6 (a-5) If any mandated reporter has reason to believe
7 that an eligible adult, who because of dysfunction is unable
8 to seek assistance for himself or herself, has, within the
9 previous 12 months, been subjected to abuse, neglect, or
10 financial exploitation, the mandated reporter shall, within
11 24 hours after developing such belief, report this suspicion
12 to an agency designated to receive such reports under this
13 Act or to the Department. Whenever a mandated reporter is
14 required to report under this Act in his or her capacity as a
15 member of the staff of a medical or other public or private
16 institution, facility, board and care home, or agency, he or
17 she shall make a report to an agency designated to receive
18 such reports under this Act or to the Department in
19 accordance with the provisions of this Act and may also
20 notify the person in charge of the institution, facility,
21 board and care home, or agency or his or her designated agent
22 that the report has been made. Under no circumstances shall
23 any person in charge of such institution, facility, board and
24 care home, or agency, or his or her designated agent to whom
25 the notification has been made, exercise any control,
26 restraint, modification, or other change in the report or the
27 forwarding of the report to an agency designated to receive
28 such reports under this Act or to the Department. The
29 privileged quality of communication between any professional
30 person required to report and his or her patient or client
31 shall not apply to situations involving abused, neglected, or
32 financially exploited eligible adults and shall not
33 constitute grounds for failure to report as required by this
34 Act.

1 (a-7) A person making a report under this Act in the
2 belief that it is in the alleged victim's best interest shall
3 be immune from criminal or civil liability or professional
4 disciplinary action on account of making the report,
5 notwithstanding any requirements concerning the
6 confidentiality of information with respect to such eligible
7 adult which might otherwise be applicable.

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

12 (b) Any person, institution or agency participating in
13 the making of a report, providing information or records
14 related to a report, assessment, or services, or
15 participating in the investigation of a report under this Act
16 in good faith, or taking photographs or x-rays as a result of
17 an authorized assessment, shall have immunity from any civil,
18 criminal or other liability in any civil, criminal or other
19 proceeding brought in consequence of making such report or
20 assessment or on account of submitting or otherwise
21 disclosing such photographs or x-rays to any agency
22 designated to receive reports of alleged or suspected abuse
23 or neglect. Any person, institution or agency authorized by
24 the Department to provide assessment, intervention, or
25 administrative services under this Act shall, in the good
26 faith performance of those services, have immunity from any
27 civil, criminal or other liability in any civil, criminal, or
28 other proceeding brought as a consequence of the performance
29 of those services. For the purposes of any civil, criminal,
30 or other proceeding, the good faith of any person required to
31 report, permitted to report, or participating in an
32 investigation of a report of alleged or suspected abuse,
33 neglect, or financial exploitation shall be presumed.

34 (c) The identity of a person making a report of alleged

1 or suspected abuse or neglect under this Act may be disclosed
2 by the Department or other agency provided for in this Act
3 only with such person's written consent or by court order.

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

6 (e) Any professional person who is a mandated reporter
7 who willfully fails to report suspected financial
8 exploitation, abuse, or neglect of an elderly person as
9 required by this Act, as determined by the Department, shall
10 be referred by the Department to the appropriate licensing or
11 disciplinary board for disciplinary action. Any other person
12 required by this Act to report suspected financial
13 exploitation, abuse, or neglect of an elderly person who
14 willfully fails to report shall be guilty of a Class A
15 misdemeanor.

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

17 (320 ILCS 20/7) (from Ch. 23, par. 6607)

18 Sec. 7. Review. All services provided to an eligible
19 adult shall be reviewed by the provider agency on at least a
20 quarterly basis for up to 2 years one-year to determine
21 whether the service care plan should be continued or
22 modified.

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