

1 AN ACT in relation to elderly persons and persons with  
2 disabilities.

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

5 Section 5. The Elder Abuse and Neglect Act is amended by  
6 changing Sections 2, 3.5, 4, and 7 and adding Section 14 as  
7 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 an employee of a banking or  
19 financial institution; or

20 (10) an attorney-at-law or an employee or  
21 professional engaged in providing legal assistance or  
22 advice.

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

32 (h) "Provider agency" means any public or nonprofit  
33 agency in a planning and service area appointed by the  
34 regional administrative agency with prior approval by the

1 Department on Aging to receive and assess reports of alleged  
2 or suspected abuse, neglect, or financial exploitation.

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

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

16 (Source: P.A. 90-628, eff. 1-1-99; 91-259, eff. 1-1-00;  
17 91-357, eff. 7-29-99; 91-533, eff. 8-13-99; revised 8-30-99.)

18 (320 ILCS 20/3.5)

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

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

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

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

7 (c) collection and analysis of data;

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

11 (e) promotion of prevention activities;

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

23 (g) coordinating efforts with banks and financial  
24 institutions to educate and warn persons 60 years of age and  
25 older about financial exploitation and coordinating an  
26 ombudsman program with banks and financial institutions to  
27 educate persons 60 years of age and older on investing,  
28 financial exploitation, and telemarketing fraud. Banks and  
29 financial institutions in conjunction with the Department on  
30 Aging shall send pamphlets containing information described  
31 in this subsection (g) with customers' statements; and

32 (h) coordinating efforts with utility and electric  
33 companies to send notices in utility bills to explain to  
34 persons 60 years of age or older their rights regarding

1 telemarketing and home repair fraud.

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

3 (320 ILCS 20/4) (from Ch. 23, par. 6604)

4 Sec. 4. Reports of abuse or neglect.

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

9 (a-5) If any mandated reporter has reason to believe  
10 that an eligible adult, who because of dysfunction is unable  
11 to seek assistance for himself or herself, has, within the  
12 previous 12 months, been subjected to abuse, neglect, or  
13 financial exploitation, the mandated reporter shall, within  
14 24 hours after developing such belief, report this suspicion  
15 to an agency designated to receive such reports under this  
16 Act or to the Department. Whenever a mandated reporter is  
17 required to report under this Act in his or her capacity as a  
18 member of the staff of a medical or other public or private  
19 institution, facility, board and care home, or agency, he or  
20 she shall make a report to an agency designated to receive  
21 such reports under this Act or to the Department in  
22 accordance with the provisions of this Act and may also  
23 notify the person in charge of the institution, facility,  
24 board and care home, or agency or his or her designated agent  
25 that the report has been made. Under no circumstances shall  
26 any person in charge of such institution, facility, board and  
27 care home, or agency, or his or her designated agent to whom  
28 the notification has been made, exercise any control,  
29 restraint, modification, or other change in the report or the  
30 forwarding of the report to an agency designated to receive  
31 such reports under this Act or to the Department. The  
32 privileged quality of communication between any professional  
33 person required to report and his or her patient or client

1 shall not apply to situations involving abused, neglected, or  
2 financially exploited eligible adults and shall not  
3 constitute grounds for failure to report as required by this  
4 Act.

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

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

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

1 report, permitted to report, or participating in an  
2 investigation of a report of alleged or suspected abuse,  
3 neglect, or financial exploitation shall be presumed.

4 (c) The identity of a person making a report of alleged  
5 or suspected abuse or neglect under this Act may be disclosed  
6 by the Department or other agency provided for in this Act  
7 only with such person's written consent or by court order.

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

10 (e) A mandated reporter required to make a report of  
11 suspected abuse, neglect, or financial exploitation under  
12 this Act who fails to do so shall be referred to the  
13 licensing agency that regulates his or her profession for  
14 disciplinary action. Any other person required by this Act to  
15 report suspected abuse, neglect, or financial exploitation  
16 who fails to do so is guilty of a Class A misdemeanor.

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

18 (320 ILCS 20/7) (from Ch. 23, par. 6607)

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

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

25 (320 ILCS 20/14 new)

26 Sec. 14. Private caregivers registry. The Department  
27 shall maintain a computerized database of caregivers who have  
28 been convicted of a violation of Section 12-19, 12-21, or  
29 16-1.3 of the Criminal Code of 1961. Within 48 hours of the  
30 conviction of any caregiver for any of these violations, the  
31 clerk of the court shall forward the record of conviction to  
32 the Department. The Department shall enter that information

1 in the database. The Department shall periodically update  
 2 the database and make the information available on the  
 3 Internet by means of a hyperlink to the Department's World  
 4 Wide Web home page. The Department shall promulgate rules to  
 5 implement this Section.

6 Section 10. The Criminal Code of 1961 is amended by  
 7 changing Sections 12-19, 12-21, and 16-1.3 as follows:

8 (720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

9 Sec. 12-19. Abuse and Criminal Gross Neglect of a Long  
 10 Term Care Facility Resident.

11 (a) Any person or any owner or licensee of a long term  
 12 care facility who abuses a long term care facility resident  
 13 is guilty of a Class 3 felony. Any person or any owner or  
 14 licensee of a long term care facility who criminally grossly  
 15 neglects a long term care facility resident as described in  
 16 paragraph (a)(1), (a)(2), or (a)(3) of Section 12-21 is  
 17 guilty of a Class 3 4 felony. A person whose criminal neglect  
 18 of a long term care facility resident results in the  
 19 resident's death is guilty of a Class 2 felony for which the  
 20 defendant, if sentenced to a term of imprisonment, shall be  
 21 sentenced to a term of not less than 3 years and not more  
 22 than 14 years. However,--nothing-herein-shall-be-deemed-to  
 23 apply-to-a-physician-licensed-to-practice-medicine-in-all-its  
 24 branches-or-a-duly-licensed-nurse-providing-care--within--the  
 25 scope--of--his--or--her--professional-judgment-and-within-the  
 26 accepted-standards-of-care-within-the-community.

27 (b) Notwithstanding the penalties in subsections (a) and  
 28 (c) and in addition thereto, if a licensee or owner of a long  
 29 term care facility or his or her employee has caused neglect  
 30 of a resident, the licensee or owner is guilty of a petty  
 31 offense. An owner or licensee is guilty under this  
 32 subsection (b) only if the owner or licensee failed to

1 exercise reasonable care in the hiring, training, supervising  
2 or providing of staff or other related routine administrative  
3 responsibilities.

4 (c) Notwithstanding the penalties in subsections (a) and  
5 (b) and in addition thereto, if a licensee or owner of a long  
6 term care facility or his or her employee has caused gross  
7 neglect of a resident, the licensee or owner is guilty of a  
8 business offense for which a fine of not more than \$10,000  
9 may be imposed. An owner or licensee is guilty under this  
10 subsection (c) only if the owner or licensee failed to  
11 exercise reasonable care in the hiring, training, supervising  
12 or providing of staff or other related routine administrative  
13 responsibilities.

14 (d) For the purpose of this Section:

15 (1) "Abuse" means intentionally or knowingly  
16 causing any physical or mental injury or committing any  
17 sexual offense set forth in this Code.

18 (2) "Gross neglect" means recklessly failing to  
19 provide adequate medical or personal care or maintenance,  
20 which failure results in physical or mental injury or the  
21 deterioration of a physical or mental condition.

22 (3) "Neglect" means negligently failing to provide  
23 adequate medical or personal care or maintenance, which  
24 failure results in physical or mental injury or the  
25 deterioration of a physical or mental condition.

26 (4) "Resident" means a person residing in a long  
27 term care facility.

28 (5) "Owner" means the person who owns a long term  
29 care facility as provided under the Nursing Home Care Act  
30 or an assisted living or shared housing establishment  
31 under the Assisted Living and Shared Housing Act.

32 (6) "Licensee" means the individual or entity  
33 licensed to operate a facility under the Nursing Home  
34 Care Act or the Assisted Living and Shared Housing Act.

1           (7) "Facility" or "long term care facility" means a  
2 private home, institution, building, residence, or any  
3 other place, whether operated for profit or not, or a  
4 county home for the infirm and chronically ill operated  
5 pursuant to Division 5-21 or 5-22 of the Counties Code,  
6 or any similar institution operated by the State of  
7 Illinois or a political subdivision thereof, which  
8 provides, through its ownership or management, personal  
9 care, sheltered care or nursing for 3 or more persons not  
10 related to the owner by blood or marriage. The term also  
11 includes skilled nursing facilities and intermediate care  
12 facilities as defined in Title XVIII and Title XIX of the  
13 federal Social Security Act and assisted living  
14 establishments and shared housing establishments licensed  
15 under the Assisted Living and Shared Housing Act.

16           (e) Nothing contained in this Section shall be deemed to  
17 apply to the medical supervision, regulation or control of  
18 the remedial care or treatment of residents in a facility  
19 conducted for those who rely upon treatment by prayer or  
20 spiritual means in accordance with the creed or tenets of any  
21 well recognized church or religious denomination and which is  
22 licensed in accordance with Section 3-803 of the Nursing Home  
23 Care Act.

24           (Source: P.A. 91-656, eff. 1-1-01.)

25           (720 ILCS 5/12-21) (from Ch. 38, par. 12-21)

26           Sec. 12-21. Criminal neglect of an elderly or disabled  
27 person.

28           (a) A person commits the offense of criminal neglect of  
29 an elderly or disabled person when he is a caregiver and he  
30 knowingly:

31                 (1) performs acts which cause the elderly or  
32 disabled person's life to be endangered, health to be  
33 injured, or pre-existing physical or mental condition to

1           deteriorate; or

2                   (2) fails to perform acts which he knows or  
3 reasonably should know are necessary to maintain or  
4 preserve the life or health of the elderly or disabled  
5 person and such failure causes the elderly or disabled  
6 person's life to be endangered, health to be injured or  
7 pre-existing physical or mental condition to deteriorate;  
8 or

9                   (3) abandons the elderly or disabled person.

10           Criminal neglect of an elderly person is a Class 3  
11 felony. Criminal neglect of an elderly person is a Class 2  
12 felony if the criminal neglect results in the death of the  
13 person neglected for which the defendant, if sentenced to a  
14 term of imprisonment, shall be sentenced to a term of not  
15 less than 3 years and not more than 14 years.

16           (b) For purposes of this Section:

17                   (1) "Elderly person" means a person 60 years of age  
18 or older who is suffering from a disease or infirmity  
19 associated with advanced age and manifested by physical,  
20 mental or emotional dysfunctioning to the extent that  
21 such person is incapable of adequately providing for his  
22 own health and personal care.

23                   (2) "Disabled person" means a person who suffers  
24 from a permanent physical or mental impairment, resulting  
25 from disease, injury, functional disorder or congenital  
26 condition which renders such person incapable of  
27 adequately providing for his own health and personal  
28 care.

29                   (3) "Caregiver" means a person who has a duty to  
30 provide for an elderly or disabled person's health and  
31 personal care, at such person's place of residence,  
32 including but not limited to, food and nutrition,  
33 shelter, hygiene, prescribed medication and medical care  
34 and treatment.

1 "Caregiver" shall include:

2 (A) a parent, spouse, adult child or other  
3 relative by blood or marriage who resides with or  
4 resides in the same building with and regularly  
5 visits the elderly or disabled person, knows or  
6 reasonably should know of such person's physical or  
7 mental impairment and knows or reasonably should  
8 know that such person is unable to adequately  
9 provide for his own health and personal care;

10 (B) a person who is employed by the elderly or  
11 disabled person or by another to reside with or  
12 regularly visit the elderly or disabled person and  
13 provide for such person's health and personal care;

14 (C) a person who has agreed for consideration  
15 to reside with or regularly visit the elderly or  
16 disabled person and provide for such person's health  
17 and personal care; and

18 (D) a person who has been appointed by a  
19 private or public agency or by a court of competent  
20 jurisdiction to provide for the elderly or disabled  
21 person's health and personal care.

22 "Caregiver" shall not include a long-term care  
23 facility licensed or certified under the Nursing Home  
24 Care Act or any administrative, medical or other  
25 personnel of such a facility, or a health care provider  
26 who is licensed under the Medical Practice Act of 1987  
27 and renders care in the ordinary course of his  
28 profession.

29 (4) "Abandon" means to desert or knowingly forsake  
30 an elderly or disabled person under circumstances in  
31 which a reasonable person would continue to provide care  
32 and custody.

33 (c) Nothing in this Section shall be construed to limit  
34 the remedies available to the victim under the Illinois

1 Domestic Violence Act.

2 (d) Nothing in this Section shall be construed to impose  
3 criminal liability on a person who has made a good faith  
4 effort to provide for the health and personal care of an  
5 elderly or disabled person, but through no fault of his own  
6 has been unable to provide such care.

7 (e) Nothing in this Section shall be construed as  
8 prohibiting a person from providing treatment by spiritual  
9 means through prayer alone and care consistent therewith in  
10 lieu of medical care and treatment in accordance with the  
11 tenets and practices of any church or religious denomination  
12 of which the elderly or disabled person is a member.

13 (f) It shall not be a defense to criminal neglect of an  
14 elderly or disabled person that the accused reasonably  
15 believed that the victim was not an elderly or disabled  
16 person.

17 (Source: P.A. 90-14, eff. 7-1-97.)

18 (720 ILCS 5/16-1.3) (from Ch. 38, par. 16-1.3)

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

21 (a) A person commits the offense of financial  
22 exploitation of an elderly person or a person with a  
23 disability when he or she stands in a position of trust or  
24 confidence with the elderly person or a person with a  
25 disability and he or she knowingly and by deception or  
26 intimidation obtains control over the property of an elderly  
27 person or a person with a disability or illegally uses the  
28 assets or resources of an elderly person or a person with a  
29 disability. The illegal use of the assets or resources of an  
30 elderly person or a person with a disability includes, but is  
31 not limited to, the misappropriation of those assets or  
32 resources by undue influence, breach of a fiduciary  
33 relationship, fraud, deception, extortion, or use of the

1 ~~assets or resources contrary to law with--the-intent-to~~  
2 ~~permanently-deprive-the-elderly-person-or-the-person--with--a~~  
3 ~~disability--of--the-use,-benefit,-or-possession-of-his-or-her~~  
4 ~~property.~~

5 Financial exploitation of an elderly person or a person  
6 with a disability is a Class 4 felony if the value of the  
7 property is \$300 or less, a Class 3 felony if the value of  
8 the property is more than \$300 but less than \$5,000, a Class  
9 2 felony if the value of the property is \$5,000 or more but  
10 less than \$100,000 and a Class 1 felony if the value of the  
11 property is \$100,000 or more.

12 (b) For purposes of this Section:

13 (1) "Elderly person" means a person 60 years of age  
14 or older ~~who-is-suffering-from--a--disease--or--infirmity~~  
15 ~~that--impairs-the-individual's-mental-or-physical-ability~~  
16 ~~to-independently-manage-his-or-her-property-or--financial~~  
17 ~~resources,-or-both.~~

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

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

28 (4) "Deception" means, in addition to its meaning  
29 as defined in Section 15-4 of this Code, a  
30 misrepresentation or concealment of material fact  
31 relating to the terms of a contract or agreement entered  
32 into with the elderly person or person with a disability  
33 or to the existing or pre-existing condition of any of  
34 the property involved in such contract or agreement; or

1 the use or employment of any misrepresentation, false  
2 pretense or false promise in order to induce, encourage  
3 or solicit the elderly person or person with a disability  
4 to enter into a contract or agreement.

5 (c) For purposes of this Section, a person stands in a  
6 position of trust and confidence with an elderly person or  
7 person with a disability when he (1) is a parent, spouse,  
8 adult child or other relative by blood or marriage of the  
9 elderly person or person with a disability, (2) is a joint  
10 tenant or tenant in common with the elderly person or person  
11 with a disability or (3) has a legal or fiduciary  
12 relationship with the elderly person or person with a  
13 disability.

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

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

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

27 (g) Civil Liability. A person ~~who--is--charged--by~~  
28 ~~information-or--indictment--with--the--offense--of--financial~~  
29 ~~exploitation-of-an-elderly-person-or-person-with-a-disability~~  
30 and who fails or refuses to return the victim's property  
31 within 60 days following a written demand from the victim or  
32 the victim's legal representative shall be liable to the  
33 victim or to the estate of the victim in damages of treble  
34 the amount of the value of the property obtained, plus

1 reasonable attorney fees and court costs. The burden of  
2 proof that the defendant unlawfully obtained the victim's  
3 property shall be by a preponderance of the evidence. This  
4 subsection shall be operative whether or not the defendant  
5 has been convicted of the offense.

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

7 Section 15. The Code of Criminal Procedure of 1963 is  
8 amended by changing Sections 115-10.3 and adding Section  
9 114-13.5 as follows:

10 (725 ILCS 5/114-13.5 new)

11 Sec. 114-13.5. Evidence deposition; elder abuse. In a  
12 prosecution for abuse, neglect, or financial exploitation of  
13 an eligible adult as defined in the Elder Abuse and Neglect  
14 Act, the eligible adult may give testimony in the form of an  
15 evidence deposition and not be required to appear in court to  
16 testify.

17 (725 ILCS 5/115-10.3)

18 Sec. 115-10.3. Hearsay exception regarding elder adults.

19 (a) In a prosecution for abuse, neglect, or financial  
20 exploitation perpetrated upon or against an eligible adult,  
21 as defined in the Elder Abuse and Neglect Act, who at the  
22 ~~time the act was committed~~ has been diagnosed by a physician  
23 to suffer from (i) any form of dementia, developmental  
24 disability, or other form of mental incapacity or (ii) any  
25 physical infirmity which prevents the eligible adult's  
26 appearance in court, including but not limited to  
27 prosecutions for violations of Sections 10-1, 10-2, 10-3,  
28 10-3.1, 10-4, 11-11, 12-1, 12-2, 12-3, 12-3.2, 12-4, 12-4.1,  
29 12-4.2, 12-4.5, 12-4.6, 12-4.7, 12-5, 12-6, 12-7.3, 12-7.4,  
30 12-11, 12-13, 12-14, 12-15, 12-16, 12-21, 16-1, 16-1.3, and  
31 17-3 of the Criminal Code of 1961, the following evidence

1 shall be admitted as an exception to the hearsay rule:

2 (1) testimony by an eligible adult, of an out of  
3 court statement made by the eligible adult, that he or  
4 she complained of such act to another; and

5 (2) testimony of an out of court statement made by  
6 the eligible adult, describing any complaint of such act  
7 or matter or detail pertaining to any act which is an  
8 element of an offense which is the subject of a  
9 prosecution for abuse, neglect, or financial exploitation  
10 perpetrated upon or against the eligible adult.

11 (b) Such testimony shall only be admitted if:

12 (1) The court finds in a hearing conducted outside  
13 the presence of the jury that the time, content, and  
14 circumstances of the statement provide sufficient  
15 safeguards of reliability; and

16 (2) The eligible adult either:

17 (A) testifies at the proceeding; or

18 (B) is unavailable as a witness and there is  
19 corroborative evidence of the act which is the  
20 subject of the statement.

21 (c) If a statement is admitted pursuant to this Section,  
22 the court shall instruct the jury that it is for the jury to  
23 determine the weight and credibility to be given the  
24 statement and that, in making the determination, it shall  
25 consider the condition of the eligible adult, the nature of  
26 the statement, the circumstances under which the statement  
27 was made, and any other relevant factor.

28 (d) The proponent of the statement shall give the  
29 adverse party reasonable notice of his or her intention to  
30 offer the statement and the particulars of the statement.

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

32 Section 20. The Unified Code of Corrections is amended  
33 by changing Section 5-5-3 as follows:

1 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)  
2 Sec. 5-5-3. Disposition.

3 (a) Every person convicted of an offense shall be  
4 sentenced as provided in this Section.

5 (b) The following options shall be appropriate  
6 dispositions, alone or in combination, for all felonies and  
7 misdemeanors other than those identified in subsection (c) of  
8 this Section:

9 (1) A period of probation.

10 (2) A term of periodic imprisonment.

11 (3) A term of conditional discharge.

12 (4) A term of imprisonment.

13 (5) An order directing the offender to clean up and  
14 repair the damage, if the offender was convicted under  
15 paragraph (h) of Section 21-1 of the Criminal Code of  
16 1961.

17 (6) A fine.

18 (7) An order directing the offender to make  
19 restitution to the victim under Section 5-5-6 of this  
20 Code.

21 (8) A sentence of participation in a county impact  
22 incarceration program under Section 5-8-1.2 of this Code.

23 Whenever an individual is sentenced for an offense based  
24 upon an arrest for a violation of Section 11-501 of the  
25 Illinois Vehicle Code, or a similar provision of a local  
26 ordinance, and the professional evaluation recommends  
27 remedial or rehabilitative treatment or education, neither  
28 the treatment nor the education shall be the sole disposition  
29 and either or both may be imposed only in conjunction with  
30 another disposition. The court shall monitor compliance with  
31 any remedial education or treatment recommendations contained  
32 in the professional evaluation. Programs conducting alcohol  
33 or other drug evaluation or remedial education must be  
34 licensed by the Department of Human Services. However, if

1 the individual is not a resident of Illinois, the court may  
2 accept an alcohol or other drug evaluation or remedial  
3 education program in the state of such individual's  
4 residence. Programs providing treatment must be licensed  
5 under existing applicable alcoholism and drug treatment  
6 licensure standards.

7 In addition to any other fine or penalty required by law,  
8 any individual convicted of a violation of Section 11-501 of  
9 the Illinois Vehicle Code or a similar provision of local  
10 ordinance, whose operation of a motor vehicle while in  
11 violation of Section 11-501 or such ordinance proximately  
12 caused an incident resulting in an appropriate emergency  
13 response, shall be required to make restitution to a public  
14 agency for the costs of that emergency response. Such  
15 restitution shall not exceed \$500 per public agency for each  
16 such emergency response. For the purpose of this paragraph,  
17 emergency response shall mean any incident requiring a  
18 response by: a police officer as defined under Section 1-162  
19 of the Illinois Vehicle Code; a fireman carried on the rolls  
20 of a regularly constituted fire department; and an ambulance  
21 as defined under Section 4.05 of the Emergency Medical  
22 Services (EMS) Systems Act.

23 Neither a fine nor restitution shall be the sole  
24 disposition for a felony and either or both may be imposed  
25 only in conjunction with another disposition.

26 (c) (1) When a defendant is found guilty of first degree  
27 murder the State may either seek a sentence of  
28 imprisonment under Section 5-8-1 of this Code, or where  
29 appropriate seek a sentence of death under Section 9-1 of  
30 the Criminal Code of 1961.

31 (2) A period of probation, a term of periodic  
32 imprisonment or conditional discharge shall not be  
33 imposed for the following offenses. The court shall  
34 sentence the offender to not less than the minimum term

1 of imprisonment set forth in this Code for the following  
2 offenses, and may order a fine or restitution or both in  
3 conjunction with such term of imprisonment:

4 (A) First degree murder where the death  
5 penalty is not imposed.

6 (B) Attempted first degree murder.

7 (C) A Class X felony.

8 (D) A violation of Section 401.1 or 407 of the  
9 Illinois Controlled Substances Act, or a violation  
10 of subdivision (c)(2) of Section 401 of that Act  
11 which relates to more than 5 grams of a substance  
12 containing cocaine or an analog thereof.

13 (E) A violation of Section 5.1 or 9 of the  
14 Cannabis Control Act.

15 (F) A Class 2 or greater felony if the  
16 offender had been convicted of a Class 2 or greater  
17 felony within 10 years of the date on which the  
18 offender committed the offense for which he or she  
19 is being sentenced, except as otherwise provided in  
20 Section 40-10 of the Alcoholism and Other Drug Abuse  
21 and Dependency Act.

22 (G) Residential burglary, except as otherwise  
23 provided in Section 40-10 of the Alcoholism and  
24 Other Drug Abuse and Dependency Act.

25 (H) Criminal sexual assault, except as  
26 otherwise provided in subsection (e) of this  
27 Section.

28 (I) Aggravated battery of a senior citizen.

29 (J) A forcible felony if the offense was  
30 related to the activities of an organized gang.

31 Before July 1, 1994, for the purposes of this  
32 paragraph, "organized gang" means an association of  
33 5 or more persons, with an established hierarchy,  
34 that encourages members of the association to

1           perpetrate crimes or provides support to the members  
2           of the association who do commit crimes.

3           Beginning July 1, 1994, for the purposes of  
4           this paragraph, "organized gang" has the meaning  
5           ascribed to it in Section 10 of the Illinois  
6           Streetgang Terrorism Omnibus Prevention Act.

7           (K) Vehicular hijacking.

8           (L) A second or subsequent conviction for the  
9           offense of hate crime when the underlying offense  
10          upon which the hate crime is based is felony  
11          aggravated assault or felony mob action.

12          (M) A second or subsequent conviction for the  
13          offense of institutional vandalism if the damage to  
14          the property exceeds \$300.

15          (N) A Class 3 felony violation of paragraph  
16          (1) of subsection (a) of Section 2 of the Firearm  
17          Owners Identification Card Act.

18          (O) A violation of Section 12-6.1 of the  
19          Criminal Code of 1961.

20          (P) A violation of paragraph (1), (2), (3),  
21          (4), (5), or (7) of subsection (a) of Section  
22          11-20.1 of the Criminal Code of 1961.

23          (Q) A violation of Section 20-1.2 of the  
24          Criminal Code of 1961.

25          (R) A violation of Section 24-3A of the  
26          Criminal Code of 1961.

27          (3) A minimum term of imprisonment of not less than  
28          48 consecutive hours or 100 hours of community service as  
29          may be determined by the court shall be imposed for a  
30          second or subsequent violation committed within 5 years  
31          of a previous violation of Section 11-501 of the Illinois  
32          Vehicle Code or a similar provision of a local ordinance.

33          (4) A minimum term of imprisonment of not less than  
34          7 consecutive days or 30 days of community service shall

1 be imposed for a violation of paragraph (c) of Section  
2 6-303 of the Illinois Vehicle Code.

3 (4.1) A minimum term of 30 consecutive days of  
4 imprisonment, 40 days of 24 hour periodic imprisonment or  
5 720 hours of community service, as may be determined by  
6 the court, shall be imposed for a violation of Section  
7 11-501 of the Illinois Vehicle Code during a period in  
8 which the defendant's driving privileges are revoked or  
9 suspended, where the revocation or suspension was for a  
10 violation of Section 11-501 or Section 11-501.1 of that  
11 Code.

12 (5) The court may sentence an offender convicted of  
13 a business offense or a petty offense or a corporation or  
14 unincorporated association convicted of any offense to:

15 (A) a period of conditional discharge;

16 (B) a fine;

17 (C) make restitution to the victim under  
18 Section 5-5-6 of this Code.

19 (6) In no case shall an offender be eligible for a  
20 disposition of probation or conditional discharge for a  
21 Class 1 felony committed while he was serving a term of  
22 probation or conditional discharge for a felony.

23 (7) When a defendant is adjudged a habitual  
24 criminal under Article 33B of the Criminal Code of 1961,  
25 the court shall sentence the defendant to a term of  
26 natural life imprisonment.

27 (8) When a defendant, over the age of 21 years, is  
28 convicted of a Class 1 or Class 2 felony, after having  
29 twice been convicted of any Class 2 or greater Class  
30 felonies in Illinois, and such charges are separately  
31 brought and tried and arise out of different series of  
32 acts, such defendant shall be sentenced as a Class X  
33 offender. This paragraph shall not apply unless (1) the  
34 first felony was committed after the effective date of

1 this amendatory Act of 1977; and (2) the second felony  
2 was committed after conviction on the first; and (3) the  
3 third felony was committed after conviction on the  
4 second.

5 (9) A defendant convicted of a second or subsequent  
6 offense of ritualized abuse of a child may be sentenced  
7 to a term of natural life imprisonment.

8 (d) In any case in which a sentence originally imposed  
9 is vacated, the case shall be remanded to the trial court.  
10 The trial court shall hold a hearing under Section 5-4-1 of  
11 the Unified Code of Corrections which may include evidence of  
12 the defendant's life, moral character and occupation during  
13 the time since the original sentence was passed. The trial  
14 court shall then impose sentence upon the defendant. The  
15 trial court may impose any sentence which could have been  
16 imposed at the original trial subject to Section 5-5-4 of the  
17 Unified Code of Corrections.

18 (e) In cases where prosecution for criminal sexual  
19 assault or aggravated criminal sexual abuse under Section  
20 12-13 or 12-16 of the Criminal Code of 1961 results in  
21 conviction of a defendant who was a family member of the  
22 victim at the time of the commission of the offense, the  
23 court shall consider the safety and welfare of the victim and  
24 may impose a sentence of probation only where:

25 (1) the court finds (A) or (B) or both are  
26 appropriate:

27 (A) the defendant is willing to undergo a  
28 court approved counseling program for a minimum  
29 duration of 2 years; or

30 (B) the defendant is willing to participate in  
31 a court approved plan including but not limited to  
32 the defendant's:

33 (i) removal from the household;

34 (ii) restricted contact with the victim;

1 (iii) continued financial support of the  
2 family;

3 (iv) restitution for harm done to the  
4 victim; and

5 (v) compliance with any other measures  
6 that the court may deem appropriate; and

7 (2) the court orders the defendant to pay for the  
8 victim's counseling services, to the extent that the  
9 court finds, after considering the defendant's income and  
10 assets, that the defendant is financially capable of  
11 paying for such services, if the victim was under 18  
12 years of age at the time the offense was committed and  
13 requires counseling as a result of the offense.

14 Probation may be revoked or modified pursuant to Section  
15 5-6-4; except where the court determines at the hearing that  
16 the defendant violated a condition of his or her probation  
17 restricting contact with the victim or other family members  
18 or commits another offense with the victim or other family  
19 members, the court shall revoke the defendant's probation and  
20 impose a term of imprisonment.

21 For the purposes of this Section, "family member" and  
22 "victim" shall have the meanings ascribed to them in Section  
23 12-12 of the Criminal Code of 1961.

24 (f) This Article shall not deprive a court in other  
25 proceedings to order a forfeiture of property, to suspend or  
26 cancel a license, to remove a person from office, or to  
27 impose any other civil penalty.

28 (g) Whenever a defendant is convicted of an offense  
29 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,  
30 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,  
31 12-15 or 12-16 of the Criminal Code of 1961, the defendant  
32 shall undergo medical testing to determine whether the  
33 defendant has any sexually transmissible disease, including a  
34 test for infection with human immunodeficiency virus (HIV) or

1 any other identified causative agent of acquired  
2 immunodeficiency syndrome (AIDS). Any such medical test  
3 shall be performed only by appropriately licensed medical  
4 practitioners and may include an analysis of any bodily  
5 fluids as well as an examination of the defendant's person.  
6 Except as otherwise provided by law, the results of such test  
7 shall be kept strictly confidential by all medical personnel  
8 involved in the testing and must be personally delivered in a  
9 sealed envelope to the judge of the court in which the  
10 conviction was entered for the judge's inspection in camera.  
11 Acting in accordance with the best interests of the victim  
12 and the public, the judge shall have the discretion to  
13 determine to whom, if anyone, the results of the testing may  
14 be revealed. The court shall notify the defendant of the test  
15 results. The court shall also notify the victim if requested  
16 by the victim, and if the victim is under the age of 15 and  
17 if requested by the victim's parents or legal guardian, the  
18 court shall notify the victim's parents or legal guardian of  
19 the test results. The court shall provide information on the  
20 availability of HIV testing and counseling at Department of  
21 Public Health facilities to all parties to whom the results  
22 of the testing are revealed and shall direct the State's  
23 Attorney to provide the information to the victim when  
24 possible. A State's Attorney may petition the court to obtain  
25 the results of any HIV test administered under this Section,  
26 and the court shall grant the disclosure if the State's  
27 Attorney shows it is relevant in order to prosecute a charge  
28 of criminal transmission of HIV under Section 12-16.2 of the  
29 Criminal Code of 1961 against the defendant. The court shall  
30 order that the cost of any such test shall be paid by the  
31 county and may be taxed as costs against the convicted  
32 defendant.

33 (g-5) When an inmate is tested for an airborne  
34 communicable disease, as determined by the Illinois

1 Department of Public Health including but not limited to  
2 tuberculosis, the results of the test shall be personally  
3 delivered by the warden or his or her designee in a sealed  
4 envelope to the judge of the court in which the inmate must  
5 appear for the judge's inspection in camera if requested by  
6 the judge. Acting in accordance with the best interests of  
7 those in the courtroom, the judge shall have the discretion  
8 to determine what if any precautions need to be taken to  
9 prevent transmission of the disease in the courtroom.

10 (h) Whenever a defendant is convicted of an offense  
11 under Section 1 or 2 of the Hypodermic Syringes and Needles  
12 Act, the defendant shall undergo medical testing to determine  
13 whether the defendant has been exposed to human  
14 immunodeficiency virus (HIV) or any other identified  
15 causative agent of acquired immunodeficiency syndrome (AIDS).  
16 Except as otherwise provided by law, the results of such test  
17 shall be kept strictly confidential by all medical personnel  
18 involved in the testing and must be personally delivered in a  
19 sealed envelope to the judge of the court in which the  
20 conviction was entered for the judge's inspection in camera.  
21 Acting in accordance with the best interests of the public,  
22 the judge shall have the discretion to determine to whom, if  
23 anyone, the results of the testing may be revealed. The court  
24 shall notify the defendant of a positive test showing an  
25 infection with the human immunodeficiency virus (HIV). The  
26 court shall provide information on the availability of HIV  
27 testing and counseling at Department of Public Health  
28 facilities to all parties to whom the results of the testing  
29 are revealed and shall direct the State's Attorney to provide  
30 the information to the victim when possible. A State's  
31 Attorney may petition the court to obtain the results of any  
32 HIV test administered under this Section, and the court  
33 shall grant the disclosure if the State's Attorney shows it  
34 is relevant in order to prosecute a charge of criminal

1 transmission of HIV under Section 12-16.2 of the Criminal  
2 Code of 1961 against the defendant. The court shall order  
3 that the cost of any such test shall be paid by the county  
4 and may be taxed as costs against the convicted defendant.

5 (i) All fines and penalties imposed under this Section  
6 for any violation of Chapters 3, 4, 6, and 11 of the Illinois  
7 Vehicle Code, or a similar provision of a local ordinance,  
8 and any violation of the Child Passenger Protection Act, or a  
9 similar provision of a local ordinance, shall be collected  
10 and disbursed by the circuit clerk as provided under Section  
11 27.5 of the Clerks of Courts Act.

12 (j) In cases when prosecution for any violation of  
13 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,  
14 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,  
15 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or  
16 12-16 of the Criminal Code of 1961, any violation of the  
17 Illinois Controlled Substances Act, or any violation of the  
18 Cannabis Control Act results in conviction, a disposition of  
19 court supervision, or an order of probation granted under  
20 Section 10 of the Cannabis Control Act or Section 410 of the  
21 Illinois Controlled Substance Act of a defendant, the court  
22 shall determine whether the defendant is employed by a  
23 facility or center as defined under the Child Care Act of  
24 1969, a public or private elementary or secondary school, or  
25 otherwise works with children under 18 years of age on a  
26 daily basis. When a defendant is so employed, the court  
27 shall order the Clerk of the Court to send a copy of the  
28 judgment of conviction or order of supervision or probation  
29 to the defendant's employer by certified mail. If the  
30 employer of the defendant is a school, the Clerk of the Court  
31 shall direct the mailing of a copy of the judgment of  
32 conviction or order of supervision or probation to the  
33 appropriate regional superintendent of schools. The regional  
34 superintendent of schools shall notify the State Board of

1 Education of any notification under this subsection.

2 (j-5) A defendant at least 17 years of age who is  
3 convicted of a felony and who has not been previously  
4 convicted of a misdemeanor or felony and who is sentenced to  
5 a term of imprisonment in the Illinois Department of  
6 Corrections shall as a condition of his or her sentence be  
7 required by the court to attend educational courses designed  
8 to prepare the defendant for a high school diploma and to  
9 work toward a high school diploma or to work toward passing  
10 the high school level Test of General Educational Development  
11 (GED) or to work toward completing a vocational training  
12 program offered by the Department of Corrections. If a  
13 defendant fails to complete the educational training required  
14 by his or her sentence during the term of incarceration, the  
15 Prisoner Review Board shall, as a condition of mandatory  
16 supervised release, require the defendant, at his or her own  
17 expense, to pursue a course of study toward a high school  
18 diploma or passage of the GED test. The Prisoner Review  
19 Board shall revoke the mandatory supervised release of a  
20 defendant who wilfully fails to comply with this subsection  
21 (j-5) upon his or her release from confinement in a penal  
22 institution while serving a mandatory supervised release  
23 term; however, the inability of the defendant after making a  
24 good faith effort to obtain financial aid or pay for the  
25 educational training shall not be deemed a wilful failure to  
26 comply. The Prisoner Review Board shall recommit the  
27 defendant whose mandatory supervised release term has been  
28 revoked under this subsection (j-5) as provided in Section  
29 3-3-9. This subsection (j-5) does not apply to a defendant  
30 who has a high school diploma or has successfully passed the  
31 GED test. This subsection (j-5) does not apply to a defendant  
32 who is determined by the court to be developmentally disabled  
33 or otherwise mentally incapable of completing the educational  
34 or vocational program.

1 (k) A court may not impose a sentence or disposition for  
2 a felony or misdemeanor that requires the defendant to be  
3 implanted or injected with or to use any form of birth  
4 control.

5 (1) (A) Except as provided in paragraph (C) of  
6 subsection (1), whenever a defendant, who is an alien as  
7 defined by the Immigration and Nationality Act, is  
8 convicted of any felony or misdemeanor offense, the court  
9 after sentencing the defendant may, upon motion of the  
10 State's Attorney, hold sentence in abeyance and remand  
11 the defendant to the custody of the Attorney General of  
12 the United States or his or her designated agent to be  
13 deported when:

14 (1) a final order of deportation has been  
15 issued against the defendant pursuant to proceedings  
16 under the Immigration and Nationality Act, and

17 (2) the deportation of the defendant would not  
18 deprecate the seriousness of the defendant's conduct  
19 and would not be inconsistent with the ends of  
20 justice.

21 Otherwise, the defendant shall be sentenced as  
22 provided in this Chapter V.

23 (B) If the defendant has already been sentenced for  
24 a felony or misdemeanor offense, or has been placed on  
25 probation under Section 10 of the Cannabis Control Act or  
26 Section 410 of the Illinois Controlled Substances Act,  
27 the court may, upon motion of the State's Attorney to  
28 suspend the sentence imposed, commit the defendant to the  
29 custody of the Attorney General of the United States or  
30 his or her designated agent when:

31 (1) a final order of deportation has been  
32 issued against the defendant pursuant to proceedings  
33 under the Immigration and Nationality Act, and

34 (2) the deportation of the defendant would not

1 deprecate the seriousness of the defendant's conduct  
2 and would not be inconsistent with the ends of  
3 justice.

4 (C) This subsection (1) does not apply to offenders  
5 who are subject to the provisions of paragraph (2) of  
6 subsection (a) of Section 3-6-3.

7 (D) Upon motion of the State's Attorney, if a  
8 defendant sentenced under this Section returns to the  
9 jurisdiction of the United States, the defendant shall be  
10 recommitted to the custody of the county from which he or  
11 she was sentenced. Thereafter, the defendant shall be  
12 brought before the sentencing court, which may impose any  
13 sentence that was available under Section 5-5-3 at the  
14 time of initial sentencing. In addition, the defendant  
15 shall not be eligible for additional good conduct credit  
16 for meritorious service as provided under Section 3-6-6.

17 (m) A person convicted of criminal defacement of  
18 property under Section 21-1.3 of the Criminal Code of 1961,  
19 in which the property damage exceeds \$300 and the property  
20 damaged is a school building, shall be ordered to perform  
21 community service that may include cleanup, removal, or  
22 painting over the defacement.

23 (n) The court may sentence a person convicted of a  
24 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal  
25 Code of 1961 to an impact incarceration program if the person  
26 is otherwise eligible for that program under Section 5-8-1.1,  
27 community service, or if the person is an addict or  
28 alcoholic, as defined in the Alcoholism and Other Drug Abuse  
29 and Dependency Act, to a substance or alcohol abuse program  
30 licensed under that Act.

31 (Source: P.A. 90-14, eff. 7-1-97; 90-68, eff. 7-8-97; 90-680,  
32 eff. 1-1-99; 90-685, eff. 1-1-99; 90-787, eff. 8-14-98;  
33 91-357, eff. 7-29-99; 91-404, eff. 1-1-00; 91-663, eff.  
34 12-22-99; 91-695, eff. 4-13-00.)

1 Section 25. The Probate Act of 1975 is amended by adding  
2 Section 2-6.6 as follows:

3 (755 ILCS 5/2-6.6 new)

4 Sec. 2-6.6. Person convicted of certain offenses against  
5 the elderly or disabled. A person who is convicted of a  
6 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal  
7 Code of 1961 may not receive any property, benefit, or other  
8 interest by reason of the death of the victim of that  
9 offense, whether as heir, legatee, beneficiary, joint tenant,  
10 tenant by the entirety, survivor, appointee, or in any other  
11 capacity and whether the property, benefit, or other interest  
12 passes pursuant to any form of title registration,  
13 testamentary or nontestamentary instrument, intestacy,  
14 renunciation, or any other circumstance. The property,  
15 benefit, or other interest shall pass as if the person  
16 convicted of a violation of Section 12-19, 12-21, or 16-1.3  
17 of the Criminal Code of 1961 died before the decedent;  
18 provided that with respect to joint tenancy property or  
19 property held in tenancy by the entirety, the interest  
20 possessed prior to the death by the person convicted may not  
21 be diminished by the application of this Section.

22 The holder of any property subject to the provisions of  
23 this Section is not liable for distributing or releasing the  
24 property to the person convicted of violating Section 12-19,  
25 12-21, or 16-1.3 of the Criminal Code of 1961 if the  
26 distribution or release occurred before the person's  
27 conviction for that offense.