

1 AN ACT in relation to criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by
5 changing Sections 12-21, 16-1, and 16-1.3 as follows:

6 (720 ILCS 5/12-21) (from Ch. 38, par. 12-21)

7 Sec. 12-21. Criminal neglect of an elderly or disabled
8 person.

9 (a) A person commits the offense of criminal neglect of
10 an elderly or disabled person when he is a caregiver and he
11 knowingly:

12 (1) performs acts which cause the elderly or
13 disabled person's life to be endangered, health to be
14 injured, or pre-existing physical or mental condition to
15 deteriorate; or

16 (2) fails to perform acts which he knows or
17 reasonably should know are necessary to maintain or
18 preserve the life or health of the elderly or disabled
19 person and such failure causes the elderly or disabled
20 person's life to be endangered, health to be injured or
21 pre-existing physical or mental condition to deteriorate;
22 or

23 (3) abandons the elderly or disabled person.

24 Criminal neglect of an elderly person is a Class 3
25 felony.

26 (b) For purposes of this Section:

27 (1) "Elderly person" means a person 60 years of age
28 or older who is suffering from a disease or infirmity
29 associated with advanced age and manifested by physical,
30 mental or emotional dysfunctioning to the extent that
31 such person is incapable of adequately providing for his

1 own health and personal care.

2 (2) "Disabled person" means a person who suffers
3 from a permanent physical or mental impairment, resulting
4 from disease, injury, functional disorder or congenital
5 condition which renders such person incapable of
6 adequately providing for his own health and personal
7 care.

8 (3) "Caregiver" means a person who has a duty to
9 provide for an elderly or disabled person's health and
10 personal care, at such person's place of residence,
11 including but not limited to, food and nutrition,
12 shelter, hygiene, prescribed medication and medical care
13 and treatment.

14 "Caregiver" shall include:

15 (A) a parent, spouse, adult child or other
16 relative by blood or marriage who resides with or
17 resides in the same building with and regularly
18 visits the elderly or disabled person, knows or
19 reasonably should know of such person's physical or
20 mental impairment and knows or reasonably should
21 know that such person is unable to adequately
22 provide for his own health and personal care;

23 (B) a person who is employed by the elderly or
24 disabled person or by another to reside with or
25 regularly visit the elderly or disabled person and
26 provide for such person's health and personal care;

27 (C) a person who has agreed ~~for-consideration~~
28 to reside with or regularly visit the elderly or
29 disabled person and provide for such person's health
30 and personal care; and

31 (D) a person who has been appointed by a
32 private or public agency or by a court of competent
33 jurisdiction to provide for the elderly or disabled
34 person's health and personal care.

1 "Caregiver" shall not include a long-term care
 2 facility licensed or certified under the Nursing Home
 3 Care Act or any administrative, medical or other
 4 personnel of such a facility, or a health care provider
 5 who is licensed under the Medical Practice Act of 1987
 6 and renders care in the ordinary course of his
 7 profession.

8 (4) "Abandon" means to desert or knowingly forsake
 9 an elderly or disabled person under circumstances in
 10 which a reasonable person would continue to provide care
 11 and custody.

12 (c) Nothing in this Section shall be construed to limit
 13 the remedies available to the victim under the Illinois
 14 Domestic Violence Act.

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

20 (e) Nothing in this Section shall be construed as
 21 prohibiting a person from providing treatment by spiritual
 22 means through prayer alone and care consistent therewith in
 23 lieu of medical care and treatment in accordance with the
 24 tenets and practices of any church or religious denomination
 25 of which the elderly or disabled person is a member.

26 (f) It shall not be a defense to criminal neglect of an
 27 elderly or disabled person that the accused reasonably
 28 believed that the victim was not an elderly or disabled
 29 person.

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

31 (720 ILCS 5/16-1) (from Ch. 38, par. 16-1)
 32 Sec. 16-1. Theft.

33 (a) A person commits theft when he knowingly:

1 (1) Obtains or exerts unauthorized control over
2 property of the owner; or

3 (2) Obtains by deception control over property of
4 the owner; or

5 (3) Obtains by threat control over property of the
6 owner; or

7 (4) Obtains control over stolen property knowing
8 the property to have been stolen or under such
9 circumstances as would reasonably induce him to believe
10 that the property was stolen; or

11 (5) Obtains or exerts control over property in the
12 custody of any law enforcement agency which is explicitly
13 represented to him by any law enforcement officer or any
14 individual acting in behalf of a law enforcement agency
15 as being stolen, and

16 (A) Intends to deprive the owner permanently
17 of the use or benefit of the property; or

18 (B) Knowingly uses, conceals or abandons the
19 property in such manner as to deprive the owner
20 permanently of such use or benefit; or

21 (C) Uses, conceals, or abandons the property
22 knowing such use, concealment or abandonment
23 probably will deprive the owner permanently of such
24 use or benefit.

25 (b) Sentence.

26 (1) Theft of property not from the person and not
27 exceeding \$300 in value is a Class A misdemeanor.

28 (1.1) Theft of property~~7-ether-than-a-firearm7~~ not
29 from the person and not exceeding \$300 in value is a
30 Class 4 felony if the theft was committed in a school or
31 place of worship.

32 (2) A person who has been convicted of theft of
33 property not from the person and not exceeding \$300 in
34 value who has been previously convicted of any type of

1 theft, robbery, armed robbery, burglary, residential
2 burglary, possession of burglary tools, home invasion,
3 forgery, a violation of Section 4-103, 4-103.1, 4-103.2,
4 or 4-103.3 of the Illinois Vehicle Code relating to the
5 possession of a stolen or converted motor vehicle, or a
6 violation of Section 8 of the Illinois Credit Card and
7 Debit Card Act is guilty of a Class 4 felony. When a
8 person has any such prior conviction, the information or
9 indictment charging that person shall state such prior
10 conviction so as to give notice of the State's intention
11 to treat the charge as a felony. The fact of such prior
12 conviction is not an element of the offense and may not
13 be disclosed to the jury during trial unless otherwise
14 permitted by issues properly raised during such trial.

15 (3) (Blank).

16 (4) Theft of property from the person not exceeding
17 \$300 in value, or theft of property exceeding \$300 and
18 not exceeding \$10,000 in value, is a Class 3 felony.

19 (4.1) Theft of property from the person not
20 exceeding \$300 in value, or theft of property exceeding
21 \$300 and not exceeding \$10,000 in value, is a Class 2
22 felony if the theft was committed in a school or place of
23 worship.

24 (5) Theft of property exceeding \$10,000 and not
25 exceeding \$100,000 in value is a Class 2 felony.

26 (5.1) Theft of property exceeding \$10,000 and not
27 exceeding \$100,000 in value is a Class 1 felony if the
28 theft was committed in a school or place of worship.

29 (6) Theft of property exceeding \$100,000 in value
30 is a Class 1 felony.

31 (6.1) Theft of property exceeding \$100,000 in value
32 is a Class X felony if the theft was committed in a
33 school or place of worship.

34 (7) Theft by deception, as described by paragraph

1 (2) of subsection (a) of this Section, in which the
 2 offender obtained money or property valued at \$5,000 or
 3 more but less than \$100,000 from a victim 60 years of age
 4 or older or a person with a disability as defined in
 5 Section 16-1.3 of this Code is a Class 2 felony; if the
 6 offender obtained money or property valued at \$100,000 or
 7 more, the offense is a Class 1 felony.

8 (c) When a charge of theft of property exceeding a
 9 specified value is brought, the value of the property
 10 involved is an element of the offense to be resolved by the
 11 trier of fact as either exceeding or not exceeding the
 12 specified value.

13 (Source: P.A. 91-118, eff. 1-1-00; 91-360, eff. 7-29-99;
 14 91-544, eff. 1-1-00; revised 10-7-99.)

15 (720 ILCS 5/16-1.3) (from Ch. 38, par. 16-1.3)

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

18 (a) A person commits the offense of financial
 19 exploitation of an elderly person or a person with a
 20 disability when he or she stands in a position of trust or
 21 confidence with the elderly person or a person with a
 22 disability and he or she knowingly ~~and--by--deception--or~~
 23 ~~intimidation~~ obtains control over the property of an elderly
 24 person or a person with a disability with the intent to
 25 permanently deprive the elderly person or the person with a
 26 disability of the use, benefit, or possession of his or her
 27 property.

28 Financial exploitation of an elderly person or a person
 29 with a disability is a Class 4 felony if the value of the
 30 property is \$300 or less, a Class 3 felony if the value of
 31 the property is more than \$300 but less than \$5,000, a Class
 32 2 felony if the value of the property is \$5,000 or more but
 33 less than \$100,000 and a Class 1 felony if the value of the

1 property is \$100,000 or more.

2 (b) For purposes of this Section:

3 (1) "Elderly person" means a person 60 years of age
4 or older who is suffering from a disease or infirmity
5 that impairs the individual's mental or physical ability
6 to independently manage his or her property or financial
7 resources, or both.

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

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

18 (4) "Deception" means, in addition to its meaning
19 as defined in Section 15-4 of this Code, a
20 misrepresentation or concealment of material fact
21 relating to the terms of a contract or agreement entered
22 into with the elderly person or person with a disability
23 or to the existing or pre-existing condition of any of
24 the property involved in such contract or agreement; or
25 the use or employment of any misrepresentation, false
26 pretense or false promise in order to induce, encourage
27 or solicit the elderly person or person with a disability
28 to enter into a contract or agreement.

29 (c) For purposes of this Section, a person stands in a
30 position of trust and confidence with an elderly person or
31 person with a disability when he or she (1) is a parent,
32 spouse, adult child or other relative by blood or marriage of
33 the elderly person or person with a disability, (2) is a
34 joint tenant or tenant in common with the elderly person or

1 person with a disability, or (3) has a legal or fiduciary
2 relationship with the elderly person or person with a
3 disability, or (4) misrepresents his or her status as being
4 such a person or having such a relationship.

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

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

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

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

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