

1 AN ACT in relation to the elderly.

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 Section 16-1.3 as follows:

6 (720 ILCS 5/16-1.3) (from Ch. 38, par. 16-1.3)

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

9 (a) A person commits the offense of financial  
10 exploitation of an elderly person or a person with a  
11 disability when he or she stands in a position of trust or  
12 confidence with the elderly person or the a person with a  
13 disability and he or she knowingly and by deception or  
14 intimidation obtains control over the property of the an  
15 elderly person or the a person with a disability with the  
16 intent to permanently deprive the elderly person or the  
17 person with a disability of the use, benefit, or possession  
18 of his or her property.

19 Financial exploitation of an elderly person or a person  
20 with a disability is a Class 4 felony if the value of the  
21 property is \$300 or less, a Class 3 felony if the value of  
22 the property is more than \$300 but less than \$5,000, a Class  
23 2 felony if the value of the property is \$5,000 or more but  
24 less than \$100,000 and a Class 1 felony if the value of the  
25 property is \$100,000 or more or if the elderly person is over  
26 70 years of age and the value of the property is \$15,000 or  
27 more or if the elderly person is 80 years of age or older and  
28 the value of the property is \$5,000 or more.

29 (b) For purposes of this Section:

30 (1) "Elderly person" means a person 60 years of age  
31 or older who is suffering from a disease or infirmity

1 that impairs the individual's mental or physical ability  
2 to independently manage his or her property or financial  
3 resources, or both.

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

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

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

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

34 (d) Nothing in this Section shall be construed to limit

1 the remedies available to the victim under the Illinois  
2 Domestic Violence Act of 1986.

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

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

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

26 (Source: P.A. 91-236, eff. 7-22-99; 92-808, eff. 8-21-02.)