

1 AN ACT concerning aging.

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

4 Section 5. The Elder Abuse and Neglect Act is amended by
5 changing Sections 2, 3, 4, 8, 9, and 13 as follows:

6 (320 ILCS 20/2) (from Ch. 23, par. 6602)

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

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

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

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

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

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

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

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

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

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

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

17 (3) A home, institution, or other place operated by the
18 federal government or agency thereof or by the State of
19 Illinois;

20 (4) A hospital, sanitarium, or other institution, the
21 principal activity or business of which is the diagnosis,
22 care, and treatment of human illness through the
23 maintenance and operation of organized facilities
24 therefor, which is required to be licensed under the
25 Hospital Licensing Act;

26 (5) A "community living facility" as defined in the

1 Community Living Facilities Licensing Act;

2 (6) (Blank) ~~A "community residential alternative" as~~
3 ~~defined in the Community Residential Alternatives~~
4 ~~Licensing Act;~~

5 (7) A "community-integrated living arrangement" as
6 defined in the Community-Integrated Living Arrangements
7 Licensure and Certification Act;

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

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

13 (e) "Eligible adult" means a person 60 years of age or
14 older who resides in a domestic living situation and is, or is
15 alleged to be, abused, neglected, or financially exploited by
16 another individual or who neglects himself or herself.

17 (f) "Emergency" means a situation in which an eligible
18 adult is living in conditions presenting a risk of death or
19 physical, mental or sexual injury and the provider agency has
20 reason to believe the eligible adult is unable to consent to
21 services which would alleviate that risk.

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

25 (1) a professional or professional's delegate while
26 engaged in: (i) social services, (ii) law enforcement,

1 (iii) education, (iv) the care of an eligible adult or
2 eligible adults, or (v) any of the occupations required to
3 be licensed under the Clinical Psychologist Licensing Act,
4 the Clinical Social Work and Social Work Practice Act, the
5 Illinois Dental Practice Act, the Dietetic and Nutrition
6 Services Practice Act, the Marriage and Family Therapy
7 Licensing Act, the Medical Practice Act of 1987, the
8 Naprapathic Practice Act, the Nurse Practice Act, the
9 Nursing Home Administrators Licensing and Disciplinary
10 Act, the Illinois Occupational Therapy Practice Act, the
11 Illinois Optometric Practice Act of 1987, the Pharmacy
12 Practice Act, the Illinois Physical Therapy Act, the
13 Physician Assistant Practice Act of 1987, the Podiatric
14 Medical Practice Act of 1987, the Respiratory Care Practice
15 Act, the Professional Counselor and Clinical Professional
16 Counselor Licensing Act, the Illinois Speech-Language
17 Pathology and Audiology Practice Act, the Veterinary
18 Medicine and Surgery Practice Act of 2004, and the Illinois
19 Public Accounting Act;

20 (2) an employee of a vocational rehabilitation
21 facility prescribed or supervised by the Department of
22 Human Services;

23 (3) an administrator, employee, or person providing
24 services in or through an unlicensed community based
25 facility;

26 (4) any religious practitioner who provides treatment

1 by prayer or spiritual means alone in accordance with the
2 tenets and practices of a recognized church or religious
3 denomination, except as to information received in any
4 confession or sacred communication enjoined by the
5 discipline of the religious denomination to be held
6 confidential;

7 (5) field personnel of the Department of Healthcare and
8 Family Services, Department of Public Health, and
9 Department of Human Services, and any county or municipal
10 health department;

11 (6) personnel of the Department of Human Services, the
12 Guardianship and Advocacy Commission, the State Fire
13 Marshal, local fire departments, the Department on Aging
14 and its subsidiary Area Agencies on Aging and provider
15 agencies, and the Office of State Long Term Care Ombudsman;

16 (7) any employee of the State of Illinois not otherwise
17 specified herein who is involved in providing services to
18 eligible adults, including professionals providing medical
19 or rehabilitation services and all other persons having
20 direct contact with eligible adults;

21 (8) a person who performs the duties of a coroner or
22 medical examiner; or

23 (9) a person who performs the duties of a paramedic or
24 an emergency medical technician.

25 (g) "Neglect" means another individual's failure to
26 provide an eligible adult with or willful withholding from an

1 eligible adult the necessities of life including, but not
2 limited to, food, clothing, shelter or health care. This
3 subsection does not create any new affirmative duty to provide
4 support to eligible adults. Nothing in this Act shall be
5 construed to mean that an eligible adult is a victim of neglect
6 because of health care services provided or not provided by
7 licensed health care professionals.

8 (h) "Provider agency" means any public or nonprofit agency
9 in a planning and service area appointed by the regional
10 administrative agency with prior approval by the Department on
11 Aging to receive and assess reports of alleged or suspected
12 abuse, neglect, or financial exploitation.

13 (i) "Regional administrative agency" means any public or
14 nonprofit agency in a planning and service area so designated
15 by the Department, provided that the designated Area Agency on
16 Aging shall be designated the regional administrative agency if
17 it so requests. The Department shall assume the functions of
18 the regional administrative agency for any planning and service
19 area where another agency is not so designated.

20 (i-5) "Self-neglect" means a condition that is the result
21 of an eligible adult's inability, due to physical or mental
22 impairments, or both, or a diminished capacity, to perform
23 essential self-care tasks that substantially threaten his or
24 her own health, including: providing essential food, clothing,
25 shelter, and health care; and obtaining goods and services
26 necessary to maintain physical health, mental health,

1 emotional well-being, and general safety.

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

7 (Source: P.A. 94-1064, eff. 1-1-07; 95-639, eff. 10-5-07;
8 95-689, eff. 10-29-07; 95-876, eff. 8-21-08.)

9 (320 ILCS 20/3) (from Ch. 23, par. 6603)

10 Sec. 3. Responsibilities.

11 (a) The Department shall establish, design and manage a
12 program of response and services for persons 60 years of age
13 and older who have been, or are alleged to be, victims of
14 abuse, neglect, financial exploitation, or self-neglect. The
15 Department shall contract with or fund or, contract with and
16 fund, regional administrative agencies, provider agencies, or
17 both, for the provision of those functions, and, contingent on
18 adequate funding, with attorneys or legal services provider
19 agencies for the provision of legal assistance pursuant to this
20 Act.

21 (b) Each regional administrative agency shall designate
22 provider agencies within its planning and service area with
23 prior approval by the Department on Aging, monitor the use of
24 services, provide technical assistance to the provider
25 agencies and be involved in program development activities.

1 (c) Provider agencies shall assist, to the extent possible,
2 eligible adults who need agency services to allow them to
3 continue to function independently. Such assistance shall
4 include but not be limited to receiving reports of alleged or
5 suspected abuse, neglect, financial exploitation, or
6 self-neglect, conducting face-to-face assessments of such
7 reported cases, determination of substantiated cases, referral
8 of substantiated cases for necessary support services,
9 referral of criminal conduct to law enforcement in accordance
10 with Department guidelines, and provision of case work and
11 follow-up services on substantiated cases. In the case of a
12 report of alleged or suspected abuse or neglect that places an
13 eligible adult at risk of injury or death, a provider agency
14 shall respond to the report on an emergency basis in accordance
15 with guidelines established by the Department by
16 administrative rule and shall ensure that it is capable of
17 responding to such a report 24 hours per day, 7 days per week.
18 A provider agency may use an on-call system to respond to
19 reports of alleged or suspected abuse or neglect after hours
20 and on weekends.

21 (d) Upon sufficient appropriations to implement a
22 statewide program, the Department shall implement a program,
23 based on the recommendations of the Elder Self-Neglect Steering
24 Committee, ~~By January 1, 2008, the Department on Aging, in~~
25 ~~cooperation with an Elder Self-Neglect Steering Committee,~~
26 shall by rule develop protocols, procedures, and policies for

1 (i) responding to reports of possible self-neglect, (ii)
2 protecting the autonomy, rights, privacy, and privileges of
3 adults during investigations of possible self-neglect and
4 consequential judicial proceedings regarding competency, (iii)
5 collecting and sharing relevant information and data among the
6 Department, provider agencies, regional administrative
7 agencies, and relevant seniors, (iv) developing working
8 agreements between provider agencies and law enforcement,
9 where practicable, and (v) developing procedures for
10 collecting data regarding incidents of self-neglect. ~~The Elder
11 Self-Neglect Steering Committee shall be comprised of one
12 person selected by the Elder Abuse Advisory Committee of the
13 Department on Aging; 3 persons selected, on the request of the
14 Director of Aging, by State or regional organizations that
15 advocate for the rights of seniors, at least one of whom shall
16 be a legal assistance attorney who represents seniors in
17 competency proceedings; 2 persons selected, on the request of
18 the Director of Aging, by statewide organizations that
19 represent social workers and other persons who provide direct
20 intervention and care to housebound seniors who are likely to
21 neglect themselves; an expert on geropsychiatry, appointed by
22 the Secretary of Human Services; an expert on issues of
23 physical health associated with seniors, appointed by the
24 Director of Public Health; one representative of a law
25 enforcement agency; one representative of the Chicago
26 Department on Aging; and 3 other persons selected by the~~

1 ~~Director of Aging, including an expert from an institution of~~
2 ~~higher education who is familiar with the relevant areas of~~
3 ~~data collection and study.~~

4 (Source: P.A. 94-1064, eff. 1-1-07; 95-76, eff. 6-1-08.)

5 (320 ILCS 20/4) (from Ch. 23, par. 6604)

6 Sec. 4. Reports of abuse or neglect.

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

11 (a-5) If any mandated reporter has reason to believe that
12 an eligible adult, who because of dysfunction is unable to seek
13 assistance for himself or herself, has, within the previous 12
14 months, been subjected to abuse, neglect, or financial
15 exploitation, the mandated reporter shall, within 24 hours
16 after developing such belief, report this suspicion to an
17 agency designated to receive such reports under this Act or to
18 the Department. Whenever a mandated reporter is required to
19 report under this Act in his or her capacity as a member of the
20 staff of a medical or other public or private institution,
21 facility, board and care home, or agency, he or she shall make
22 a report to an agency designated to receive such reports under
23 this Act or to the Department in accordance with the provisions
24 of this Act and may also notify the person in charge of the
25 institution, facility, board and care home, or agency or his or

1 her designated agent that the report has been made. Under no
2 circumstances shall any person in charge of such institution,
3 facility, board and care home, or agency, or his or her
4 designated agent to whom the notification has been made,
5 exercise any control, restraint, modification, or other change
6 in the report or the forwarding of the report to an agency
7 designated to receive such reports under this Act or to the
8 Department. The privileged quality of communication between
9 any professional person required to report and his or her
10 patient or client shall not apply to situations involving
11 abused, neglected, or financially exploited eligible adults
12 and shall not constitute grounds for failure to report as
13 required by this Act.

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

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

25 (b) Any person, institution or agency participating in the
26 making of a report, providing information or records related to

1 a report, assessment, or services, or participating in the
2 investigation of a report under this Act in good faith, or
3 taking photographs or x-rays as a result of an authorized
4 assessment, shall have immunity from any civil, criminal or
5 other liability in any civil, criminal or other proceeding
6 brought in consequence of making such report or assessment or
7 on account of submitting or otherwise disclosing such
8 photographs or x-rays to any agency designated to receive
9 reports of alleged or suspected abuse or neglect. Any person,
10 institution or agency authorized by the Department to provide
11 assessment, intervention, or administrative services under
12 this Act shall, in the good faith performance of those
13 services, have immunity from any civil, criminal or other
14 liability in any civil, criminal, or other proceeding brought
15 as a consequence of the performance of those services. For the
16 purposes of any civil, criminal, or other proceeding, the good
17 faith of any person required to report, permitted to report, or
18 participating in an investigation of a report of alleged or
19 suspected abuse, neglect, ~~or~~ financial exploitation, or
20 self-neglect shall be presumed.

21 (c) The identity of a person making a report of alleged or
22 suspected abuse, ~~or~~ neglect, financial exploitation, or
23 self-neglect under this Act may be disclosed by the Department
24 or other agency provided for in this Act only with such
25 person's written consent or by court order.

26 (d) The Department shall by rule establish a system for

1 filing and compiling reports made under this Act.

2 (e) Any physician who willfully fails to report as required
3 by this Act shall be referred to the Illinois State Medical
4 Disciplinary Board for action in accordance with subdivision
5 (A) (22) of Section 22 of the Medical Practice Act of 1987. Any
6 dentist or dental hygienist who willfully fails to report as
7 required by this Act shall be referred to the Department of
8 Professional Regulation for action in accordance with
9 paragraph 19 of Section 23 of the Illinois Dental Practice Act.
10 Any other mandated reporter required by this Act to report
11 suspected abuse, neglect, or financial exploitation who
12 willfully fails to report the same is guilty of a Class A
13 misdemeanor.

14 (Source: P.A. 93-300, eff. 1-1-04; 93-301, eff. 1-1-04;
15 94-1064, eff. 1-1-07.)

16 (320 ILCS 20/8) (from Ch. 23, par. 6608)

17 Sec. 8. Access to records. All records concerning reports
18 of elder abuse, neglect, financial exploitation, or
19 self-neglect and all records generated as a result of such
20 reports shall be confidential and shall not be disclosed except
21 as specifically authorized by this Act or other applicable law.
22 In accord with established law and Department protocols,
23 procedures, and policies, access to such records, but not
24 access to the identity of the person or persons making a report
25 of alleged abuse, neglect, financial exploitation, or

1 self-neglect as contained in such records, shall be provided,
2 upon request, to the following persons and for the following
3 persons:

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

10 (2) A law enforcement agency investigating known or
11 suspected elder abuse, neglect, financial exploitation, or
12 self-neglect. Where a provider agency has reason to believe
13 that the death of an eligible adult may be the result of
14 abuse or neglect, the agency shall immediately provide the
15 appropriate law enforcement agency with all records
16 pertaining to the eligible adult;

17 (3) A physician who has before him or her or who is
18 involved in the treatment of an eligible adult whom he or
19 she reasonably suspects may be abused, neglected,
20 financially exploited, or self-neglected or who has been
21 referred to the Elder Abuse and Neglect Program;

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

26 (4.5) An executor or administrator of the estate of an

1 eligible adult who is deceased;

2 (5) In cases regarding elder abuse, neglect, or
3 financial exploitation, a court or a guardian ad litem,
4 upon its or his or her finding that access to such records
5 may be necessary for the determination of an issue before
6 the court. However, such access shall be limited to an in
7 camera inspection of the records, unless the court
8 determines that disclosure of the information contained
9 therein is necessary for the resolution of an issue then
10 pending before it;

11 (5.5) In cases regarding self-neglect, a guardian ad
12 litem;

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

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

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

24 (8.5) A coroner or medical examiner having proper
25 jurisdiction, pursuant to a written agreement between a
26 provider agency and the coroner or medical examiner, under

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

5 (9) Department of Professional Regulation staff and
6 members of the Social Work Examining and Disciplinary Board
7 in the course of investigating alleged violations of the
8 Clinical Social Work and Social Work Practice Act by
9 provider agency staff.

10 (Source: P.A. 94-1064, eff. 1-1-07.)

11 (320 ILCS 20/9) (from Ch. 23, par. 6609)

12 Sec. 9. Authority to consent to services.

13 (a) If an eligible adult consents to services being
14 provided according to the case ~~service-care~~ plan, such services
15 shall be arranged to meet the adult's needs, based upon the
16 availability of resources to provide such services. If an adult
17 withdraws his or her consent or refuses to accept such
18 services, the services shall not be provided.

19 (b) If it reasonably appears to the Department or other
20 agency designated under this Act that a person is an eligible
21 adult and lacks the capacity to consent to necessary services,
22 including an assessment, the Department or other agency may
23 seek the appointment of a guardian as provided in Article XIa
24 of the Probate Act of 1975 for the purpose of consenting to
25 such services, together with an order for an evaluation of the

1 eligible adult's physical, psychological, and medical
2 condition and decisional capacity.

3 (c) A guardian of the person of an eligible adult may
4 consent to services being provided according to the case
5 ~~service care~~ plan. If an eligible adult lacks capacity to
6 consent to services, an agent having authority under a power of
7 attorney may consent to services. If the a guardian or agent
8 withdraws his or her consent or refuses to allow services to be
9 provided to the eligible adult, the Department, an agency
10 designated under this Act, or the office of the Attorney
11 General may request a court order seeking appropriate remedies,
12 and may in addition request removal of the guardian and
13 appointment of a successor guardian or request removal of the
14 agent and appointment of a guardian.

15 (d) If an emergency exists and the Department or other
16 agency designated under this Act reasonably believes that a
17 person is an eligible adult and lacks the capacity to consent
18 to necessary services, the Department or other agency may
19 request an ex parte order from the circuit court of the county
20 in which the petitioner or respondent resides or in which the
21 alleged abuse, neglect, financial exploitation, or
22 self-neglect occurred, authorizing an assessment of a report of
23 alleged or suspected abuse, neglect, financial exploitation,
24 or self-neglect or the provision of necessary services, or
25 both, including relief available under the Illinois Domestic
26 Violence Act of 1986 in accord with established law and

1 Department protocols, procedures, and policies. Petitions
2 filed under this subsection shall be treated as expedited
3 proceedings.

4 (e) Within 15 days after the entry of the ex parte
5 emergency order, the order shall expire, or, if the need for
6 assessment or services continues, the provider agency shall
7 petition for the appointment of a guardian as provided in
8 Article XIa of the Probate Act of 1975 for the purpose of
9 consenting to such assessment or services or to protect the
10 eligible adult from further harm.

11 (f) If the court enters an ex parte order under subsection
12 (d) for an assessment of a report of alleged or suspected
13 self-neglect, or for the provision of necessary services in
14 connection with alleged or suspected self-neglect, or for both,
15 the court, as soon as is practicable thereafter, shall appoint
16 a guardian ad litem for the eligible adult who is the subject
17 of the order, for the purpose of reviewing the reasonableness
18 of the order. The guardian ad litem shall review the order and,
19 if the guardian ad litem reasonably believes that the order is
20 unreasonable, the guardian ad litem shall file a petition with
21 the court stating the guardian ad litem's belief and requesting
22 that the order be vacated.

23 (Source: P.A. 94-1064, eff. 1-1-07.)

24 (320 ILCS 20/13)

25 Sec. 13. Access.

1 (a) In accord with established law and Department
2 protocols, procedures, and policies, the designated provider
3 agencies shall have access to eligible adults who have been
4 reported or found to be victims of abuse, neglect, financial
5 exploitation, or self-neglect in order to assess the validity
6 of the report, assess other needs of the eligible adult, and
7 provide services in accordance with this Act.

8 (b) Where access to an eligible adult is denied, the Office
9 of the Attorney General, the Department, or the provider agency
10 may petition the court for an order to require appropriate
11 access where:

12 (1) a caregiver or third party has interfered with the
13 assessment or service plan, or

14 (2) the agency has reason to believe that the eligible
15 adult is denying access because of coercion, extortion, or
16 justifiable fear of future abuse, neglect, or financial
17 exploitation.

18 (c) The petition for an order requiring appropriate access
19 shall be afforded an expedited hearing in the circuit court.

20 (d) If the ~~elder-abuse~~ provider agency has substantiated
21 financial exploitation against an eligible adult, and has
22 documented a reasonable belief that the eligible adult will be
23 irreparably harmed as a result of the financial exploitation,
24 the Office of the Attorney General, the Department, or the
25 provider agency may petition for an order freezing the assets
26 of the eligible adult. The petition shall be filed in the

1 county or counties in which the assets are located. The court's
2 order shall prohibit the sale, gifting, transfer, or wasting of
3 the assets of the eligible adult, both real and personal, owned
4 by, or vested in, the eligible adult, without the express
5 permission of the court. The petition to freeze the assets of
6 the eligible adult shall be afforded an expedited hearing in
7 the circuit court.

8 (Source: P.A. 94-1064, eff. 1-1-07.)