

1 AN ACT concerning 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 2012 is amended by changing
5 Section 17-56 as follows:

6 (720 ILCS 5/17-56) (was 720 ILCS 5/16-1.3)

7 Sec. 17-56. Financial exploitation of an elderly person or
8 a person with a disability.

9 (a) A person commits financial exploitation of an elderly
10 person or a person with a disability when he or she stands in a
11 position of trust or confidence with the elderly person or a
12 person with a disability and he or she knowingly and by
13 deception or intimidation obtains control over the property of
14 an elderly person or a person with a disability or illegally
15 uses the assets or resources of an elderly person or a person
16 with a disability.

17 (b) Sentence. Financial exploitation of an elderly person
18 or a person with a disability is: (1) a Class 4 felony if the
19 value of the property is \$300 or less, (2) a Class 3 felony if
20 the value of the property is more than \$300 but less than
21 \$5,000, (3) a Class 2 felony if the value of the property is
22 \$5,000 or more but less than \$50,000, and (4) a Class 1 felony
23 if the value of the property is \$50,000 or more or if the

1 elderly person is over 70 years of age and the value of the
2 property is \$15,000 or more or if the elderly person is 80
3 years of age or older and the value of the property is \$5,000
4 or more.

5 (c) For purposes of this Section:

6 (1) "Elderly person" means a person 60 years of age or
7 older.

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

14 (3) "Intimidation" means the communication to an
15 elderly person or a person with a disability that he or she
16 shall be deprived of food and nutrition, shelter,
17 prescribed medication or medical care and treatment or
18 conduct as provided in Section 12-6 of this Code.

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

1 order to induce, encourage or solicit the elderly person or
2 person with a disability to enter into a contract or
3 agreement.

4 The illegal use of the assets or resources of an elderly
5 person or a person with a disability includes, but is not
6 limited to, the misappropriation of those assets or resources
7 by undue influence, breach of a fiduciary relationship, fraud,
8 deception, extortion, or use of the assets or resources
9 contrary to law.

10 A person stands in a position of trust and confidence with
11 an elderly person or person with a disability when he (i) is a
12 parent, spouse, adult child or other relative by blood or
13 marriage of the elderly person or person with a disability,
14 (ii) is a joint tenant or tenant in common with the elderly
15 person or person with a disability, (iii) has a legal or
16 fiduciary relationship with the elderly person or person with a
17 disability, (iv) is a financial planning or investment
18 professional, or (v) is a paid or unpaid caregiver for the
19 elderly person or person with a disability.

20 (d) Limitations. Nothing in this Section shall be construed
21 to limit the remedies available to the victim under the
22 Illinois Domestic Violence Act of 1986.

23 (e) Good faith efforts. Nothing in this Section shall be
24 construed to impose criminal liability on a person who has made
25 a good faith effort to assist the elderly person or person with
26 a disability in the management of his or her property, but

1 through no fault of his or her own has been unable to provide
2 such assistance.

3 (f) Not a defense. It shall not be a defense to financial
4 exploitation of an elderly person or person with a disability
5 that the accused reasonably believed that the victim was not an
6 elderly person or person with a disability.

7 (g) Civil Liability. A civil cause of action exists for
8 financial exploitation of an elderly person or a person with a
9 disability as described in subsection (a) of this Section. A
10 person against whom a civil judgment has been entered for ~~who~~
11 ~~is charged by information or indictment with the offense of~~
12 financial exploitation of an elderly person or person with a
13 disability ~~and who fails or refuses to return the victim's~~
14 ~~property within 60 days following a written demand from the~~
15 ~~victim or the victim's legal representative~~ shall be liable to
16 the victim or to the estate of the victim in damages of treble
17 the amount of the value of the property obtained, plus
18 reasonable attorney fees and court costs. In a civil action
19 under this subsection, the ~~The~~ burden of proof that the
20 defendant committed financial exploitation of an elderly
21 person or a person with a disability as described in subsection
22 (a) of this Section ~~unlawfully obtained the victim's property~~
23 shall be by a preponderance of the evidence. This subsection
24 shall be operative whether or not the defendant has been
25 charged or convicted of the criminal offense as described in
26 subsection (a) of this Section. This subsection (g) shall not

1 limit or affect the right of any person to bring any cause of
2 action or seek any remedy available under the common law, or
3 other applicable law, arising out of the financial exploitation
4 of an elderly person or a person with a disability.

5 (h) If a person is charged with financial exploitation of
6 an elderly person or a person with a disability that involves
7 the taking or loss of property valued at more than \$5,000, a
8 prosecuting attorney may file a petition with the circuit court
9 of the county in which the defendant has been charged to freeze
10 the assets of the defendant in an amount equal to but not
11 greater than the alleged value of lost or stolen property in
12 the defendant's pending criminal proceeding for purposes of
13 restitution to the victim. The burden of proof required to
14 freeze the defendant's assets shall be by a preponderance of
15 the evidence.

16 (Source: P.A. 96-1551, eff. 7-1-11; 97-482, eff. 1-1-12;
17 97-865, eff. 1-1-13.)