



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB0086

Introduced 1/27/2011, by Sen. Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

20 ILCS 2435/15
20 ILCS 2435/60

from Ch. 23, par. 3395-15
from Ch. 23, par. 3395-60

Amends the Abuse of Adults with Disabilities Intervention Act. Provides that the Office of Inspector General shall file with the Governor and the General Assembly, no later than January 1 following the end of each fiscal year (rather than within 90 days after the end of each fiscal year), a report concerning its implementation of the Domestic Abuse Project. Defines the terms "mental abuse" and "financial exploitation". Removes the definition of the term "exploitation". Redefines "abuse" to mean the causing of any physical, sexual, or mental abuse (rather than mental injury) to an adult with disabilities. Expands the definition of "physical abuse" to include directing another person to physically abuse a person with disabilities. Expands the definition of "sexual abuse" to include acts of sexual exploitation including, but not limited to, facilitating or compelling an adult with disabilities to become a prostitute, or receiving anything of value from an adult with disabilities knowing it was obtained in whole or in part from the practice of prostitution. Effective immediately.

LRB097 02916 KTG 42940 b

1 AN ACT concerning State government.

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

4 Section 5. The Abuse of Adults with Disabilities
5 Intervention Act is amended by changing Sections 15 and 60 as
6 follows:

7 (20 ILCS 2435/15) (from Ch. 23, par. 3395-15)

8 Sec. 15. Definitions. As used in this Act:

9 "Abuse" means causing any physical, sexual, or mental abuse
10 ~~injury~~ to an adult with disabilities, including exploitation of
11 the adult's financial resources. Nothing in this Act shall be
12 construed to mean that an adult with disabilities is a victim
13 of abuse or neglect for the sole reason that he or she is being
14 furnished with or relies upon treatment by spiritual means
15 through prayer alone, in accordance with the tenets and
16 practices of a recognized church or religious denomination.
17 Nothing in this Act shall be construed to mean that an adult
18 with disabilities is a victim of abuse because of health care
19 services provided or not provided by licensed health care
20 professionals.

21 "Adult with disabilities" means a person aged 18 through 59
22 who resides in a domestic living situation and whose physical
23 or mental disability impairs his or her ability to seek or

1 obtain protection from abuse, neglect, or exploitation.

2 "Department" means the Department of Human Services.

3 "Adults with Disabilities Abuse Project" or "project"
4 means that program within the Office of Inspector General
5 designated by the Department of Human Services to receive and
6 assess reports of alleged or suspected abuse, neglect, or
7 exploitation of adults with disabilities.

8 "Domestic living situation" means a residence where the
9 adult with disabilities lives alone or with his or her family
10 or household members, a care giver, or others or at a board and
11 care home or other community-based unlicensed facility, but is
12 not:

13 (1) A licensed facility as defined in Section 1-113 of
14 the Nursing Home Care Act or Section 1-113 of the MR/DD
15 Community Care Act.

16 (2) A life care facility as defined in the Life Care
17 Facilities Act.

18 (3) A home, institution, or other place operated by the
19 federal government, a federal agency, or the State.

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 and that
24 is required to be licensed under the Hospital Licensing
25 Act.

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

1 Community Living Facilities Licensing Act.

2 (6) A community-integrated living arrangement as
3 defined in the Community-Integrated Living Arrangements
4 Licensure and Certification Act or community residential
5 alternative as licensed under that Act.

6 "Emergency" means a situation in which an adult with
7 disabilities is in danger of death or great bodily harm.

8 ~~"Exploitation" means the illegal, including tortious, use~~
9 ~~of the assets or resources of an adult with disabilities.~~
10 ~~Exploitation includes, but is not limited to, the~~
11 ~~misappropriation of assets or resources of an adult with~~
12 ~~disabilities by undue influence, by breach of a fiduciary~~
13 ~~relationship, by fraud, deception, or extortion, or by the use~~
14 ~~of the assets or resources in a manner contrary to law.~~

15 "Family or household members" means a person who as a
16 family member, volunteer, or paid care provider has assumed
17 responsibility for all or a portion of the care of an adult
18 with disabilities who needs assistance with activities of daily
19 living.

20 "Financial exploitation" means the illegal, including
21 tortious, use of the assets or resources of an adult with
22 disabilities. Exploitation includes, but is not limited to, the
23 misappropriation of assets or resources of an adult with
24 disabilities by undue influence, by breach of a fiduciary
25 relationship, by fraud, deception, or extortion, or by the use
26 of the assets or resources in a manner contrary to law.

1 "Mental abuse" means the infliction of emotional or mental
2 distress by a caregiver, a family member, or any person with
3 ongoing access to a person with disabilities by threat of harm,
4 humiliation, or other verbal or nonverbal conduct.

5 "Neglect" means the failure of another individual to
6 provide an adult with disabilities with or the willful
7 withholding from an adult with disabilities the necessities of
8 life, including, but not limited to, food, clothing, shelter,
9 or medical care.

10 Nothing in the definition of "neglect" shall be construed to
11 impose a requirement that assistance be provided to an adult
12 with disabilities over his or her objection in the absence of a
13 court order, nor to create any new affirmative duty to provide
14 support, assistance, or intervention to an adult with
15 disabilities. Nothing in this Act shall be construed to mean
16 that an adult with disabilities is a victim of neglect because
17 of health care services provided or not provided by licensed
18 health care professionals.

19 "Physical abuse" ~~includes sexual abuse and~~ means any of the
20 following acts:

21 (1) knowing or reckless use of physical force,
22 confinement, or restraint;

23 (2) knowing, repeated, and unnecessary sleep
24 deprivation; ~~or~~

25 (3) knowing or reckless conduct which creates an
26 immediate risk of physical harm; or ~~or~~.

1 (4) when committed by a caregiver, a family member, or
2 any person with ongoing access to a person with
3 disabilities, directing another person to physically abuse
4 a person with disabilities.

5 "Secretary" means the Secretary of Human Services.

6 "Sexual abuse" means touching, fondling, sexual threats,
7 sexually inappropriate remarks, or any other sexual activity
8 with an adult with disabilities when the adult with
9 disabilities is unable to understand, unwilling to consent,
10 threatened, or physically forced to engage in sexual behavior.
11 Sexual abuse includes acts of sexual exploitation including,
12 but not limited to, facilitating or compelling an adult with
13 disabilities to become a prostitute, or receiving anything of
14 value from an adult with disabilities knowing it was obtained
15 in whole or in part from the practice of prostitution.

16 "Substantiated case" means a reported case of alleged or
17 suspected abuse, neglect, or exploitation in which the Adults
18 with Disabilities Abuse Project staff, after assessment,
19 determines that there is reason to believe abuse, neglect, or
20 exploitation has occurred.

21 (Source: P.A. 96-339, eff. 7-1-10.)

22 (20 ILCS 2435/60) (from Ch. 23, par. 3395-60)

23 Sec. 60. Annual reports. The Office of Inspector General
24 shall file with the Governor and the General Assembly, no later
25 than January 1 following the end of each fiscal year, within 90

1 ~~days after the end of each fiscal year,~~ a report concerning its
2 implementation of the Domestic Abuse Project during each fiscal
3 year, together with any recommendations for future
4 implementation. The annual report shall include data on numbers
5 of reports received, numbers of reports substantiated, and
6 unsubstantiated, number of referrals to law enforcement and
7 other referral resources, numbers of assessments and service
8 plans completed, and protective services provided. The report
9 shall also include information on public education efforts
10 engaged in, and training provided to persons or agencies who
11 are responsible for the Act's implementation.

12 (Source: P.A. 91-671, eff. 7-1-00.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.