

HB3993



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3993

Introduced 1/8/2020, by Rep. Katie Stuart

SYNOPSIS AS INTRODUCED:

320 ILCS 20/2

from Ch. 23, par. 6602

Amends the Adult Protective Services Act. Expands the definition of "mandated reporter" to include investment advisors and insurance adjusters. Effective immediately.

LRB101 15665 KTG 65014 b

A BILL FOR

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 Adult Protective Services Act is amended by
5 changing Section 2 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-6) "Adult with disabilities" means a person aged 18
2 through 59 who resides in a domestic living situation and whose
3 disability as defined in subsection (c-5) impairs his or her
4 ability to seek or obtain protection from abuse, neglect, or
5 exploitation.

6 (a-7) "Caregiver" means a person who either as a result of
7 a family relationship, voluntarily, or in exchange for
8 compensation has assumed responsibility for all or a portion of
9 the care of an eligible adult who needs assistance with
10 activities of daily living or instrumental activities of daily
11 living.

12 (b) "Department" means the Department on Aging of the State
13 of Illinois.

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

15 (c-5) "Disability" means a physical or mental disability,
16 including, but not limited to, a developmental disability, an
17 intellectual disability, a mental illness as defined under the
18 Mental Health and Developmental Disabilities Code, or dementia
19 as defined under the Alzheimer's Disease Assistance Act.

20 (d) "Domestic living situation" means a residence where the
21 eligible adult at the time of the report lives alone or with
22 his or her family or a caregiver, or others, or other
23 community-based unlicensed facility, but is not:

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

26 (1.5) A facility licensed under the ID/DD Community

1 Care Act;

2 (1.6) A facility licensed under the MC/DD Act;

3 (1.7) A facility licensed under the Specialized Mental
4 Health Rehabilitation Act of 2013;

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

7 (3) A home, institution, or other place operated by the
8 federal government or agency thereof or by the State of
9 Illinois;

10 (4) A hospital, sanitarium, or other institution, the
11 principal activity or business of which is the diagnosis,
12 care, and treatment of human illness through the
13 maintenance and operation of organized facilities
14 therefor, which is required to be licensed under the
15 Hospital Licensing Act;

16 (5) A "community living facility" as defined in the
17 Community Living Facilities Licensing Act;

18 (6) (Blank);

19 (7) A "community-integrated living arrangement" as
20 defined in the Community-Integrated Living Arrangements
21 Licensure and Certification Act or a "community
22 residential alternative" as licensed under that Act;

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

26 (9) A supportive living facility as described in

1 Section 5-5.01a of the Illinois Public Aid Code.

2 (e) "Eligible adult" means either an adult with
3 disabilities aged 18 through 59 or a person aged 60 or older
4 who resides in a domestic living situation and is, or is
5 alleged to be, abused, neglected, or financially exploited by
6 another individual or who neglects himself or herself.
7 "Eligible adult" also includes an adult who resides in any of
8 the facilities that are excluded from the definition of
9 "domestic living situation" under paragraphs (1) through (9) of
10 subsection (d), if either: (i) the alleged abuse or neglect
11 occurs outside of the facility and not under facility
12 supervision and the alleged abuser is a family member,
13 caregiver, or another person who has a continuing relationship
14 with the adult; or (ii) the alleged financial exploitation is
15 perpetrated by a family member, caregiver, or another person
16 who has a continuing relationship with the adult, but who is
17 not an employee of the facility where the adult resides.

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

23 (f-1) "Financial exploitation" means the use of an eligible
24 adult's resources by another to the disadvantage of that adult
25 or the profit or advantage of a person other than that adult.

26 (f-5) "Mandated reporter" means any of the following

1 persons while engaged in carrying out their professional
2 duties:

3 (1) a professional or professional's delegate while
4 engaged in: (i) social services, (ii) law enforcement,
5 (iii) education, (iv) the care of an eligible adult or
6 eligible adults, or (v) any of the occupations required to
7 be licensed under the Clinical Psychologist Licensing Act,
8 the Clinical Social Work and Social Work Practice Act, the
9 Illinois Dental Practice Act, the Dietitian Nutritionist
10 Practice Act, the Marriage and Family Therapy Licensing
11 Act, the Medical Practice Act of 1987, the Naprapathic
12 Practice Act, the Nurse Practice Act, the Nursing Home
13 Administrators Licensing and Disciplinary Act, the
14 Illinois Occupational Therapy Practice Act, the Illinois
15 Optometric Practice Act of 1987, the Pharmacy Practice Act,
16 the Illinois Physical Therapy Act, the Physician Assistant
17 Practice Act of 1987, the Podiatric Medical Practice Act of
18 1987, the Respiratory Care Practice Act, the Professional
19 Counselor and Clinical Professional Counselor Licensing
20 and Practice Act, the Illinois Speech-Language Pathology
21 and Audiology Practice Act, the Veterinary Medicine and
22 Surgery Practice Act of 2004, and the Illinois Public
23 Accounting Act;

24 (1.5) an employee of an entity providing developmental
25 disabilities services or service coordination funded by
26 the Department of Human Services;

1 (2) an employee of a vocational rehabilitation
2 facility prescribed or supervised by the Department of
3 Human Services;

4 (3) an administrator, employee, or person providing
5 services in or through an unlicensed community based
6 facility;

7 (4) any religious practitioner who provides treatment
8 by prayer or spiritual means alone in accordance with the
9 tenets and practices of a recognized church or religious
10 denomination, except as to information received in any
11 confession or sacred communication enjoined by the
12 discipline of the religious denomination to be held
13 confidential;

14 (5) field personnel of the Department of Healthcare and
15 Family Services, Department of Public Health, and
16 Department of Human Services, and any county or municipal
17 health department;

18 (6) personnel of the Department of Human Services, the
19 Guardianship and Advocacy Commission, the State Fire
20 Marshal, local fire departments, the Department on Aging
21 and its subsidiary Area Agencies on Aging and provider
22 agencies, and the Office of State Long Term Care Ombudsman;

23 (7) any employee of the State of Illinois not otherwise
24 specified herein who is involved in providing services to
25 eligible adults, including professionals providing medical
26 or rehabilitation services and all other persons having

1 direct contact with eligible adults;

2 (8) a person who performs the duties of a coroner or
3 medical examiner; ~~or~~

4 (9) a person who performs the duties of a paramedic or
5 an emergency medical technician; ~~or~~

6 (10) a person who performs the duties of an investment
7 advisor; or

8 (11) a person who performs the duties of an insurance
9 adjuster.

10 (g) "Neglect" means another individual's failure to
11 provide an eligible adult with or willful withholding from an
12 eligible adult the necessities of life including, but not
13 limited to, food, clothing, shelter or health care. This
14 subsection does not create any new affirmative duty to provide
15 support to eligible adults. Nothing in this Act shall be
16 construed to mean that an eligible adult is a victim of neglect
17 because of health care services provided or not provided by
18 licensed health care professionals.

19 (h) "Provider agency" means any public or nonprofit agency
20 in a planning and service area that is selected by the
21 Department or appointed by the regional administrative agency
22 with prior approval by the Department on Aging to receive and
23 assess reports of alleged or suspected abuse, neglect, or
24 financial exploitation. A provider agency is also referenced as
25 a "designated agency" in this Act.

26 (i) "Regional administrative agency" means any public or

1 nonprofit agency in a planning and service area that provides
2 regional oversight and performs functions as set forth in
3 subsection (b) of Section 3 of this Act. The Department shall
4 designate an Area Agency on Aging as the regional
5 administrative agency or, in the event the Area Agency on Aging
6 in that planning and service area is deemed by the Department
7 to be unwilling or unable to provide those functions, the
8 Department may serve as the regional administrative agency or
9 designate another qualified entity to serve as the regional
10 administrative agency; any such designation shall be subject to
11 terms set forth by the Department.

12 (i-5) "Self-neglect" means a condition that is the result
13 of an eligible adult's inability, due to physical or mental
14 impairments, or both, or a diminished capacity, to perform
15 essential self-care tasks that substantially threaten his or
16 her own health, including: providing essential food, clothing,
17 shelter, and health care; and obtaining goods and services
18 necessary to maintain physical health, mental health,
19 emotional well-being, and general safety. The term includes
20 compulsive hoarding, which is characterized by the acquisition
21 and retention of large quantities of items and materials that
22 produce an extensively cluttered living space, which
23 significantly impairs the performance of essential self-care
24 tasks or otherwise substantially threatens life or safety.

25 (j) "Substantiated case" means a reported case of alleged
26 or suspected abuse, neglect, financial exploitation, or

1 self-neglect in which a provider agency, after assessment,
2 determines that there is reason to believe abuse, neglect, or
3 financial exploitation has occurred.

4 (k) "Verified" means a determination that there is "clear
5 and convincing evidence" that the specific injury or harm
6 alleged was the result of abuse, neglect, or financial
7 exploitation.

8 (Source: P.A. 99-180, eff. 7-29-15; 100-641, eff. 1-1-19.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.