



Sen. Dan Cronin

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LRB095 06275 AJ0 34469 a

1 AMENDMENT TO SENATE BILL 481

2 AMENDMENT NO. _____. Amend Senate Bill 481 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Probate Act of 1975 is amended by changing
5 Sections 2-6.2 and 18-1.1 as follows:

6 (755 ILCS 5/2-6.2)

7 Sec. 2-6.2. Financial exploitation, abuse, or neglect of an
8 elderly person or a person with a disability.

9 (a) In this Section:

10 "Abuse" means any offense described in Section 12-21 of the
11 Criminal Code of 1961.

12 "Financial exploitation" means any offense described in
13 Section 16-1.3 of the Criminal Code of 1961.

14 "Neglect" means any offense described in Section 12-19 of
15 the Criminal Code of 1961.

16 (b) Persons convicted of financial exploitation, abuse, or

1 neglect of an elderly person or a person with a disability
2 shall not receive any property, benefit, or other interest by
3 reason of the death of that elderly person or person with a
4 disability, whether as heir, legatee, beneficiary, survivor,
5 appointee, claimant under Section 18-1.1, or in any other
6 capacity and whether the property, benefit, or other interest
7 passes pursuant to any form of title registration, testamentary
8 or nontestamentary instrument, intestacy, renunciation, or any
9 other circumstance. The property, benefit, or other interest
10 shall pass as if the person convicted of the financial
11 exploitation, abuse, or neglect died before the decedent,
12 provided that with respect to joint tenancy property the
13 interest possessed prior to the death by the person convicted
14 of the financial exploitation, abuse, or neglect shall not be
15 diminished by the application of this Section. Notwithstanding
16 the foregoing, a person convicted of financial exploitation,
17 abuse, or neglect of an elderly person or a person with a
18 disability shall be entitled to receive property, a benefit, or
19 an interest in any capacity and under any circumstances
20 described in this subsection (b) if it is demonstrated by clear
21 and convincing evidence that the victim of that offense knew of
22 the conviction and subsequent to the conviction expressed or
23 ratified his or her intent to transfer the property, benefit,
24 or interest to the person convicted of financial exploitation,
25 abuse, or neglect of an elderly person or a person with a
26 disability in any manner contemplated by this subsection (b).

1 (c) (1) The holder of any property subject to the
2 provisions of this Section shall not be liable for
3 distributing or releasing the property to the person
4 convicted of financial exploitation, abuse, or neglect of
5 an elderly person or a person with a disability if the
6 distribution or release occurs prior to the conviction.

7 (2) If the holder is a financial institution, trust
8 company, trustee, or similar entity or person, the holder
9 shall not be liable for any distribution or release of the
10 property, benefit, or other interest to the person
11 convicted of a violation of Section 12-19, 12-21, or 16-1.3
12 of the Criminal Code of 1961 unless the holder knowingly
13 distributes or releases the property, benefit, or other
14 interest to the person so convicted after first having
15 received actual written notice of the conviction in
16 sufficient time to act upon the notice.

17 (d) If the holder of any property subject to the provisions
18 of this Section knows that a potential beneficiary has been
19 convicted of financial exploitation, abuse, or neglect of an
20 elderly person or a person with a disability within the scope
21 of this Section, the holder shall fully cooperate with law
22 enforcement authorities and judicial officers in connection
23 with any investigation of the financial exploitation, abuse, or
24 neglect. If the holder is a person or entity that is subject to
25 regulation by a regulatory agency pursuant to the laws of this
26 or any other state or pursuant to the laws of the United

1 States, including but not limited to the business of a
2 financial institution, corporate fiduciary, or insurance
3 company, then such person or entity shall not be deemed to be
4 in violation of this Section to the extent that privacy laws
5 and regulations applicable to such person or entity prevent it
6 from voluntarily providing law enforcement authorities or
7 judicial officers with information.

8 (Source: P.A. 93-299, eff. 1-1-04.)

9 (755 ILCS 5/18-1.1) (from Ch. 110 1/2, par. 18-1.1)

10 Sec. 18-1.1. Statutory custodial claim. Any spouse,
11 parent, brother, sister, or child of a disabled person who
12 dedicates himself or herself to the care of the disabled person
13 by living with and personally caring for the disabled person
14 for at least 3 years shall be entitled to a claim against the
15 estate upon the death of the disabled person. The claim shall
16 take into consideration the claimant's lost employment
17 opportunities, lost lifestyle opportunities, and emotional
18 distress experienced as a result of personally caring for the
19 disabled person. Notwithstanding the statutory claim amounts
20 stated in this Section, a court may reduce an amount to the
21 extent that the living arrangements were intended to and did in
22 fact also provide a physical, emotional, or financial benefit
23 to the claimant. The factors a court may consider in
24 determining whether to reduce a statutory custodial claim
25 amount may include but are not limited to: (i) the free or low

1 cost of housing provided to the claimant; (ii) the alleviation
2 of the need for the claimant to be employed full time; (iii)
3 any financial benefit provided to the claimant; (iv) the
4 emotional benefits received by the claimant; (v) the personal
5 care received by the claimant from the decedent or others; and
6 (vi) the proximity of the care provided by the claimant to the
7 decedent to the time of the decedent's death. The claim shall
8 be in addition to any other claim, including without limitation
9 a reasonable claim for nursing and other care. The claim shall
10 be based upon the nature and extent of the person's disability
11 and, at a minimum but subject to the extent of the assets
12 available, shall be in the amounts set forth below:

13 1. 100% disability, \$180,000 ~~\$100,000~~

14 2. 75% disability, \$135,000 ~~\$75,000~~

15 3. 50% disability, \$90,000 ~~\$50,000~~

16 4. 25% disability, \$45,000 ~~\$25,000~~

17 (Source: P.A. 87-908.)".