

AN ACT concerning criminal law.

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

Section 5. The Criminal Code of 2012 is amended by changing Sections 12-4.4a and 17-56 as follows:

(720 ILCS 5/12-4.4a)

Sec. 12-4.4a. Abuse or criminal neglect of a long term care facility resident; criminal abuse or neglect of an elderly person or person with a disability.

(a) Abuse or criminal neglect of a long term care facility resident.

(1) A person or an owner or licensee commits abuse of a long term care facility resident when he or she knowingly causes any physical or mental injury to, or commits any sexual offense in this Code against, a resident.

(2) A person or an owner or licensee commits criminal neglect of a long term care facility resident when he or she recklessly:

(A) performs acts that cause a resident's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate, or that create the substantial likelihood that a resident's life will be endangered, health will be injured, or

pre-existing physical or mental condition will deteriorate;

(B) fails to perform acts that he or she knows or reasonably should know are necessary to maintain or preserve the life or health of a resident, and that failure causes the resident's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate, or that create the substantial likelihood that a resident's life will be endangered, health will be injured, or pre-existing physical or mental condition will deteriorate; or

(C) abandons a resident.

(3) A person or an owner or licensee commits neglect of a long term care facility resident when he or she negligently fails to provide adequate medical care, personal care, or maintenance to the resident which results in physical or mental injury or deterioration of the resident's physical or mental condition. An owner or licensee is guilty under this subdivision (a) (3), however, only if the owner or licensee failed to exercise reasonable care in the hiring, training, supervising, or providing of staff or other related routine administrative responsibilities.

(b) Criminal abuse or neglect of an elderly person or person with a disability.

(1) A caregiver commits criminal abuse or neglect of

an elderly person or person with a disability when he or she knowingly does any of the following:

(A) performs acts that cause the person's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate;

(B) fails to perform acts that he or she knows or reasonably should know are necessary to maintain or preserve the life or health of the person, and that failure causes the person's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate;

(C) abandons the person;

(D) physically abuses, harasses, intimidates, or interferes with the personal liberty of the person; ~~or~~

(E) exposes the person to willful deprivation; ~~or~~

(F) performs acts that create the substantial likelihood that the person's life will be endangered, health will be injured, or pre-existing physical or mental condition will deteriorate; or

(G) fails to perform acts that he or she knows or reasonably should know are necessary to maintain or preserve the life or health of the person and that failure creates a substantial likelihood that the person's life will be endangered, health will be injured, or pre-existing physical or mental condition will deteriorate.

(2) It is not a defense to criminal abuse or neglect of an elderly person or person with a disability that the caregiver reasonably believed that the victim was not an elderly person or person with a disability.

(c) Offense not applicable.

(1) Nothing in this Section applies to a physician licensed to practice medicine in all its branches or a duly licensed nurse providing care within the scope of his or her professional judgment and within the accepted standards of care within the community.

(2) Nothing in this Section imposes criminal liability on a caregiver who made a good faith effort to provide for the health and personal care of an elderly person or person with a disability, but through no fault of his or her own was unable to provide such care.

(3) Nothing in this Section applies to the medical supervision, regulation, or control of the remedial care or treatment of residents in a long term care facility conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination as described in Section 3-803 of the Nursing Home Care Act, Section 1-102 of the Specialized Mental Health Rehabilitation Act of 2013, Section 3-803 of the ID/DD Community Care Act, or Section 3-803 of the MC/DD Act.

(4) Nothing in this Section prohibits a caregiver from

providing treatment to an elderly person or person with a disability by spiritual means through prayer alone and care consistent therewith in lieu of medical care and treatment in accordance with the tenets and practices of any church or religious denomination of which the elderly person or person with a disability is a member.

(5) Nothing in this Section limits the remedies available to the victim under the Illinois Domestic Violence Act of 1986.

(d) Sentence.

(1) Long term care facility. Abuse of a long term care facility resident is a Class 3 felony. Criminal neglect of a long term care facility resident is a Class 4 felony, unless it results in the resident's death in which case it is a Class 3 felony. Neglect of a long term care facility resident is a petty offense.

(2) Caregiver. Except as provided in paragraph (3) of this subsection, criminal ~~Criminal~~ abuse or neglect of an elderly person or person with a disability is a Class 3 felony, unless it results in the person's death in which case it is a Class 2 felony, and if imprisonment is imposed it shall be for a minimum term of 3 years and a maximum term of 14 years.

(3) Criminal abuse or neglect of an elderly person or person with a disability under paragraph (F) or (G) of subsection (b) is a Class A misdemeanor.

(e) Definitions. For the purposes of this Section:

"Abandon" means to desert or knowingly forsake a resident or an elderly person or person with a disability under circumstances in which a reasonable person would continue to provide care and custody.

"Caregiver" means a person who has a duty to provide for an elderly person or person with a disability's health and personal care, at the elderly person or person with a disability's place of residence, including, but not limited to, food and nutrition, shelter, hygiene, prescribed medication, and medical care and treatment, and includes any of the following:

(1) A parent, spouse, adult child, or other relative by blood or marriage who resides with or (i) resides in the same building with or regularly visits the elderly person or person with a disability; or (ii) would have reason to believe, as a result of the actions, statements, or behavior of the elderly person or person with a disability, that he or she is being relied upon for providing primary and substantial assistance for physical care; and ~~7~~ knows or reasonably should know of such person's physical or mental impairment, and knows or reasonably should know that such person is unable to adequately provide for his or her own health and personal care.

(2) A person who is employed by the elderly person or

person with a disability or by another to reside with or regularly visit the elderly person or person with a disability and provide for such person's health and personal care.

(3) A person who has agreed for consideration to reside with or regularly visit the elderly person or person with a disability and provide for such person's health and personal care.

(4) A person who has been appointed by a private or public agency or by a court of competent jurisdiction to provide for the elderly person or person with a disability's health and personal care.

(5) A person who has voluntarily assumed the responsibility for the care of an elderly person or person with a disability by knowingly providing ongoing primary and substantial assistance for the care of an elderly person or person with a disability if the person's conduct would lead a reasonable person to believe that failure to provide such care would adversely affect the physical health of the elderly person or person with a disability.

"Caregiver" does not include a long-term care facility licensed or certified under the Nursing Home Care Act or a facility licensed or certified under the ID/DD Community Care Act, the MC/DD Act, or the Specialized Mental Health Rehabilitation Act of 2013, or any administrative, medical, or other personnel of such a facility, or a health care provider

who is licensed under the Medical Practice Act of 1987 and renders care in the ordinary course of his or her profession.

"Elderly person" means a person 60 years of age or older who is incapable of adequately providing for his or her own health and personal care.

"Licensee" means the individual or entity licensed to operate a facility under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, the ID/DD Community Care Act, the MC/DD Act, or the Assisted Living and Shared Housing Act.

"Long term care facility" means a private home, institution, building, residence, or other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code, or any similar institution operated by the State of Illinois or a political subdivision thereof, which provides, through its ownership or management, personal care, sheltered care, or nursing for 3 or more persons not related to the owner by blood or marriage. The term also includes skilled nursing facilities and intermediate care facilities as defined in Titles XVIII and XIX of the federal Social Security Act and assisted living establishments and shared housing establishments licensed under the Assisted Living and Shared Housing Act.

"Owner" means the owner of a long term care facility as provided in the Nursing Home Care Act, the owner of a facility

as provided under the Specialized Mental Health Rehabilitation Act of 2013, the owner of a facility as provided in the ID/DD Community Care Act, the owner of a facility as provided in the MC/DD Act, or the owner of an assisted living or shared housing establishment as provided in the Assisted Living and Shared Housing Act.

"Person with a disability" means a person who suffers from a permanent physical or mental impairment, resulting from disease, injury, functional disorder, or congenital condition, which renders the person incapable of adequately providing for his or her own health and personal care.

"Resident" means a person residing in a long term care facility.

"Willful deprivation" has the meaning ascribed to it in paragraph (15) of Section 103 of the Illinois Domestic Violence Act of 1986.

(Source: P.A. 103-293, eff. 1-1-24.)

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

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

(a) A person commits financial exploitation of an elderly person or a person with a disability when he or she stands in a position of trust or confidence with the elderly person or a person with a disability and he or she knowingly:

(1) by deception or intimidation obtains control over

the property of an elderly person or a person with a disability; or

(2) illegally uses the assets or resources of an elderly person or a person with a disability.

(b) Sentence. Financial exploitation of an elderly person or a person with a disability is: (1) a Class 4 felony if the value of the property is \$300 or less, (2) a Class 3 felony if the value of the property is more than \$300 but less than \$5,000, (3) a Class 2 felony if the value of the property is \$5,000 or more but less than \$50,000, and (4) a Class 1 felony if the value of the property is \$50,000 or more or if the elderly person is 70 years of age or older and the value of the property is \$15,000 or more or if the elderly person is 80 years of age or older and the value of the property is \$5,000 or more.

(c) For purposes of this Section:

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

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

(3) "Intimidation" means the communication to an elderly person or a person with a disability that he or she

shall be deprived of food and nutrition, shelter, prescribed medication or medical care and treatment or conduct as provided in Section 12-6 of this Code.

(4) "Deception" means, in addition to its meaning as defined in Section 15-4 of this Code, a misrepresentation or concealment of material fact relating to the terms of a contract or agreement entered into with the elderly person or person with a disability or to the existing or pre-existing condition of any of the property involved in such contract or agreement; or the use or employment of any misrepresentation, false pretense or false promise in order to induce, encourage or solicit the elderly person or person with a disability to enter into a contract or agreement.

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

"Undue influence" occurs when a person:

(i) uses influence to take advantage of an elderly person or person with a disability's mental or physical impairment; or

(ii) uses the person's role, relationship, or power:

(A) to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or fear of an elderly person or person with a disability; or

(B) to gain control deceptively over the decision making of the elderly person or person with a disability.

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

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

(e) Good faith efforts. Nothing in this Section shall be construed to impose criminal liability on a person who has made a good faith effort to assist the elderly person or person with a disability in the management of his or her property, but through no fault of his or her own has been unable to provide such assistance.

(f) Not a defense. It shall not be a defense to financial

exploitation of an elderly person or person with a disability that the accused reasonably believed that the victim was not an elderly person or person with a disability. Consent is not a defense to financial exploitation of an elderly person or a person with a disability if the accused knew or had reason to know that the elderly person or a person with a disability lacked capacity to consent.

(g) Civil Liability. A civil cause of action exists for financial exploitation of an elderly person or a person with a disability as described in subsection (a) of this Section. A person against whom a civil judgment has been entered for financial exploitation of an elderly person or person with a disability shall be liable to the victim or to the estate of the victim in damages of treble the amount of the value of the property obtained, plus reasonable attorney fees and court costs. In a civil action under this subsection, the burden of proof that the defendant committed financial exploitation of an elderly person or a person with a disability as described in subsection (a) of this Section shall be by a preponderance of the evidence. This subsection shall be operative whether or not the defendant has been charged or convicted of the criminal offense as described in subsection (a) of this Section. This subsection (g) shall not limit or affect the right of any person to bring any cause of action or seek any remedy available under the common law, or other applicable law, arising out of the financial exploitation of an elderly

person or a person with a disability.

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

(Source: P.A. 102-244, eff. 1-1-22; 103-293, eff. 1-1-24.)