AN ACT concerning aging.

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

Section 5. The Adult Protective Services Act is amended by changing Sections 13 and 13.5 as follows:

(320 ILCS 20/13)

Sec. 13. Access.

(a) In accord with established law and Department protocols, procedures, and policies, the designated provider agencies shall have access to eligible adults who have been reported or found to be victims of abuse, abandonment, neglect, financial exploitation, or self-neglect in order to assess the validity of the report, assess other needs of the eligible adult, and provide services in accordance with this Act.

(a-5) A representative of the Department or a designated provider agency that is actively involved in an abuse, abandonment, neglect, financial exploitation, or self-neglect investigation under this Act shall be allowed access to the financial records, mental and physical health records, and other relevant evaluative records of the eligible adult which are in the possession of any individual, financial institution, health care provider, mental health provider, educational facility, or other facility if necessary to complete the investigation mandated by this Act. The provider or facility shall provide such records to the representative upon receipt of a written request and certification from the Department or designated provider agency that an investigation is being conducted under this Act and the records are pertinent to the investigation.

Any records received by such representative, the confidentiality of which is protected by another law or rule, shall be maintained as confidential, except for such use as may be necessary for any administrative or other legal proceeding.

(b) Where access to an eligible adult is denied, including the refusal to provide requested records, the Office of the Attorney General, the Department, or the provider agency may petition the court for an order to require appropriate access where:

(1) a caregiver or third party has interfered with the assessment or service plan, or

(2) the agency has reason to believe that the eligible adult is denying access because of coercion, extortion, or justifiable fear of future abuse, abandonment, neglect, or financial exploitation.

(c) The petition for an order requiring appropriate access shall be afforded an expedited hearing in the circuit court.

(d) If the provider agency has substantiated financial exploitation against an eligible adult, and has documented a reasonable belief that the eligible adult will be irreparably harmed as a result of the financial exploitation, the Office of the Attorney General, the Department, or the provider agency may petition for a temporary restraining order or any other relief outlined in subsection (e) ~~an order freezing the assets of the eligible adult~~. The petition shall be filed in the county or counties in which the assets are located. The court's order shall prohibit the sale, gifting, transfer, or wasting of the assets of the eligible adult, both real and personal, owned by, or vested in, the eligible adult, without the express permission of the court. The petition to freeze the assets of the eligible adult shall be afforded an expedited hearing in the circuit court.

(e) Temporary restraining order; service; hearing.

(1)(A) The court may grant a temporary restraining order ex parte, pending a full hearing, and may grant such relief as the court deems proper if the court finds that:

(i) An immediate and present danger of exploitation of the eligible adult exists.

(ii) There is a likelihood of irreparable harm and nonavailability of an adequate remedy at law.

(iii) There is a substantial likelihood of success on the merits.

(iv) The threatened injury to the eligible adult outweighs possible harm to the respondent.

(v) Granting a temporary restraining order will not disserve the public interest.

(vi) The temporary restraining order provides for the eligible adult's physical or financial safety.

(B) Such relief the court deems proper may include, but is not limited to, any of the following:

(i) Restraining the respondent from committing any acts of exploitation against the eligible adult.

(ii) Awarding to the eligible adult the temporary exclusive use and possession of the dwelling that the eligible adult and the respondent share, or barring the respondent from the residence of the eligible adult. The court shall confirm the availability of any required services or alternative caregivers that may be necessary to ensure the eligible adult's safety.

(iii) Freezing any assets of the eligible adult in any depository or financial institution whether titled solely in the eligible adult's name, solely in the respondent's name, jointly with the respondent, in guardianship, in trust, or in a Totten trust, provided that:

(I) Assets held by a guardian for the eligible adult may be frozen only by an order entered by the court overseeing the guardianship proceeding.

(II) Assets held by a trust may be frozen only by an order of the court if all the trustees of the trust are served with process and are given reasonable notice before any hearing on the petition.

(III) Assets held solely in the name of the respondent may only be frozen on an ex parte basis if the petition and affidavit demonstrate to the court probable cause that such assets are traceable to the unlawful exploitation of the eligible adult, that such assets are likely to be returned to the eligible adult after a final evidentiary hearing, and that no other adequate remedy at law is reasonably available.

(iv) Freezing any line of credit of the eligible adult at any depository or financial institution whether listed solely in the eligible adult's name or jointly with the eligible adult.

(I) Lines of credit held by a guardian for the eligible adult may be frozen only by an order entered by the court overseeing the guardianship proceeding.

(II) Lines of credit held by a trust may be frozen only by an order of the court if all the trustees of the trust are served with process and are given reasonable notice before any hearing on the petition.

(v) Prohibiting the respondent from having direct or indirect contact with the eligible adult.

(vi) Providing directives to law enforcement agencies.

(vii) If the court has ordered an asset and credit freeze, ordering that specified living expenses of the eligible adult continue to be paid.

(2) In a hearing ex parte for the purpose of obtaining an ex parte temporary restraining order, the petitioner can present any relevant evidence, including, but not limited to, verified pleadings, affidavits, police reports, medical reports, financial records, verbal testimony, still photos, audio recordings, and video recordings.

(3) A denial of a petition for an ex parte temporary restraining order must be by written order and must note the legal grounds for denial. When the only ground for denial is failure to demonstrate appearance of an immediate and present danger of exploitation of an eligible adult, the court must set a full hearing on the petition for a temporary restraining order at the earliest possible date. Nothing in this paragraph affects a petitioner's right to promptly amend any petition consistent with court rules.

(4) An ex parte temporary restraining order may be in effect for a fixed period not to exceed 15 days unless good cause is shown to extend the order. The ex parte temporary

restraining order may be extended one time for up to an additional 30 days. A full hearing, as provided by this Section, must be set for a date no later than the date when the ex parte temporary restraining order ceases to be in effect.

(f) Reasonable cause. In determining whether a petitioner has reasonable cause to believe that the eligible adult is, or is in imminent danger of becoming, a victim of exploitation, the court shall consider and evaluate all relevant factors, including, but not limited to, any of the following:

(1) The existence of a verifiable order of protection issued previously or from another jurisdiction.

(2) Any history of exploitation by the respondent upon the eligible adult in the petition or any other eligible adult.

(3) Any history of the eligible adult being previously exploited or unduly influenced.

(4) The capacity of the eligible adult to make decisions related to his or her finances and property.

(5) Susceptibility of the eligible adult to undue influence.

(6) Any criminal history of the respondent or previous probable cause findings by the adult protective services program, if known.

(g) Notice of petition and restraining order.

(1) The respondent shall be personally served, in

accordance with Section 2-203 of the Code of Civil Procedure, with a copy of the petition, notice of hearing, and temporary restraining order, if any, before the final hearing.

(2) If the petitioner is acting in a representative capacity, the eligible adult shall also be served with a copy of the petition, notice of hearing, and temporary restraining order, if any, before the final hearing.

(3) If any assets or lines of credit are ordered to be frozen, the depository or financial institution must be served as provided in Section 2-204 of the Code of Civil Procedure.

(h) Final hearing on petition.

(1)(A) The court may grant such relief as the court deems proper when, upon notice and hearing, it appears to the court that:

(i) The eligible adult is the victim of exploitation or that the eligible adult is in imminent danger of becoming a victim of exploitation.

(ii) There is a likelihood of irreparable harm and nonavailability of an adequate remedy at law.

(iii) The threatened injury to the eligible adult outweighs possible harm to the respondent.

(iv) Where the restraining order freezes assets of the respondent, the court finds probable cause that exploitation has occurred, the freeze only affects the proceeds of such exploitation, and there is a substantial likelihood that such assets will be ordered to be returned to the eligible adult.

(v) The relief provides for the eligible adult's physical or financial safety.

(B) Such relief may include, but need not be limited to, any of the following:

(i) Continuing the temporary restraining order in part or in whole.

(ii) Restraining the respondent from committing any acts of exploitation.

(iii) Awarding to the eligible adult the exclusive use and possession of the dwelling that the eligible adult and the respondent share or excluding the respondent from the residence of the eligible adult. The court shall confirm the availability of any required services or alternative caregivers that may be necessary to ensure the eligible adult's safety.

(iv) Ordering the respondent to participate in treatment, intervention, or counseling services to be paid for by the respondent.

(v) Directing that assets under temporary freeze by a restraining order be returned to the eligible adult, or directing that those assets remain frozen until ownership can be determined; and directing that the temporary freeze on any line of credit be lifted.

(vi) Where the court has found that the respondent has engaged in exploitation of the eligible adult, entering a final cost judgment against the respondent and in favor of the petitioner for all taxable costs and damages.

(vii) Ordering such other relief as the court deems necessary for the protection of a victim of exploitation, including injunctions or directives to law enforcement agencies, as provided in this Section.

(2) The court must allow an advocate to accompany and be present with the petitioner or the respondent in order to provide emotional support during any court proceedings or hearings related to the temporary restraining order, if the petitioner or the respondent has made such a request and the advocate is able to be present.

(3) The terms of a temporary restraining order as provided in paragraph (1) remain in effect until the temporary restraining order is modified or dissolved.

(i) Provisions required in any temporary restraining order, preliminary injunction, or permanent injunction. If the court enters a temporary restraining order, preliminary injunction, or permanent injunction, the court is required to make specific findings on the record. The temporary restraining order, preliminary injunction, or permanent injunction must, on its face, indicate:

(1) That the temporary restraining order, preliminary

injunction, or permanent injunction is valid and enforceable in all counties of this State.

(2) That the court had jurisdiction over the parties and subject matter under State law and that reasonable notice and opportunity to be heard were given to the person against whom the temporary restraining order, preliminary injunction, or permanent injunction was sought, in a manner that was sufficient to protect that person's right to due process.

(3) If any assets or lines of credit are ordered to be frozen, the date that the depository or financial institution was served with the temporary restraining order, preliminary injunction, or permanent injunction as provided in Section 2-204 of the Code of Civil Procedure.

(4) The date the respondent was served with the petition for a temporary restraining order, preliminary injunction, or permanent injunction.

(j) Service.

(1) The petitioner shall furnish a copy of the petition, the financial affidavit, the notice of hearing, and any temporary restraining order to the sheriff or special process server of the county in which the respondent resides or can be found, who shall serve it upon the respondent as soon thereafter as possible on any day of the week and at any time of the day or night. The petitioner may transmit a facsimile copy of a temporary

restraining order and this facsimile copy may be served in the same manner as a certified copy.

(2) If the respondent has been previously served with the temporary restraining order and has failed to appear at the initial hearing on the temporary restraining order, any subsequent petition for a temporary restraining order or preliminary injunction seeking an extension of time may be served on the respondent by the petitioner or the petitioner's attorney via certified mail in lieu of personal service by a law enforcement officer.

(3)(A) Within 24 hours after the court issues a temporary restraining order, preliminary injunction, or permanent injunction to protect an eligible adult against exploitation or changes, continues, extends, or vacates such an order or injunction, the petitioner or the petitioner's attorney must forward a certified copy of the temporary restraining order, preliminary injunction, or permanent injunction to the sheriff with jurisdiction over the residence of the respondent for service in accordance with this subsection.

(B) Within 24 hours after the sheriff receives a certified copy of the temporary restraining order, preliminary injunction, or permanent injunction to protect an eligible adult against exploitation, the sheriff must make information related to the order or injunction available to this State's law enforcement agencies by electronically transmitting such information to the Illinois State Police.

(C) Within 24 hours after the sheriff or special process server has made service upon the respondent and the sheriff has been so notified, the sheriff must make information relating to the service available to other law enforcement agencies by electronically transmitting such information to the Illinois State Police.

(D) Within 24 hours after a temporary restraining order, preliminary injunction, or permanent injunction is terminated or otherwise rendered no longer effective by ruling of the court, the petitioner or petitioner's attorney must notify the sheriff receiving original notification of the temporary restraining order, preliminary injunction, or permanent injunction as provided in subparagraph (A). The sheriff shall, within 24 hours after receiving such notification from the petitioner or the petitioner's attorney, notify the Illinois State Police of such court action.

(k) Enforcement.

(1) As to the respondent, the court may enforce a violation of a temporary restraining order, preliminary injunction, or permanent injunction issued to protect an eligible adult against exploitation through a civil or criminal contempt proceeding.

(2) If the respondent is arrested by a law enforcement

officer, the respondent must be held in custody until he or she is brought before the court, which must occur as expeditiously as possible, for the purpose of enforcing the temporary restraining order, preliminary injunction, or permanent injunction and for admittance to bail in accordance with the applicable rules of criminal procedure, pending a hearing.

(l) Judgment for damages. Actual damages may be assessed against the petitioner in a proceeding under this Section if the court finds that the petition lacks substantial factual or legal support.

(m) Modification or dissolution of a temporary restraining order, preliminary injunction, or permanent injunction. The petitioner, respondent, or eligible adult may move at any time to modify or dissolve the temporary restraining order, preliminary injunction, or permanent injunction in part or in whole. No specific allegations are required for modification or dissolution of the temporary restraining order, preliminary injunction, or permanent injunction, which may be granted in addition to other civil or criminal penalties. The court shall promptly hear a motion to modify or dissolve a temporary restraining order, preliminary injunction, or permanent injunction.

(Source: P.A. 102-244, eff. 1-1-22.)

(320 ILCS 20/13.5)

Sec. 13.5. Commencement of action for access; filing fees; process; notice; duration of orders.

(a) Actions for orders seeking access to an eligible adult or for any other relief outlined in subsection (e) of Section 13 ~~freezing assets of an eligible adult~~ are commenced:

(1) independently, by filing a petition for access to an eligible adult or freezing the assets of an eligible adult in the circuit court;

(2) in conjunction with other civil proceedings, by filing a petition for access to an eligible adult or freezing the assets of an eligible adult under the same case number as another civil proceeding involving the parties, including, but not limited to:

(i) a guardianship proceeding under the Probate Act of 1975;

(ii) a proceeding for involuntary commitment under the Mental Health and Developmental Disabilities Code;

(iii) any other proceeding, provided that the eligible adult or the respondent is a party to or the subject of that proceeding.

(b) No fee shall be charged by the clerk for filing petitions or certifying orders. No fee shall be charged by a sheriff for service by the sheriff of such a petition, rule, motion, or order in an action commenced under this Section.

(c) Any action for an order for access to an eligible adult or freezing assets of an eligible adult, whether commenced independently or in conjunction with another proceeding, is a distinct cause of action and requires that a separate summons be issued and served, except that in pending cases the following methods may be used:

(1) Delivery of the summons to respondent personally in open court in pending civil or criminal cases.

(2) Mailing to the respondent ~~defendant~~, or, if represented, to the respondent's ~~defendant's~~ attorney of record in the civil cases in which the defendant has filed a general appearance. The summons shall be in the form prescribed by subsection (d) of Supreme Court Rule 101, except that it shall require the respondent to answer or appear within 7 days. Attachments to the summons or notice shall include the petition for access to an eligible adult or freezing assets of an eligible adult and supporting affidavits, if any, and any emergency order for access to an eligible adult or freezing assets of an eligible adult that has been issued.

(d) Summons may be served by a private person over 18 years of age and not a party to the action. The return by that private person shall be by affidavit. The summons may be served by a sheriff or other law enforcement officer, and if summons is placed for service by the sheriff, it shall be made at the earliest time practicable and shall take precedence over other summonses except those of a similar emergency nature.

(e) Except as otherwise provided in this Section, notice of hearings on petitions or motions shall be served in accordance with Supreme Court Rules 11 and 12 unless notice is excused by the Code of Civil Procedure, Supreme Court Rules, or local rules, as now or hereafter amended.

(f) Original notice of a hearing on a petition for access to an eligible adult or freezing assets of an eligible adult may be given, and the documents served, in accordance with Supreme Court Rules 11 and 12. When, however, an emergency order is sought in such a case on an ex parte application, the notice rules set forth in Section 11-101 of the Code of Civil Procedure shall apply.

(g) An order entered in accordance with Sections 13 and 13.5 shall be valid for a fixed period of time, not to exceed 2 years.

(Source: P.A. 91-731, eff. 6-2-00.)

Section 10. The Code of Civil Procedure is amended by adding Section 2-203.3 as follows:

(735 ILCS 5/2-203.3 new)

Sec. 2-203.3. Service on third party platform; financial exploitation. In cases of financial exploitation where the alleged perpetrator is unknown or unascertainable, such that service is impracticable under items (1) and (2) of subsection (a) of Section 2-203, service upon the alleged perpetrator may be made on the platform or third party through which the alleged financial exploitation occurred. Notice shall be provided by the same method used by the alleged perpetrator to communicate with the protected party, and documentation of identifying information and all service attempts shall be filed with the court. The court may order any further reasonable measures to effectuate notice and provide an opportunity to be heard.