

1 AN ACT concerning criminal law.

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

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

6 (720 ILCS 5/12-4.4a)

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

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

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

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

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

1 pre-existing physical or mental condition will
2 deteriorate;

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

12 (C) abandons a resident.

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

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

26 (1) A caregiver commits criminal abuse or neglect of

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

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

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

12 (C) abandons the person;

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

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

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

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

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

5 (c) Offense not applicable.

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

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

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

26 (4) Nothing in this Section prohibits a caregiver from

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

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

10 (d) Sentence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (720 ILCS 5/17-56) (was 720 ILCS 5/16-1.3)

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

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

25 (1) by deception or intimidation obtains control over

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

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

5 (b) Sentence. Financial exploitation of an elderly person
6 or a person with a disability is: (1) a Class 4 felony if the
7 value of the property is \$300 or less, (2) a Class 3 felony if
8 the value of the property is more than \$300 but less than
9 \$5,000, (3) a Class 2 felony if the value of the property is
10 \$5,000 or more but less than \$50,000, and (4) a Class 1 felony
11 if the value of the property is \$50,000 or more or if the
12 elderly person is 70 years of age or older and the value of the
13 property is \$15,000 or more or if the elderly person is 80
14 years of age or older and the value of the property is \$5,000
15 or more.

16 (c) For purposes of this Section:

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

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

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

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

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

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

21 "Undue influence" occurs when a person:

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

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

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

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

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

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

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

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

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

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

1 person or a person with a disability.

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

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