

# HB3918



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3918

Introduced 2/22/2021, 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.

LRB102 13815 KTG 19165 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  
3 whose disability as defined in subsection (c-5) impairs his or  
4 her ability to seek or obtain protection from abuse, neglect,  
5 or 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  
9 of 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  
13 State 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  
21 the eligible adult at the time of the report lives alone or  
22 with 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  
8 the federal government or agency thereof or by the State  
9 of 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)  
10 of 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  
24 eligible adult's resources by another to the disadvantage of  
25 that adult or the profit or advantage of a person other than  
26 that adult.

1 (f-5) "Mandated reporter" means any of the following  
2 persons while engaged in carrying out their professional  
3 duties:

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

25 (1.5) an employee of an entity providing developmental  
26 disabilities services or service coordination funded by

1 the Department of Human Services;

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

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

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

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

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

25 (7) any employee of the State of Illinois not  
26 otherwise specified herein who is involved in providing

1 services to eligible adults, including professionals  
2 providing medical or rehabilitation services and all other  
3 persons having direct contact with eligible adults;

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

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

8 (10) a person who performs the duties of an investment  
9 advisor; or

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

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

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



1 as a "designated agency" in this Act.

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

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

1 tasks or otherwise substantially threatens life or safety.

2 (j) "Substantiated case" means a reported case of alleged  
3 or suspected abuse, neglect, financial exploitation, or  
4 self-neglect in which a provider agency, after assessment,  
5 determines that there is reason to believe abuse, neglect, or  
6 financial exploitation has occurred.

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

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

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law.