



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2103

Introduced 2/7/2023, by Rep. Terra Costa Howard

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-4.4a

Amends the Criminal Code of 2012 concerning the offense of criminal abuse or neglect of an elderly person or person with a disability. Changes the definition of "caregiver" to include: (i) a parent, spouse, adult child, or other relative by blood or marriage who 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 (ii) a person who has voluntarily assumed the responsibility for the care of an elderly person or person with a disability under specified circumstances. Provides that "voluntarily assumed the responsibility for the care of an elderly person or person with a disability" means a person has voluntarily assumed responsibility for providing 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.

LRB103 25092 RLC 51427 b

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 Section 12-4.4a 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 an elderly
23 person's or person with a disability's life will be

1 endangered, health will be injured, or pre-existing
2 physical or mental condition will 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 an elderly person's or
10 person with a disability's life will be endangered,
11 health will be injured, or pre-existing physical or
12 mental condition will deteriorate; or

13 (C) abandons a resident.

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

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

1 (1) A caregiver commits criminal abuse or neglect of
2 an elderly person or person with a disability when he or
3 she knowingly does any of the following:

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

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

13 (C) abandons the person;

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

16 (E) exposes the person to willful deprivation.

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

21 (c) Offense not applicable.

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

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

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

16 (4) Nothing in this Section prohibits a caregiver from
17 providing treatment to an elderly person or person with a
18 disability by spiritual means through prayer alone and
19 care consistent therewith in lieu of medical care and
20 treatment in accordance with the tenets and practices of
21 any church or religious denomination of which the elderly
22 person or person with a disability is a member.

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

26 (d) Sentence.

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

7 (2) Caregiver. Criminal abuse or neglect of an elderly
8 person or person with a disability is a Class 3 felony,
9 unless it results in the person's death in which case it is
10 a Class 2 felony, and if imprisonment is imposed it shall
11 be for a minimum term of 3 years and a maximum term of 14
12 years.

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

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

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

25 (1) A parent, spouse, adult child, or other relative
26 by blood or marriage who:

1 (A) resides with or resides in the same building
2 with or regularly visits the elderly person or person
3 with a disability; ~~or,~~

4 (B) would have reason to believe, as a result of
5 the actions, statements, or behavior of the elderly
6 person or person with a disability, that he or she is
7 being relied upon for providing primary and
8 substantial assistance for physical care; and knows or
9 reasonably should know of such person's physical or
10 mental impairment, and knows or reasonably should know
11 that such person is unable to adequately provide for
12 his or her own health and personal care.

13 (2) A person who is employed by the elderly person or
14 person with a disability or by another to reside with or
15 regularly visit the elderly person or person with a
16 disability and provide for such person's health and
17 personal care.

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

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

26 (5) A person who has voluntarily assumed the

1 responsibility for the care of an elderly person or person
2 with a disability if:

3 (A) the person is living in the household of the
4 elderly person or person with a disability, or present
5 in the household on a regular basis; or

6 (B) the person would have reason to believe, as a
7 result of the actions, statements or behavior of the
8 elderly person or person with a disability, that he or
9 she is being relied upon for providing primary and
10 substantial assistance for physical care.

11 "Caregiver" does not include a long-term care facility
12 licensed or certified under the Nursing Home Care Act or a
13 facility licensed or certified under the ID/DD Community Care
14 Act, the MC/DD Act, or the Specialized Mental Health
15 Rehabilitation Act of 2013, or any administrative, medical, or
16 other personnel of such a facility, or a health care provider
17 who is licensed under the Medical Practice Act of 1987 and
18 renders care in the ordinary course of his or her profession.

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

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

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

15 "Owner" means the owner of a long term care facility as
16 provided in the Nursing Home Care Act, the owner of a facility
17 as provided under the Specialized Mental Health Rehabilitation
18 Act of 2013, the owner of a facility as provided in the ID/DD
19 Community Care Act, the owner of a facility as provided in the
20 MC/DD Act, or the owner of an assisted living or shared housing
21 establishment as provided in the Assisted Living and Shared
22 Housing Act.

23 "Person with a disability" means a person who suffers from
24 a permanent physical or mental impairment, resulting from
25 disease, injury, functional disorder, or congenital condition,
26 which renders the person incapable of adequately providing for

1 his or her own health and personal care.

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

4 "Voluntarily assumed the responsibility for the care of an
5 elderly person or person with a disability" means a person has
6 voluntarily assumed responsibility for providing primary and
7 substantial assistance for the care of an elderly person or
8 person with a disability if the person's conduct would lead a
9 reasonable person to believe that failure to provide such care
10 would adversely affect the physical health of the elderly
11 person or person with a disability.

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

15 (Source: P.A. 98-104, eff. 7-22-13; 99-180, eff. 7-29-15;
16 99-642, eff. 7-28-16.)