

HB4530



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4530

Introduced 1/31/2024, by Rep. Joyce Mason

SYNOPSIS AS INTRODUCED:

320 ILCS 20/2

from Ch. 23, par. 6602

Amends the Adult Protective Services Act. Expands the Act to provide adult protective services to persons 18 years of age or older who are enrolled in a school district, charter school, or nonpublic school in this State.

LRB103 36168 KTG 66260 b

A BILL FOR

1 AN ACT concerning adult protective services.

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) "Abandonment" means the desertion or willful forsaking
10 of an eligible adult by an individual responsible for the care
11 and custody of that eligible adult under circumstances in
12 which a reasonable person would continue to provide care and
13 custody. Nothing in this Act shall be construed to mean that an
14 eligible adult is a victim of abandonment because of health
15 care services provided or not provided by licensed health care
16 professionals.

17 (a-1) "Abuse" means causing any physical, mental or sexual
18 injury to an eligible adult, including exploitation of such
19 adult's financial resources, and abandonment.

20 Nothing in this Act shall be construed to mean that an
21 eligible adult is a victim of abuse, abandonment, neglect, or
22 self-neglect for the sole reason that he or she is being
23 furnished with or relies upon treatment by spiritual means

1 through prayer alone, in accordance with the tenets and
2 practices of a recognized church or religious denomination.

3 Nothing in this Act shall be construed to mean that an
4 eligible adult is a victim of abuse because of health care
5 services provided or not provided by licensed health care
6 professionals.

7 Nothing in this Act shall be construed to mean that an
8 eligible adult is a victim of abuse in cases of criminal
9 activity by strangers, telemarketing scams, consumer fraud,
10 internet fraud, home repair disputes, complaints against a
11 homeowners' association, or complaints between landlords and
12 tenants.

13 (a-5) "Abuser" means a person who is a family member,
14 caregiver, or another person who has a continuing relationship
15 with the eligible adult and abuses, abandons, neglects, or
16 financially exploits an eligible adult.

17 (a-6) "Adult with disabilities" means a person aged 18
18 through 59 who resides in a domestic living situation and
19 whose disability as defined in subsection (c-5) impairs his or
20 her ability to seek or obtain protection from abuse,
21 abandonment, neglect, or exploitation.

22 (a-7) "Caregiver" means a person who either as a result of
23 a family relationship, voluntarily, or in exchange for
24 compensation has assumed responsibility for all or a portion
25 of the care of an eligible adult who needs assistance with
26 activities of daily living or instrumental activities of daily

1 living.

2 (b) "Department" means the Department on Aging of the
3 State of Illinois.

4 (c) "Director" means the Director of the Department.

5 (c-5) "Disability" means a physical or mental disability,
6 including, but not limited to, a developmental disability, an
7 intellectual disability, a mental illness as defined under the
8 Mental Health and Developmental Disabilities Code, or dementia
9 as defined under the Alzheimer's Disease Assistance Act.

10 (d) "Domestic living situation" means a residence where
11 the eligible adult at the time of the report lives alone or
12 with his or her family or a caregiver, or others, or other
13 community-based unlicensed facility, but is not:

14 (1) A licensed facility as defined in Section 1-113 of
15 the Nursing Home Care Act;

16 (1.5) A facility licensed under the ID/DD Community
17 Care Act;

18 (1.6) A facility licensed under the MC/DD Act;

19 (1.7) A facility licensed under the Specialized Mental
20 Health Rehabilitation Act of 2013;

21 (2) A "life care facility" as defined in the Life Care
22 Facilities Act;

23 (3) A home, institution, or other place operated by
24 the federal government or agency thereof or by the State
25 of Illinois;

26 (4) A hospital, sanitarium, or other institution, the

1 principal activity or business of which is the diagnosis,
2 care, and treatment of human illness through the
3 maintenance and operation of organized facilities
4 therefor, which is required to be licensed under the
5 Hospital Licensing Act;

6 (5) A "community living facility" as defined in the
7 Community Living Facilities Licensing Act;

8 (6) (Blank);

9 (7) A "community-integrated living arrangement" as
10 defined in the Community-Integrated Living Arrangements
11 Licensure and Certification Act or a "community
12 residential alternative" as licensed under that Act;

13 (8) An assisted living or shared housing establishment
14 as defined in the Assisted Living and Shared Housing Act;
15 or

16 (9) A supportive living facility as described in
17 Section 5-5.01a of the Illinois Public Aid Code.

18 (e) "Eligible adult" means either a person aged 18 or
19 older who is enrolled in a school district, charter school, or
20 nonpublic school in this State, an adult with disabilities
21 aged 18 through 59, or a person aged 60 or older who resides in
22 a domestic living situation and is, or is alleged to be,
23 abused, abandoned, neglected, or financially exploited by
24 another individual or who neglects himself or herself.
25 "Eligible adult" also includes an adult who resides in any of
26 the facilities that are excluded from the definition of

1 "domestic living situation" under paragraphs (1) through (9)
2 of subsection (d), if either: (i) the alleged abuse,
3 abandonment, or neglect occurs outside of the facility and not
4 under facility supervision and the alleged abuser is a family
5 member, caregiver, or another person who has a continuing
6 relationship with the adult; or (ii) the alleged financial
7 exploitation is perpetrated by a family member, caregiver, or
8 another person who has a continuing relationship with the
9 adult, but who is not an employee of the facility where the
10 adult resides.

11 (f) "Emergency" means a situation in which an eligible
12 adult is living in conditions presenting a risk of death or
13 physical, mental or sexual injury and the provider agency has
14 reason to believe the eligible adult is unable to consent to
15 services which would alleviate that risk.

16 (f-1) "Financial exploitation" means the use of an
17 eligible adult's resources by another to the disadvantage of
18 that adult or the profit or advantage of a person other than
19 that adult.

20 (f-3) "Investment advisor" means any person required to
21 register as an investment adviser or investment adviser
22 representative under Section 8 of the Illinois Securities Law
23 of 1953, which for purposes of this Act excludes any bank,
24 trust company, savings bank, or credit union, or their
25 respective employees.

26 (f-5) "Mandated reporter" means any of the following

1 persons while engaged in carrying out their professional
2 duties:

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

24 (1.5) an employee of an entity providing developmental
25 disabilities services or service coordination funded by
26 the Department of Human Services;

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

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

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

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

18 (6) personnel of the Department of Human Services, the
19 Guardianship and Advocacy Commission, the State Fire
20 Marshal, local fire departments, the Department on Aging
21 and its subsidiary Area Agencies on Aging and provider
22 agencies, except the State Long Term Care Ombudsman and
23 any of his or her representatives or volunteers where
24 prohibited from making such a report pursuant to 45 CFR
25 1324.11(e)(3)(iv);

26 (7) any employee of the State of Illinois not

1 otherwise specified herein who is involved in providing
2 services to eligible adults, including professionals
3 providing medical or rehabilitation services and all other
4 persons having direct contact with eligible adults;

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

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

9 (10) a person who performs the duties of an investment
10 advisor.

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

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

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

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

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

11 (Source: P.A. 102-244, eff. 1-1-22; 102-953, eff. 5-27-22;
12 103-329, eff. 1-1-24.)