



Sen. William R. Haine

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1 AMENDMENT TO HOUSE BILL 948

2 AMENDMENT NO. _____. Amend House Bill 948 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Statewide Centralized Abuse, Neglect, Financial Exploitation,
6 and Self-Neglect Hotline Act.

7 Section 5. Legislative findings. The General Assembly
8 finds all of the following:

9 (a) Illinois' current investigatory system is
10 decentralized, being comprised of different State agencies
11 responsible for investigating abuse, neglect, financial
12 exploitation, or self-neglect of different populations
13 depending upon the age of the individual and the setting in
14 which he or she resides.

15 (b) Each of the investigatory agencies has its own hotline
16 to receive reports of abuse, neglect, financial exploitation,

1 or self-neglect of the individuals and settings over which they
2 have investigative authority.

3 (c) To ensure the safety and well-being of the individuals
4 the investigatory system was designed to protect, it is a goal
5 to develop a statewide centralized hotline to receive reports
6 of abuse, neglect, financial exploitation, or self-neglect of
7 adults with disabilities and older adults.

8 Section 10. Exploratory committee for the Statewide
9 Centralized Hotline. The Department on Aging shall, upon the
10 effective date of this Act, act as the lead agency in convening
11 an exploratory committee with the Department of Human Services
12 and the Department of Public Health to determine how a
13 centralized hotline will function and what types of funding,
14 staffing, and training are required to support its operation.
15 The Committee shall be composed of stakeholder representatives
16 of all programs under consideration for inclusion in the
17 Statewide Centralized Hotline, as well as representatives from
18 each of the named agencies.

19 Section 15. Committee responsibilities. The Committee
20 shall carry out the following responsibilities:

21 (1) analyze the laws and regulations that establish the
22 respective agency hotlines;

23 (2) evaluate the respective agency phone systems to
24 determine necessary technology changes for a centralized

1 hotline;

2 (3) gather information on the volume of calls received by
3 each agency;

4 (4) determine the exact process by which a call is screened
5 to ascertain where it should be directed; and

6 (5) establish the manner in which the confidentiality of
7 all complainant identities will be protected for purposes of
8 any dissemination of records or other information outside
9 agency personnel.

10 Section 20. Committee report. The Committee shall issue a
11 report with its findings and recommendations together with a
12 budget proposal within 6 months after the effective date of
13 this Act.

14 Section 25. The Open Meetings Act is amended by changing
15 Section 2 as follows:

16 (5 ILCS 120/2) (from Ch. 102, par. 42)

17 Sec. 2. Open meetings.

18 (a) Openness required. All meetings of public bodies shall
19 be open to the public unless excepted in subsection (c) and
20 closed in accordance with Section 2a.

21 (b) Construction of exceptions. The exceptions contained
22 in subsection (c) are in derogation of the requirement that
23 public bodies meet in the open, and therefore, the exceptions

1 are to be strictly construed, extending only to subjects
2 clearly within their scope. The exceptions authorize but do not
3 require the holding of a closed meeting to discuss a subject
4 included within an enumerated exception.

5 (c) Exceptions. A public body may hold closed meetings to
6 consider the following subjects:

7 (1) The appointment, employment, compensation,
8 discipline, performance, or dismissal of specific
9 employees of the public body or legal counsel for the
10 public body, including hearing testimony on a complaint
11 lodged against an employee of the public body or against
12 legal counsel for the public body to determine its
13 validity.

14 (2) Collective negotiating matters between the public
15 body and its employees or their representatives, or
16 deliberations concerning salary schedules for one or more
17 classes of employees.

18 (3) The selection of a person to fill a public office,
19 as defined in this Act, including a vacancy in a public
20 office, when the public body is given power to appoint
21 under law or ordinance, or the discipline, performance or
22 removal of the occupant of a public office, when the public
23 body is given power to remove the occupant under law or
24 ordinance.

25 (4) Evidence or testimony presented in open hearing, or
26 in closed hearing where specifically authorized by law, to

1 a quasi-adjudicative body, as defined in this Act, provided
2 that the body prepares and makes available for public
3 inspection a written decision setting forth its
4 determinative reasoning.

5 (5) The purchase or lease of real property for the use
6 of the public body, including meetings held for the purpose
7 of discussing whether a particular parcel should be
8 acquired.

9 (6) The setting of a price for sale or lease of
10 property owned by the public body.

11 (7) The sale or purchase of securities, investments, or
12 investment contracts. This exception shall not apply to the
13 investment of assets or income of funds deposited into the
14 Illinois Prepaid Tuition Trust Fund.

15 (8) Security procedures and the use of personnel and
16 equipment to respond to an actual, a threatened, or a
17 reasonably potential danger to the safety of employees,
18 students, staff, the public, or public property.

19 (9) Student disciplinary cases.

20 (10) The placement of individual students in special
21 education programs and other matters relating to
22 individual students.

23 (11) Litigation, when an action against, affecting or
24 on behalf of the particular public body has been filed and
25 is pending before a court or administrative tribunal, or
26 when the public body finds that an action is probable or

1 imminent, in which case the basis for the finding shall be
2 recorded and entered into the minutes of the closed
3 meeting.

4 (12) The establishment of reserves or settlement of
5 claims as provided in the Local Governmental and
6 Governmental Employees Tort Immunity Act, if otherwise the
7 disposition of a claim or potential claim might be
8 prejudiced, or the review or discussion of claims, loss or
9 risk management information, records, data, advice or
10 communications from or with respect to any insurer of the
11 public body or any intergovernmental risk management
12 association or self insurance pool of which the public body
13 is a member.

14 (13) Conciliation of complaints of discrimination in
15 the sale or rental of housing, when closed meetings are
16 authorized by the law or ordinance prescribing fair housing
17 practices and creating a commission or administrative
18 agency for their enforcement.

19 (14) Informant sources, the hiring or assignment of
20 undercover personnel or equipment, or ongoing, prior or
21 future criminal investigations, when discussed by a public
22 body with criminal investigatory responsibilities.

23 (15) Professional ethics or performance when
24 considered by an advisory body appointed to advise a
25 licensing or regulatory agency on matters germane to the
26 advisory body's field of competence.

1 (16) Self evaluation, practices and procedures or
2 professional ethics, when meeting with a representative of
3 a statewide association of which the public body is a
4 member.

5 (17) The recruitment, credentialing, discipline or
6 formal peer review of physicians or other health care
7 professionals for a hospital, or other institution
8 providing medical care, that is operated by the public
9 body.

10 (18) Deliberations for decisions of the Prisoner
11 Review Board.

12 (19) Review or discussion of applications received
13 under the Experimental Organ Transplantation Procedures
14 Act.

15 (20) The classification and discussion of matters
16 classified as confidential or continued confidential by
17 the State Government Suggestion Award Board.

18 (21) Discussion of minutes of meetings lawfully closed
19 under this Act, whether for purposes of approval by the
20 body of the minutes or semi-annual review of the minutes as
21 mandated by Section 2.06.

22 (22) Deliberations for decisions of the State
23 Emergency Medical Services Disciplinary Review Board.

24 (23) The operation by a municipality of a municipal
25 utility or the operation of a municipal power agency or
26 municipal natural gas agency when the discussion involves

1 (i) contracts relating to the purchase, sale, or delivery
2 of electricity or natural gas or (ii) the results or
3 conclusions of load forecast studies.

4 (24) Meetings of a residential health care facility
5 resident sexual assault and death review team or the
6 Executive Council under the Abuse Prevention Review Team
7 Act.

8 (25) Meetings of an independent team of experts under
9 Brian's Law.

10 (26) Meetings of a mortality review team appointed
11 under the Department of Juvenile Justice Mortality Review
12 Team Act.

13 (27) (Blank). ~~Confidential information, when discussed~~
14 ~~by one or more members of an elder abuse fatality review~~
15 ~~team, designated under Section 15 of the Elder Abuse and~~
16 ~~Neglect Act, while participating in a review conducted by~~
17 ~~that team of the death of an elderly person in which abuse~~
18 ~~or neglect is suspected, alleged, or substantiated;~~
19 ~~provided that before the review team holds a closed~~
20 ~~meeting, or closes an open meeting, to discuss the~~
21 ~~confidential information, each participating review team~~
22 ~~member seeking to disclose the confidential information in~~
23 ~~the closed meeting or closed portion of the meeting must~~
24 ~~state on the record during an open meeting or the open~~
25 ~~portion of a meeting the nature of the information to be~~
26 ~~disclosed and the legal basis for otherwise holding that~~

1 ~~information confidential.~~

2 (28) Correspondence and records (i) that may not be
3 disclosed under Section 11-9 of the Public Aid Code or (ii)
4 that pertain to appeals under Section 11-8 of the Public
5 Aid Code.

6 (29) Meetings between internal or external auditors
7 and governmental audit committees, finance committees, and
8 their equivalents, when the discussion involves internal
9 control weaknesses, identification of potential fraud risk
10 areas, known or suspected frauds, and fraud interviews
11 conducted in accordance with generally accepted auditing
12 standards of the United States of America.

13 (30) Those meetings or portions of meetings of an
14 at-risk adult fatality review team or the Illinois At-Risk
15 Adult Fatality Review Team Advisory Council during which a
16 review of the death of an eligible adult in which abuse or
17 neglect is suspected, alleged, or substantiated is
18 conducted pursuant to Section 15 of the Adult Protective
19 Services Act.

20 (d) Definitions. For purposes of this Section:

21 "Employee" means a person employed by a public body whose
22 relationship with the public body constitutes an
23 employer-employee relationship under the usual common law
24 rules, and who is not an independent contractor.

25 "Public office" means a position created by or under the
26 Constitution or laws of this State, the occupant of which is

1 charged with the exercise of some portion of the sovereign
2 power of this State. The term "public office" shall include
3 members of the public body, but it shall not include
4 organizational positions filled by members thereof, whether
5 established by law or by a public body itself, that exist to
6 assist the body in the conduct of its business.

7 "Quasi-adjudicative body" means an administrative body
8 charged by law or ordinance with the responsibility to conduct
9 hearings, receive evidence or testimony and make
10 determinations based thereon, but does not include local
11 electoral boards when such bodies are considering petition
12 challenges.

13 (e) Final action. No final action may be taken at a closed
14 meeting. Final action shall be preceded by a public recital of
15 the nature of the matter being considered and other information
16 that will inform the public of the business being conducted.

17 (Source: P.A. 96-1235, eff. 1-1-11; 96-1378, eff. 7-29-10;
18 96-1428, eff. 8-11-10; 97-318, eff. 1-1-12; 97-333, eff.
19 8-12-11; 97-452, eff. 8-19-11; 97-813, eff. 7-13-12; 97-876,
20 eff. 8-1-12.)

21 Section 30. The Freedom of Information Act is amended by
22 changing Section 7.5 as follows:

23 (5 ILCS 140/7.5)

24 Sec. 7.5. Statutory Exemptions. To the extent provided for

1 by the statutes referenced below, the following shall be exempt
2 from inspection and copying:

3 (a) All information determined to be confidential under
4 Section 4002 of the Technology Advancement and Development Act.

5 (b) Library circulation and order records identifying
6 library users with specific materials under the Library Records
7 Confidentiality Act.

8 (c) Applications, related documents, and medical records
9 received by the Experimental Organ Transplantation Procedures
10 Board and any and all documents or other records prepared by
11 the Experimental Organ Transplantation Procedures Board or its
12 staff relating to applications it has received.

13 (d) Information and records held by the Department of
14 Public Health and its authorized representatives relating to
15 known or suspected cases of sexually transmissible disease or
16 any information the disclosure of which is restricted under the
17 Illinois Sexually Transmissible Disease Control Act.

18 (e) Information the disclosure of which is exempted under
19 Section 30 of the Radon Industry Licensing Act.

20 (f) Firm performance evaluations under Section 55 of the
21 Architectural, Engineering, and Land Surveying Qualifications
22 Based Selection Act.

23 (g) Information the disclosure of which is restricted and
24 exempted under Section 50 of the Illinois Prepaid Tuition Act.

25 (h) Information the disclosure of which is exempted under
26 the State Officials and Employees Ethics Act, and records of

1 any lawfully created State or local inspector general's office
2 that would be exempt if created or obtained by an Executive
3 Inspector General's office under that Act.

4 (i) Information contained in a local emergency energy plan
5 submitted to a municipality in accordance with a local
6 emergency energy plan ordinance that is adopted under Section
7 11-21.5-5 of the Illinois Municipal Code.

8 (j) Information and data concerning the distribution of
9 surcharge moneys collected and remitted by wireless carriers
10 under the Wireless Emergency Telephone Safety Act.

11 (k) Law enforcement officer identification information or
12 driver identification information compiled by a law
13 enforcement agency or the Department of Transportation under
14 Section 11-212 of the Illinois Vehicle Code.

15 (l) Records and information provided to a residential
16 health care facility resident sexual assault and death review
17 team or the Executive Council under the Abuse Prevention Review
18 Team Act.

19 (m) Information provided to the predatory lending database
20 created pursuant to Article 3 of the Residential Real Property
21 Disclosure Act, except to the extent authorized under that
22 Article.

23 (n) Defense budgets and petitions for certification of
24 compensation and expenses for court appointed trial counsel as
25 provided under Sections 10 and 15 of the Capital Crimes
26 Litigation Act. This subsection (n) shall apply until the

1 conclusion of the trial of the case, even if the prosecution
2 chooses not to pursue the death penalty prior to trial or
3 sentencing.

4 (o) Information that is prohibited from being disclosed
5 under Section 4 of the Illinois Health and Hazardous Substances
6 Registry Act.

7 (p) Security portions of system safety program plans,
8 investigation reports, surveys, schedules, lists, data, or
9 information compiled, collected, or prepared by or for the
10 Regional Transportation Authority under Section 2.11 of the
11 Regional Transportation Authority Act or the St. Clair County
12 Transit District under the Bi-State Transit Safety Act.

13 (q) Information prohibited from being disclosed by the
14 Personnel Records Review Act.

15 (r) Information prohibited from being disclosed by the
16 Illinois School Student Records Act.

17 (s) Information the disclosure of which is restricted under
18 Section 5-108 of the Public Utilities Act.

19 (t) All identified or deidentified health information in
20 the form of health data or medical records contained in, stored
21 in, submitted to, transferred by, or released from the Illinois
22 Health Information Exchange, and identified or deidentified
23 health information in the form of health data and medical
24 records of the Illinois Health Information Exchange in the
25 possession of the Illinois Health Information Exchange
26 Authority due to its administration of the Illinois Health

1 Information Exchange. The terms "identified" and
2 "deidentified" shall be given the same meaning as in the Health
3 Insurance Accountability and Portability Act of 1996, Public
4 Law 104-191, or any subsequent amendments thereto, and any
5 regulations promulgated thereunder.

6 (u) Records and information provided to an independent team
7 of experts under Brian's Law.

8 (v) Names and information of people who have applied for or
9 received Firearm Owner's Identification Cards under the
10 Firearm Owners Identification Card Act.

11 (w) Personally identifiable information which is exempted
12 from disclosure under subsection (g) of Section 19.1 of the
13 Toll Highway Act.

14 (x) Information which is exempted from disclosure under
15 Section 5-1014.3 of the Counties Code or Section 8-11-21 of the
16 Illinois Municipal Code.

17 (y) Confidential information under the Adult Protective
18 Services Act and its predecessor enabling statute, the Elder
19 Abuse and Neglect Act, including information about the identity
20 and administrative finding against any caregiver of a verified
21 and substantiated decision of significant abuse, neglect, or
22 financial exploitation of an eligible adult maintained in the
23 Department of Public Health's Health Care Worker Registry.

24 (z) Records and information provided to an at-risk adult
25 fatality review team or the Illinois At-Risk Adult Fatality
26 Review Team Advisory Council under Section 15 of the Adult

1 Protective Services Act.

2 (Source: P.A. 96-542, eff. 1-1-10; 96-1235, eff. 1-1-11;
3 96-1331, eff. 7-27-10; 97-80, eff. 7-5-11; 97-333, eff.
4 8-12-11; 97-342, eff. 8-12-11; 97-813, eff. 7-13-12; 97-976,
5 eff. 1-1-13.)

6 Section 35. The State Employee Indemnification Act is
7 amended by changing Section 1 as follows:

8 (5 ILCS 350/1) (from Ch. 127, par. 1301)

9 Sec. 1. Definitions. For the purpose of this Act:

10 (a) The term "State" means the State of Illinois, the
11 General Assembly, the court, or any State office, department,
12 division, bureau, board, commission, or committee, the
13 governing boards of the public institutions of higher education
14 created by the State, the Illinois National Guard, the
15 Comprehensive Health Insurance Board, any poison control
16 center designated under the Poison Control System Act that
17 receives State funding, or any other agency or instrumentality
18 of the State. It does not mean any local public entity as that
19 term is defined in Section 1-206 of the Local Governmental and
20 Governmental Employees Tort Immunity Act or a pension fund.

21 (b) The term "employee" means any present or former elected
22 or appointed officer, trustee or employee of the State, or of a
23 pension fund, any present or former commissioner or employee of
24 the Executive Ethics Commission or of the Legislative Ethics

1 Commission, any present or former Executive, Legislative, or
2 Auditor General's Inspector General, any present or former
3 employee of an Office of an Executive, Legislative, or Auditor
4 General's Inspector General, any present or former member of
5 the Illinois National Guard while on active duty, individuals
6 or organizations who contract with the Department of
7 Corrections, the Comprehensive Health Insurance Board, or the
8 Department of Veterans' Affairs to provide services,
9 individuals or organizations who contract with the Department
10 of Human Services (as successor to the Department of Mental
11 Health and Developmental Disabilities) to provide services
12 including but not limited to treatment and other services for
13 sexually violent persons, individuals or organizations who
14 contract with the Department of Military Affairs for youth
15 programs, individuals or organizations who contract to perform
16 carnival and amusement ride safety inspections for the
17 Department of Labor, individual representatives of or
18 designated organizations authorized to represent the Office of
19 State Long-Term Ombudsman for the Department on Aging,
20 individual representatives of or organizations designated by
21 the Department on Aging in the performance of their duties as
22 adult protective services ~~elder abuse provider~~ agencies or
23 regional administrative agencies under the Adult Protective
24 Services Act, individuals or organizations appointed as
25 members of a review team or the Advisory Council under the
26 Adult Protective Services Act ~~Elder Abuse and Neglect Act~~,

1 individuals or organizations who perform volunteer services
2 for the State where such volunteer relationship is reduced to
3 writing, individuals who serve on any public entity (whether
4 created by law or administrative action) described in paragraph
5 (a) of this Section, individuals or not for profit
6 organizations who, either as volunteers, where such volunteer
7 relationship is reduced to writing, or pursuant to contract,
8 furnish professional advice or consultation to any agency or
9 instrumentality of the State, individuals who serve as foster
10 parents for the Department of Children and Family Services when
11 caring for a Department ward, individuals who serve as members
12 of an independent team of experts under Brian's Law, and
13 individuals who serve as arbitrators pursuant to Part 10A of
14 Article II of the Code of Civil Procedure and the rules of the
15 Supreme Court implementing Part 10A, each as now or hereafter
16 amended, but does not mean an independent contractor except as
17 provided in this Section. The term includes an individual
18 appointed as an inspector by the Director of State Police when
19 performing duties within the scope of the activities of a
20 Metropolitan Enforcement Group or a law enforcement
21 organization established under the Intergovernmental
22 Cooperation Act. An individual who renders professional advice
23 and consultation to the State through an organization which
24 qualifies as an "employee" under the Act is also an employee.
25 The term includes the estate or personal representative of an
26 employee.

1 (c) The term "pension fund" means a retirement system or
2 pension fund created under the Illinois Pension Code.

3 (Source: P.A. 96-1235, eff. 1-1-11.)

4 Section 40. The Illinois Act on the Aging is amended by
5 changing Section 4.01 as follows:

6 (20 ILCS 105/4.01) (from Ch. 23, par. 6104.01)

7 Sec. 4.01. Additional powers and duties of the Department.
8 In addition to powers and duties otherwise provided by law, the
9 Department shall have the following powers and duties:

10 (1) To evaluate all programs, services, and facilities for
11 the aged and for minority senior citizens within the State and
12 determine the extent to which present public or private
13 programs, services and facilities meet the needs of the aged.

14 (2) To coordinate and evaluate all programs, services, and
15 facilities for the Aging and for minority senior citizens
16 presently furnished by State agencies and make appropriate
17 recommendations regarding such services, programs and
18 facilities to the Governor and/or the General Assembly.

19 (3) To function as the sole State agency to develop a
20 comprehensive plan to meet the needs of the State's senior
21 citizens and the State's minority senior citizens.

22 (4) To receive and disburse State and federal funds made
23 available directly to the Department including those funds made
24 available under the Older Americans Act and the Senior

1 Community Service Employment Program for providing services
2 for senior citizens and minority senior citizens or for
3 purposes related thereto, and shall develop and administer any
4 State Plan for the Aging required by federal law.

5 (5) To solicit, accept, hold, and administer in behalf of
6 the State any grants or legacies of money, securities, or
7 property to the State of Illinois for services to senior
8 citizens and minority senior citizens or purposes related
9 thereto.

10 (6) To provide consultation and assistance to communities,
11 area agencies on aging, and groups developing local services
12 for senior citizens and minority senior citizens.

13 (7) To promote community education regarding the problems
14 of senior citizens and minority senior citizens through
15 institutes, publications, radio, television and the local
16 press.

17 (8) To cooperate with agencies of the federal government in
18 studies and conferences designed to examine the needs of senior
19 citizens and minority senior citizens and to prepare programs
20 and facilities to meet those needs.

21 (9) To establish and maintain information and referral
22 sources throughout the State when not provided by other
23 agencies.

24 (10) To provide the staff support that may reasonably be
25 required by the Council.

26 (11) To make and enforce rules and regulations necessary

1 and proper to the performance of its duties.

2 (12) To establish and fund programs or projects or
3 experimental facilities that are specially designed as
4 alternatives to institutional care.

5 (13) To develop a training program to train the counselors
6 presently employed by the Department's aging network to provide
7 Medicare beneficiaries with counseling and advocacy in
8 Medicare, private health insurance, and related health care
9 coverage plans. The Department shall report to the General
10 Assembly on the implementation of the training program on or
11 before December 1, 1986.

12 (14) To make a grant to an institution of higher learning
13 to study the feasibility of establishing and implementing an
14 affirmative action employment plan for the recruitment,
15 hiring, training and retraining of persons 60 or more years old
16 for jobs for which their employment would not be precluded by
17 law.

18 (15) To present one award annually in each of the
19 categories of community service, education, the performance
20 and graphic arts, and the labor force to outstanding Illinois
21 senior citizens and minority senior citizens in recognition of
22 their individual contributions to either community service,
23 education, the performance and graphic arts, or the labor
24 force. The awards shall be presented to 4 senior citizens and
25 minority senior citizens selected from a list of 44 nominees
26 compiled annually by the Department. Nominations shall be

1 solicited from senior citizens' service providers, area
2 agencies on aging, senior citizens' centers, and senior
3 citizens' organizations. The Department shall establish a
4 central location within the State to be designated as the
5 Senior Illinoisans Hall of Fame for the public display of all
6 the annual awards, or replicas thereof.

7 (16) To establish multipurpose senior centers through area
8 agencies on aging and to fund those new and existing
9 multipurpose senior centers through area agencies on aging, the
10 establishment and funding to begin in such areas of the State
11 as the Department shall designate by rule and as specifically
12 appropriated funds become available.

13 (17) To develop the content and format of the
14 acknowledgment regarding non-recourse reverse mortgage loans
15 under Section 6.1 of the Illinois Banking Act; to provide
16 independent consumer information on reverse mortgages and
17 alternatives; and to refer consumers to independent counseling
18 services with expertise in reverse mortgages.

19 (18) To develop a pamphlet in English and Spanish which may
20 be used by physicians licensed to practice medicine in all of
21 its branches pursuant to the Medical Practice Act of 1987,
22 pharmacists licensed pursuant to the Pharmacy Practice Act, and
23 Illinois residents 65 years of age or older for the purpose of
24 assisting physicians, pharmacists, and patients in monitoring
25 prescriptions provided by various physicians and to aid persons
26 65 years of age or older in complying with directions for

1 proper use of pharmaceutical prescriptions. The pamphlet may
2 provide space for recording information including but not
3 limited to the following:

4 (a) name and telephone number of the patient;

5 (b) name and telephone number of the prescribing
6 physician;

7 (c) date of prescription;

8 (d) name of drug prescribed;

9 (e) directions for patient compliance; and

10 (f) name and telephone number of dispensing pharmacy.

11 In developing the pamphlet, the Department shall consult
12 with the Illinois State Medical Society, the Center for
13 Minority Health Services, the Illinois Pharmacists Association
14 and senior citizens organizations. The Department shall
15 distribute the pamphlets to physicians, pharmacists and
16 persons 65 years of age or older or various senior citizen
17 organizations throughout the State.

18 (19) To conduct a study of the feasibility of implementing
19 the Senior Companion Program throughout the State.

20 (20) The reimbursement rates paid through the community
21 care program for chore housekeeping services and home care
22 aides shall be the same.

23 (21) From funds appropriated to the Department from the
24 Meals on Wheels Fund, a special fund in the State treasury that
25 is hereby created, and in accordance with State and federal
26 guidelines and the intrastate funding formula, to make grants

1 to area agencies on aging, designated by the Department, for
2 the sole purpose of delivering meals to homebound persons 60
3 years of age and older.

4 (22) To distribute, through its area agencies on aging,
5 information alerting seniors on safety issues regarding
6 emergency weather conditions, including extreme heat and cold,
7 flooding, tornadoes, electrical storms, and other severe storm
8 weather. The information shall include all necessary
9 instructions for safety and all emergency telephone numbers of
10 organizations that will provide additional information and
11 assistance.

12 (23) To develop guidelines for the organization and
13 implementation of Volunteer Services Credit Programs to be
14 administered by Area Agencies on Aging or community based
15 senior service organizations. The Department shall hold public
16 hearings on the proposed guidelines for public comment,
17 suggestion, and determination of public interest. The
18 guidelines shall be based on the findings of other states and
19 of community organizations in Illinois that are currently
20 operating volunteer services credit programs or demonstration
21 volunteer services credit programs. The Department shall offer
22 guidelines for all aspects of the programs including, but not
23 limited to, the following:

24 (a) types of services to be offered by volunteers;

25 (b) types of services to be received upon the
26 redemption of service credits;

1 (c) issues of liability for the volunteers and the
2 administering organizations;

3 (d) methods of tracking service credits earned and
4 service credits redeemed;

5 (e) issues of time limits for redemption of service
6 credits;

7 (f) methods of recruitment of volunteers;

8 (g) utilization of community volunteers, community
9 service groups, and other resources for delivering
10 services to be received by service credit program clients;

11 (h) accountability and assurance that services will be
12 available to individuals who have earned service credits;
13 and

14 (i) volunteer screening and qualifications.

15 The Department shall submit a written copy of the guidelines to
16 the General Assembly by July 1, 1998.

17 (24) To function as the sole State agency to receive and
18 disburse State and federal funds for providing adult protective
19 services in a domestic living situation in accordance with the
20 Adult Protective Services Act.

21 (Source: P.A. 95-298, eff. 8-20-07; 95-689, eff. 10-29-07;
22 95-876, eff. 8-21-08; 96-918, eff. 6-9-10.)

23 Section 45. The Department of Human Services Act is amended
24 by changing Section 1-17 as follows:

1 (20 ILCS 1305/1-17)

2 Sec. 1-17. Inspector General.

3 (a) Nature and purpose. It is the express intent of the
4 General Assembly to ensure the health, safety, and financial
5 condition of individuals receiving services in this State due
6 to mental illness, developmental disability, or both by
7 protecting those persons from acts of abuse, neglect, or both
8 by service providers. To that end, the Office of the Inspector
9 General for the Department of Human Services is created to
10 investigate and report upon allegations of the abuse, neglect,
11 or financial exploitation of individuals receiving services
12 within mental health facilities, developmental disabilities
13 facilities, and community agencies operated, licensed, funded
14 or certified by the Department of Human Services, but not
15 licensed or certified by any other State agency. ~~It is also the~~
16 ~~express intent of the General Assembly to authorize the~~
17 ~~Inspector General to investigate alleged or suspected cases of~~
18 ~~abuse, neglect, or financial exploitation of adults with~~
19 ~~disabilities living in domestic settings in the community under~~
20 ~~the Abuse of Adults with Disabilities Intervention Act.~~

21 (b) Definitions. The following definitions apply to this
22 Section:

23 "Adult student with a disability" means an adult student,
24 age 18 through 21, inclusive, with an Individual Education
25 Program, other than a resident of a facility licensed by the
26 Department of Children and Family Services in accordance with

1 the Child Care Act of 1969. For purposes of this definition,
2 "through age 21, inclusive", means through the day before the
3 student's 22nd birthday.

4 "Agency" or "community agency" means (i) a community agency
5 licensed, funded, or certified by the Department, but not
6 licensed or certified by any other human services agency of the
7 State, to provide mental health service or developmental
8 disabilities service, or (ii) a program licensed, funded, or
9 certified by the Department, but not licensed or certified by
10 any other human services agency of the State, to provide mental
11 health service or developmental disabilities service.

12 "Aggravating circumstance" means a factor that is
13 attendant to a finding and that tends to compound or increase
14 the culpability of the accused.

15 "Allegation" means an assertion, complaint, suspicion, or
16 incident involving any of the following conduct by an employee,
17 facility, or agency against an individual or individuals:
18 mental abuse, physical abuse, sexual abuse, neglect, or
19 financial exploitation.

20 "Day" means working day, unless otherwise specified.

21 "Deflection" means a situation in which an individual is
22 presented for admission to a facility or agency, and the
23 facility staff or agency staff do not admit the individual.
24 "Deflection" includes triage, redirection, and denial of
25 admission.

26 "Department" means the Department of Human Services.

1 "Developmentally disabled" means having a developmental
2 disability.

3 "Developmental disability" means "developmental
4 disability" as defined in the Mental Health and Developmental
5 Disabilities Code.

6 "Egregious neglect" means a finding of neglect as
7 determined by the Inspector General that (i) represents a gross
8 failure to adequately provide for, or a callused indifference
9 to, the health, safety, or medical needs of an individual and
10 (ii) results in an individual's death or other serious
11 deterioration of an individual's physical condition or mental
12 condition.

13 "Employee" means any person who provides services at the
14 facility or agency on-site or off-site. The service
15 relationship can be with the individual or with the facility or
16 agency. Also, "employee" includes any employee or contractual
17 agent of the Department of Human Services or the community
18 agency involved in providing or monitoring or administering
19 mental health or developmental disability services. This
20 includes but is not limited to: owners, operators, payroll
21 personnel, contractors, subcontractors, and volunteers.

22 "Facility" or "State-operated facility" means a mental
23 health facility or developmental disabilities facility
24 operated by the Department.

25 "Financial exploitation" means taking unjust advantage of
26 an individual's assets, property, or financial resources

1 through deception, intimidation, or conversion for the
2 employee's, facility's, or agency's own advantage or benefit.

3 "Finding" means the Office of Inspector General's
4 determination regarding whether an allegation is
5 substantiated, unsubstantiated, or unfounded.

6 "Health care worker registry" or "registry" means the
7 health care worker registry created by the Nursing Home Care
8 Act.

9 "Individual" means any person receiving mental health
10 service, developmental disabilities service, or both from a
11 facility or agency, while either on-site or off-site.

12 "Mental abuse" means the use of demeaning, intimidating, or
13 threatening words, signs, gestures, or other actions by an
14 employee about an individual and in the presence of an
15 individual or individuals that results in emotional distress or
16 maladaptive behavior, or could have resulted in emotional
17 distress or maladaptive behavior, for any individual present.

18 "Mental illness" means "mental illness" as defined in the
19 Mental Health and Developmental Disabilities Code.

20 "Mentally ill" means having a mental illness.

21 "Mitigating circumstance" means a condition that (i) is
22 attendant to a finding, (ii) does not excuse or justify the
23 conduct in question, but (iii) may be considered in evaluating
24 the severity of the conduct, the culpability of the accused, or
25 both the severity of the conduct and the culpability of the
26 accused.

1 "Neglect" means an employee's, agency's, or facility's
2 failure to provide adequate medical care, personal care, or
3 maintenance and that, as a consequence, (i) causes an
4 individual pain, injury, or emotional distress, (ii) results in
5 either an individual's maladaptive behavior or the
6 deterioration of an individual's physical condition or mental
7 condition, or (iii) places the individual's health or safety at
8 substantial risk.

9 "Physical abuse" means an employee's non-accidental and
10 inappropriate contact with an individual that causes bodily
11 harm. "Physical abuse" includes actions that cause bodily harm
12 as a result of an employee directing an individual or person to
13 physically abuse another individual.

14 "Recommendation" means an admonition, separate from a
15 finding, that requires action by the facility, agency, or
16 Department to correct a systemic issue, problem, or deficiency
17 identified during an investigation.

18 "Required reporter" means any employee who suspects,
19 witnesses, or is informed of an allegation of any one or more
20 of the following: mental abuse, physical abuse, sexual abuse,
21 neglect, or financial exploitation.

22 "Secretary" means the Chief Administrative Officer of the
23 Department.

24 "Sexual abuse" means any sexual contact or intimate
25 physical contact between an employee and an individual,
26 including an employee's coercion or encouragement of an

1 individual to engage in sexual behavior that results in sexual
2 contact, intimate physical contact, sexual behavior, or
3 intimate physical behavior.

4 "Substantiated" means there is a preponderance of the
5 evidence to support the allegation.

6 "Unfounded" means there is no credible evidence to support
7 the allegation.

8 "Unsubstantiated" means there is credible evidence, but
9 less than a preponderance of evidence to support the
10 allegation.

11 (c) Appointment. The Governor shall appoint, and the Senate
12 shall confirm, an Inspector General. The Inspector General
13 shall be appointed for a term of 4 years and shall function
14 within the Department of Human Services and report to the
15 Secretary and the Governor.

16 (d) Operation and appropriation. The Inspector General
17 shall function independently within the Department with
18 respect to the operations of the Office, including the
19 performance of investigations and issuance of findings and
20 recommendations. The appropriation for the Office of Inspector
21 General shall be separate from the overall appropriation for
22 the Department.

23 (e) Powers and duties. The Inspector General shall
24 investigate reports of suspected mental abuse, physical abuse,
25 sexual abuse, neglect, or financial exploitation of
26 individuals in any mental health or developmental disabilities

1 facility or agency and shall have authority to take immediate
2 action to prevent any one or more of the following from
3 happening to individuals under its jurisdiction: mental abuse,
4 physical abuse, sexual abuse, neglect, or financial
5 exploitation. Upon written request of an agency of this State,
6 the Inspector General may assist another agency of the State in
7 investigating reports of the abuse, neglect, or abuse and
8 neglect of persons with mental illness, persons with
9 developmental disabilities, or persons with both. To comply
10 with the requirements of subsection (k) of this Section, the
11 Inspector General shall also review all reportable deaths for
12 which there is no allegation of abuse or neglect. Nothing in
13 this Section shall preempt any duties of the Medical Review
14 Board set forth in the Mental Health and Developmental
15 Disabilities Code. The Inspector General shall have no
16 authority to investigate alleged violations of the State
17 Officials and Employees Ethics Act. Allegations of misconduct
18 under the State Officials and Employees Ethics Act shall be
19 referred to the Office of the Governor's Executive Inspector
20 General for investigation.

21 (f) Limitations. The Inspector General shall not conduct an
22 investigation within an agency or facility if that
23 investigation would be redundant to or interfere with an
24 investigation conducted by another State agency. The Inspector
25 General shall have no supervision over, or involvement in, the
26 routine programmatic, licensing, funding, or certification

1 operations of the Department. Nothing in this subsection limits
2 investigations by the Department that may otherwise be required
3 by law or that may be necessary in the Department's capacity as
4 central administrative authority responsible for the operation
5 of the State's mental health and developmental disabilities
6 facilities.

7 (g) Rulemaking authority. The Inspector General shall
8 promulgate rules establishing minimum requirements for
9 reporting allegations as well as for initiating, conducting,
10 and completing investigations based upon the nature of the
11 allegation or allegations. The rules shall clearly establish
12 that if 2 or more State agencies could investigate an
13 allegation, the Inspector General shall not conduct an
14 investigation that would be redundant to, or interfere with, an
15 investigation conducted by another State agency. The rules
16 shall further clarify the method and circumstances under which
17 the Office of Inspector General may interact with the
18 licensing, funding, or certification units of the Department in
19 preventing further occurrences of mental abuse, physical
20 abuse, sexual abuse, neglect, egregious neglect, and financial
21 exploitation.

22 (h) Training programs. The Inspector General shall (i)
23 establish a comprehensive program to ensure that every person
24 authorized to conduct investigations receives ongoing training
25 relative to investigation techniques, communication skills,
26 and the appropriate means of interacting with persons receiving

1 treatment for mental illness, developmental disability, or
2 both mental illness and developmental disability, and (ii)
3 establish and conduct periodic training programs for facility
4 and agency employees concerning the prevention and reporting of
5 any one or more of the following: mental abuse, physical abuse,
6 sexual abuse, neglect, egregious neglect, or financial
7 exploitation. Nothing in this Section shall be deemed to
8 prevent the Office of Inspector General from conducting any
9 other training as determined by the Inspector General to be
10 necessary or helpful.

11 (i) Duty to cooperate.

12 (1) The Inspector General shall at all times be granted
13 access to any facility or agency for the purpose of
14 investigating any allegation, conducting unannounced site
15 visits, monitoring compliance with a written response, or
16 completing any other statutorily assigned duty. The
17 Inspector General shall conduct unannounced site visits to
18 each facility at least annually for the purpose of
19 reviewing and making recommendations on systemic issues
20 relative to preventing, reporting, investigating, and
21 responding to all of the following: mental abuse, physical
22 abuse, sexual abuse, neglect, egregious neglect, or
23 financial exploitation.

24 (2) Any employee who fails to cooperate with an Office
25 of the Inspector General investigation is in violation of
26 this Act. Failure to cooperate with an investigation

1 includes, but is not limited to, any one or more of the
2 following: (i) creating and transmitting a false report to
3 the Office of the Inspector General hotline, (ii) providing
4 false information to an Office of the Inspector General
5 Investigator during an investigation, (iii) colluding with
6 other employees to cover up evidence, (iv) colluding with
7 other employees to provide false information to an Office
8 of the Inspector General investigator, (v) destroying
9 evidence, (vi) withholding evidence, or (vii) otherwise
10 obstructing an Office of the Inspector General
11 investigation. Additionally, any employee who, during an
12 unannounced site visit or written response compliance
13 check, fails to cooperate with requests from the Office of
14 the Inspector General is in violation of this Act.

15 (j) Subpoena powers. The Inspector General shall have the
16 power to subpoena witnesses and compel the production of all
17 documents and physical evidence relating to his or her
18 investigations and any hearings authorized by this Act. This
19 subpoena power shall not extend to persons or documents of a
20 labor organization or its representatives insofar as the
21 persons are acting in a representative capacity to an employee
22 whose conduct is the subject of an investigation or the
23 documents relate to that representation. Any person who
24 otherwise fails to respond to a subpoena or who knowingly
25 provides false information to the Office of the Inspector
26 General by subpoena during an investigation is guilty of a

1 Class A misdemeanor.

2 (k) Reporting allegations and deaths.

3 (1) Allegations. If an employee witnesses, is told of,
4 or has reason to believe an incident of mental abuse,
5 physical abuse, sexual abuse, neglect, or financial
6 exploitation has occurred, the employee, agency, or
7 facility shall report the allegation by phone to the Office
8 of the Inspector General hotline according to the agency's
9 or facility's procedures, but in no event later than 4
10 hours after the initial discovery of the incident,
11 allegation, or suspicion of any one or more of the
12 following: mental abuse, physical abuse, sexual abuse,
13 neglect, or financial exploitation. A required reporter as
14 defined in subsection (b) of this Section who knowingly or
15 intentionally fails to comply with these reporting
16 requirements is guilty of a Class A misdemeanor.

17 (2) Deaths. Absent an allegation, a required reporter
18 shall, within 24 hours after initial discovery, report by
19 phone to the Office of the Inspector General hotline each
20 of the following:

21 (i) Any death of an individual occurring within 14
22 calendar days after discharge or transfer of the
23 individual from a residential program or facility.

24 (ii) Any death of an individual occurring within 24
25 hours after deflection from a residential program or
26 facility.

1 (iii) Any other death of an individual occurring at
2 an agency or facility or at any Department-funded site.

3 (3) Retaliation. It is a violation of this Act for any
4 employee or administrator of an agency or facility to take
5 retaliatory action against an employee who acts in good
6 faith in conformance with his or her duties as a required
7 reporter.

8 (1) Reporting to law enforcement.

9 (1) Reporting criminal acts. Within 24 hours after
10 determining that there is credible evidence indicating
11 that a criminal act may have been committed or that special
12 expertise may be required in an investigation, the
13 Inspector General shall notify the Department of State
14 Police or other appropriate law enforcement authority, or
15 ensure that such notification is made. The Department of
16 State Police shall investigate any report from a
17 State-operated facility indicating a possible murder,
18 sexual assault, or other felony by an employee. All
19 investigations conducted by the Inspector General shall be
20 conducted in a manner designed to ensure the preservation
21 of evidence for possible use in a criminal prosecution.

22 (2) Reporting allegations of adult students with
23 disabilities. Upon receipt of a reportable allegation
24 regarding an adult student with a disability, the
25 Department's Office of the Inspector General shall
26 determine whether the allegation meets the criteria for the

1 Domestic Abuse Program under the Abuse of Adults with
2 Disabilities Intervention Act. If the allegation is
3 reportable to that program, the Office of the Inspector
4 General shall initiate an investigation. If the allegation
5 is not reportable to the Domestic Abuse Program, the Office
6 of the Inspector General shall make an expeditious referral
7 to the respective law enforcement entity. If the alleged
8 victim is already receiving services from the Department,
9 the Office of the Inspector General shall also make a
10 referral to the respective Department of Human Services'
11 Division or Bureau.

12 (m) Investigative reports. Upon completion of an
13 investigation, the Office of Inspector General shall issue an
14 investigative report identifying whether the allegations are
15 substantiated, unsubstantiated, or unfounded. Within 10
16 business days after the transmittal of a completed
17 investigative report substantiating an allegation, or if a
18 recommendation is made, the Inspector General shall provide the
19 investigative report on the case to the Secretary and to the
20 director of the facility or agency where any one or more of the
21 following occurred: mental abuse, physical abuse, sexual
22 abuse, neglect, egregious neglect, or financial exploitation.
23 In a substantiated case, the investigative report shall include
24 any mitigating or aggravating circumstances that were
25 identified during the investigation. If the case involves
26 substantiated neglect, the investigative report shall also

1 state whether egregious neglect was found. An investigative
2 report may also set forth recommendations. All investigative
3 reports prepared by the Office of the Inspector General shall
4 be considered confidential and shall not be released except as
5 provided by the law of this State or as required under
6 applicable federal law. Unsubstantiated and unfounded reports
7 shall not be disclosed except as allowed under Section 6 of the
8 Abused and Neglected Long Term Care Facility Residents
9 Reporting Act. Raw data used to compile the investigative
10 report shall not be subject to release unless required by law
11 or a court order. "Raw data used to compile the investigative
12 report" includes, but is not limited to, any one or more of the
13 following: the initial complaint, witness statements,
14 photographs, investigator's notes, police reports, or incident
15 reports. If the allegations are substantiated, the accused
16 shall be provided with a redacted copy of the investigative
17 report. Death reports where there was no allegation of abuse or
18 neglect shall only be released pursuant to applicable State or
19 federal law or a valid court order.

20 (n) Written responses and reconsideration requests.

21 (1) Written responses. Within 30 calendar days from
22 receipt of a substantiated investigative report or an
23 investigative report which contains recommendations,
24 absent a reconsideration request, the facility or agency
25 shall file a written response that addresses, in a concise
26 and reasoned manner, the actions taken to: (i) protect the

1 individual; (ii) prevent recurrences; and (iii) eliminate
2 the problems identified. The response shall include the
3 implementation and completion dates of such actions. If the
4 written response is not filed within the allotted 30
5 calendar day period, the Secretary shall determine the
6 appropriate corrective action to be taken.

7 (2) Reconsideration requests. The facility, agency,
8 victim or guardian, or the subject employee may request
9 that the Office of Inspector General reconsider or clarify
10 its finding based upon additional information.

11 (o) Disclosure of the finding by the Inspector General. The
12 Inspector General shall disclose the finding of an
13 investigation to the following persons: (i) the Governor, (ii)
14 the Secretary, (iii) the director of the facility or agency,
15 (iv) the alleged victims and their guardians, (v) the
16 complainant, and (vi) the accused. This information shall
17 include whether the allegations were deemed substantiated,
18 unsubstantiated, or unfounded.

19 (p) Secretary review. Upon review of the Inspector
20 General's investigative report and any agency's or facility's
21 written response, the Secretary shall accept or reject the
22 written response and notify the Inspector General of that
23 determination. The Secretary may further direct that other
24 administrative action be taken, including, but not limited to,
25 any one or more of the following: (i) additional site visits,
26 (ii) training, (iii) provision of technical assistance

1 relative to administrative needs, licensure or certification,
2 or (iv) the imposition of appropriate sanctions.

3 (q) Action by facility or agency. Within 30 days of the
4 date the Secretary approves the written response or directs
5 that further administrative action be taken, the facility or
6 agency shall provide an implementation report to the Inspector
7 General that provides the status of the action taken. The
8 facility or agency shall be allowed an additional 30 days to
9 send notice of completion of the action or to send an updated
10 implementation report. If the action has not been completed
11 within the additional 30 day period, the facility or agency
12 shall send updated implementation reports every 60 days until
13 completion. The Inspector General shall conduct a review of any
14 implementation plan that takes more than 120 days after
15 approval to complete, and shall monitor compliance through a
16 random review of approved written responses, which may include,
17 but are not limited to: (i) site visits, (ii) telephone
18 contact, and (iii) requests for additional documentation
19 evidencing compliance.

20 (r) Sanctions. Sanctions, if imposed by the Secretary under
21 Subdivision (p)(iv) of this Section, shall be designed to
22 prevent further acts of mental abuse, physical abuse, sexual
23 abuse, neglect, egregious neglect, or financial exploitation
24 or some combination of one or more of those acts at a facility
25 or agency, and may include any one or more of the following:

26 (1) Appointment of on-site monitors.

1 (2) Transfer or relocation of an individual or
2 individuals.

3 (3) Closure of units.

4 (4) Termination of any one or more of the following:

5 (i) Department licensing, (ii) funding, or (iii)
6 certification.

7 The Inspector General may seek the assistance of the
8 Illinois Attorney General or the office of any State's Attorney
9 in implementing sanctions.

10 (s) Health care worker registry.

11 (1) Reporting to the registry. The Inspector General
12 shall report to the Department of Public Health's health
13 care worker registry, a public registry, the identity and
14 finding of each employee of a facility or agency against
15 whom there is a final investigative report containing a
16 substantiated allegation of physical or sexual abuse or
17 egregious neglect of an individual.

18 (2) Notice to employee. Prior to reporting the name of
19 an employee, the employee shall be notified of the
20 Department's obligation to report and shall be granted an
21 opportunity to request an administrative hearing, the sole
22 purpose of which is to determine if the substantiated
23 finding warrants reporting to the registry. Notice to the
24 employee shall contain a clear and concise statement of the
25 grounds on which the report to the registry is based, offer
26 the employee an opportunity for a hearing, and identify the

1 process for requesting such a hearing. Notice is sufficient
2 if provided by certified mail to the employee's last known
3 address. If the employee fails to request a hearing within
4 30 days from the date of the notice, the Inspector General
5 shall report the name of the employee to the registry.
6 Nothing in this subdivision (s) (2) shall diminish or impair
7 the rights of a person who is a member of a collective
8 bargaining unit under the Illinois Public Labor Relations
9 Act or under any other federal labor statute.

10 (3) Registry hearings. If the employee requests an
11 administrative hearing, the employee shall be granted an
12 opportunity to appear before an administrative law judge to
13 present reasons why the employee's name should not be
14 reported to the registry. The Department shall bear the
15 burden of presenting evidence that establishes, by a
16 preponderance of the evidence, that the substantiated
17 finding warrants reporting to the registry. After
18 considering all the evidence presented, the administrative
19 law judge shall make a recommendation to the Secretary as
20 to whether the substantiated finding warrants reporting
21 the name of the employee to the registry. The Secretary
22 shall render the final decision. The Department and the
23 employee shall have the right to request that the
24 administrative law judge consider a stipulated disposition
25 of these proceedings.

26 (4) Testimony at registry hearings. A person who makes

1 a report or who investigates a report under this Act shall
2 testify fully in any judicial proceeding resulting from
3 such a report, as to any evidence of abuse or neglect, or
4 the cause thereof. No evidence shall be excluded by reason
5 of any common law or statutory privilege relating to
6 communications between the alleged perpetrator of abuse or
7 neglect, or the individual alleged as the victim in the
8 report, and the person making or investigating the report.
9 Testimony at hearings is exempt from the confidentiality
10 requirements of subsection (f) of Section 10 of the Mental
11 Health and Developmental Disabilities Confidentiality Act.

12 (5) Employee's rights to collateral action. No
13 reporting to the registry shall occur and no hearing shall
14 be set or proceed if an employee notifies the Inspector
15 General in writing, including any supporting
16 documentation, that he or she is formally contesting an
17 adverse employment action resulting from a substantiated
18 finding by complaint filed with the Illinois Civil Service
19 Commission, or which otherwise seeks to enforce the
20 employee's rights pursuant to any applicable collective
21 bargaining agreement. If an action taken by an employer
22 against an employee as a result of a finding of physical
23 abuse, sexual abuse, or egregious neglect is overturned
24 through an action filed with the Illinois Civil Service
25 Commission or under any applicable collective bargaining
26 agreement and if that employee's name has already been sent

1 to the registry, the employee's name shall be removed from
2 the registry.

3 (6) Removal from registry. At any time after the report
4 to the registry, but no more than once in any 12-month
5 period, an employee may petition the Department in writing
6 to remove his or her name from the registry. Upon receiving
7 notice of such request, the Inspector General shall conduct
8 an investigation into the petition. Upon receipt of such
9 request, an administrative hearing will be set by the
10 Department. At the hearing, the employee shall bear the
11 burden of presenting evidence that establishes, by a
12 preponderance of the evidence, that removal of the name
13 from the registry is in the public interest. The parties
14 may jointly request that the administrative law judge
15 consider a stipulated disposition of these proceedings.

16 (t) Review of Administrative Decisions. The Department
17 shall preserve a record of all proceedings at any formal
18 hearing conducted by the Department involving health care
19 worker registry hearings. Final administrative decisions of
20 the Department are subject to judicial review pursuant to
21 provisions of the Administrative Review Law.

22 (u) Quality Care Board. There is created, within the Office
23 of the Inspector General, a Quality Care Board to be composed
24 of 7 members appointed by the Governor with the advice and
25 consent of the Senate. One of the members shall be designated
26 as chairman by the Governor. Of the initial appointments made

1 by the Governor, 4 Board members shall each be appointed for a
2 term of 4 years and 3 members shall each be appointed for a
3 term of 2 years. Upon the expiration of each member's term, a
4 successor shall be appointed for a term of 4 years. In the case
5 of a vacancy in the office of any member, the Governor shall
6 appoint a successor for the remainder of the unexpired term.

7 Members appointed by the Governor shall be qualified by
8 professional knowledge or experience in the area of law,
9 investigatory techniques, or in the area of care of the
10 mentally ill or developmentally disabled. Two members
11 appointed by the Governor shall be persons with a disability or
12 a parent of a person with a disability. Members shall serve
13 without compensation, but shall be reimbursed for expenses
14 incurred in connection with the performance of their duties as
15 members.

16 The Board shall meet quarterly, and may hold other meetings
17 on the call of the chairman. Four members shall constitute a
18 quorum allowing the Board to conduct its business. The Board
19 may adopt rules and regulations it deems necessary to govern
20 its own procedures.

21 The Board shall monitor and oversee the operations,
22 policies, and procedures of the Inspector General to ensure the
23 prompt and thorough investigation of allegations of neglect and
24 abuse. In fulfilling these responsibilities, the Board may do
25 the following:

- 26 (1) Provide independent, expert consultation to the

1 Inspector General on policies and protocols for
2 investigations of alleged abuse, neglect, or both abuse and
3 neglect.

4 (2) Review existing regulations relating to the
5 operation of facilities.

6 (3) Advise the Inspector General as to the content of
7 training activities authorized under this Section.

8 (4) Recommend policies concerning methods for
9 improving the intergovernmental relationships between the
10 Office of the Inspector General and other State or federal
11 offices.

12 (v) Annual report. The Inspector General shall provide to
13 the General Assembly and the Governor, no later than January 1
14 of each year, a summary of reports and investigations made
15 under this Act for the prior fiscal year with respect to
16 individuals receiving mental health or developmental
17 disabilities services. The report shall detail the imposition
18 of sanctions, if any, and the final disposition of any
19 corrective or administrative action directed by the Secretary.
20 The summaries shall not contain any confidential or identifying
21 information of any individual, but shall include objective data
22 identifying any trends in the number of reported allegations,
23 the timeliness of the Office of the Inspector General's
24 investigations, and their disposition, for each facility and
25 Department-wide, for the most recent 3-year time period. The
26 report shall also identify, by facility, the staff-to-patient

1 ratios taking account of direct care staff only. The report
2 shall also include detailed recommended administrative actions
3 and matters for consideration by the General Assembly.

4 (w) Program audit. The Auditor General shall conduct a
5 program audit of the Office of the Inspector General on an
6 as-needed basis, as determined by the Auditor General. The
7 audit shall specifically include the Inspector General's
8 compliance with the Act and effectiveness in investigating
9 reports of allegations occurring in any facility or agency. The
10 Auditor General shall conduct the program audit according to
11 the provisions of the Illinois State Auditing Act and shall
12 report its findings to the General Assembly no later than
13 January 1 following the audit period.

14 (x) Nothing in this Section shall be construed to mean that
15 a patient is a victim of abuse or neglect because of health
16 care services appropriately provided or not provided by health
17 care professionals.

18 (y) Nothing in this Section shall require a facility,
19 including its employees, agents, medical staff members, and
20 health care professionals, to provide a service to a patient in
21 contravention of that patient's stated or implied objection to
22 the provision of that service on the ground that that service
23 conflicts with the patient's religious beliefs or practices,
24 nor shall the failure to provide a service to a patient be
25 considered abuse under this Section if the patient has objected
26 to the provision of that service based on his or her religious

1 beliefs or practices.

2 (Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10;
3 96-407, eff. 8-13-09; 96-555, eff. 8-18-09; 96-1000, eff.
4 7-2-10; 96-1446, eff. 8-20-10.)

5 (20 ILCS 2435/Act rep.)

6 Section 50. The Abuse of Adults with Disabilities
7 Intervention Act is repealed.

8 Section 55. The Illinois Police Training Act is amended by
9 changing Section 7 as follows:

10 (50 ILCS 705/7) (from Ch. 85, par. 507)

11 Sec. 7. Rules and standards for schools. The Board shall
12 adopt rules and minimum standards for such schools which shall
13 include but not be limited to the following:

14 a. The curriculum for probationary police officers which
15 shall be offered by all certified schools shall include but not
16 be limited to courses of arrest, search and seizure, civil
17 rights, human relations, cultural diversity, including racial
18 and ethnic sensitivity, criminal law, law of criminal
19 procedure, vehicle and traffic law including uniform and
20 non-discriminatory enforcement of the Illinois Vehicle Code,
21 traffic control and accident investigation, techniques of
22 obtaining physical evidence, court testimonies, statements,
23 reports, firearms training, first-aid (including

1 cardiopulmonary resuscitation), handling of juvenile
2 offenders, recognition of mental conditions which require
3 immediate assistance and methods to safeguard and provide
4 assistance to a person in need of mental treatment, recognition
5 of ~~elder~~ abuse, ~~and~~ neglect, financial exploitation, and
6 self-neglect of adults with disabilities and older adults, as
7 defined in Section 2 of the Adult Protective Services Act ~~Elder~~
8 ~~Abuse and Neglect Act~~, crimes against the elderly, law of
9 evidence, the hazards of high-speed police vehicle chases with
10 an emphasis on alternatives to the high-speed chase, and
11 physical training. The curriculum shall include specific
12 training in techniques for immediate response to and
13 investigation of cases of domestic violence and of sexual
14 assault of adults and children. The curriculum shall include
15 training in techniques designed to promote effective
16 communication at the initial contact with crime victims and
17 ways to comprehensively explain to victims and witnesses their
18 rights under the Rights of Crime Victims and Witnesses Act and
19 the Crime Victims Compensation Act. The curriculum shall also
20 include a block of instruction aimed at identifying and
21 interacting with persons with autism and other developmental
22 disabilities, reducing barriers to reporting crimes against
23 persons with autism, and addressing the unique challenges
24 presented by cases involving victims or witnesses with autism
25 and other developmental disabilities. The curriculum for
26 permanent police officers shall include but not be limited to

1 (1) refresher and in-service training in any of the courses
2 listed above in this subparagraph, (2) advanced courses in any
3 of the subjects listed above in this subparagraph, (3) training
4 for supervisory personnel, and (4) specialized training in
5 subjects and fields to be selected by the board.

6 b. Minimum courses of study, attendance requirements and
7 equipment requirements.

8 c. Minimum requirements for instructors.

9 d. Minimum basic training requirements, which a
10 probationary police officer must satisfactorily complete
11 before being eligible for permanent employment as a local law
12 enforcement officer for a participating local governmental
13 agency. Those requirements shall include training in first aid
14 (including cardiopulmonary resuscitation).

15 e. Minimum basic training requirements, which a
16 probationary county corrections officer must satisfactorily
17 complete before being eligible for permanent employment as a
18 county corrections officer for a participating local
19 governmental agency.

20 f. Minimum basic training requirements which a
21 probationary court security officer must satisfactorily
22 complete before being eligible for permanent employment as a
23 court security officer for a participating local governmental
24 agency. The Board shall establish those training requirements
25 which it considers appropriate for court security officers and
26 shall certify schools to conduct that training.

1 A person hired to serve as a court security officer must
2 obtain from the Board a certificate (i) attesting to his or her
3 successful completion of the training course; (ii) attesting to
4 his or her satisfactory completion of a training program of
5 similar content and number of hours that has been found
6 acceptable by the Board under the provisions of this Act; or
7 (iii) attesting to the Board's determination that the training
8 course is unnecessary because of the person's extensive prior
9 law enforcement experience.

10 Individuals who currently serve as court security officers
11 shall be deemed qualified to continue to serve in that capacity
12 so long as they are certified as provided by this Act within 24
13 months of the effective date of this amendatory Act of 1996.
14 Failure to be so certified, absent a waiver from the Board,
15 shall cause the officer to forfeit his or her position.

16 All individuals hired as court security officers on or
17 after the effective date of this amendatory Act of 1996 shall
18 be certified within 12 months of the date of their hire, unless
19 a waiver has been obtained by the Board, or they shall forfeit
20 their positions.

21 The Sheriff's Merit Commission, if one exists, or the
22 Sheriff's Office if there is no Sheriff's Merit Commission,
23 shall maintain a list of all individuals who have filed
24 applications to become court security officers and who meet the
25 eligibility requirements established under this Act. Either
26 the Sheriff's Merit Commission, or the Sheriff's Office if no

1 Sheriff's Merit Commission exists, shall establish a schedule
2 of reasonable intervals for verification of the applicants'
3 qualifications under this Act and as established by the Board.

4 (Source: P.A. 97-815, eff. 1-1-13; 97-862, eff. 1-1-13; revised
5 8-3-12.)

6 Section 60. The Illinois Banking Act is amended by changing
7 Section 48.1 as follows:

8 (205 ILCS 5/48.1) (from Ch. 17, par. 360)

9 Sec. 48.1. Customer financial records; confidentiality.

10 (a) For the purpose of this Section, the term "financial
11 records" means any original, any copy, or any summary of:

12 (1) a document granting signature authority over a
13 deposit or account;

14 (2) a statement, ledger card or other record on any
15 deposit or account, which shows each transaction in or with
16 respect to that account;

17 (3) a check, draft or money order drawn on a bank or
18 issued and payable by a bank; or

19 (4) any other item containing information pertaining
20 to any relationship established in the ordinary course of a
21 bank's business between a bank and its customer, including
22 financial statements or other financial information
23 provided by the customer.

24 (b) This Section does not prohibit:

1 (1) The preparation, examination, handling or
2 maintenance of any financial records by any officer,
3 employee or agent of a bank having custody of the records,
4 or the examination of the records by a certified public
5 accountant engaged by the bank to perform an independent
6 audit.

7 (2) The examination of any financial records by, or the
8 furnishing of financial records by a bank to, any officer,
9 employee or agent of (i) the Commissioner of Banks and Real
10 Estate, (ii) after May 31, 1997, a state regulatory
11 authority authorized to examine a branch of a State bank
12 located in another state, (iii) the Comptroller of the
13 Currency, (iv) the Federal Reserve Board, or (v) the
14 Federal Deposit Insurance Corporation for use solely in the
15 exercise of his duties as an officer, employee, or agent.

16 (3) The publication of data furnished from financial
17 records relating to customers where the data cannot be
18 identified to any particular customer or account.

19 (4) The making of reports or returns required under
20 Chapter 61 of the Internal Revenue Code of 1986.

21 (5) Furnishing information concerning the dishonor of
22 any negotiable instrument permitted to be disclosed under
23 the Uniform Commercial Code.

24 (6) The exchange in the regular course of business of
25 (i) credit information between a bank and other banks or
26 financial institutions or commercial enterprises, directly

1 or through a consumer reporting agency or (ii) financial
2 records or information derived from financial records
3 between a bank and other banks or financial institutions or
4 commercial enterprises for the purpose of conducting due
5 diligence pursuant to a purchase or sale involving the bank
6 or assets or liabilities of the bank.

7 (7) The furnishing of information to the appropriate
8 law enforcement authorities where the bank reasonably
9 believes it has been the victim of a crime.

10 (8) The furnishing of information under the Uniform
11 Disposition of Unclaimed Property Act.

12 (9) The furnishing of information under the Illinois
13 Income Tax Act and the Illinois Estate and
14 Generation-Skipping Transfer Tax Act.

15 (10) The furnishing of information under the federal
16 Currency and Foreign Transactions Reporting Act Title 31,
17 United States Code, Section 1051 et seq.

18 (11) The furnishing of information under any other
19 statute that by its terms or by regulations promulgated
20 thereunder requires the disclosure of financial records
21 other than by subpoena, summons, warrant, or court order.

22 (12) The furnishing of information about the existence
23 of an account of a person to a judgment creditor of that
24 person who has made a written request for that information.

25 (13) The exchange in the regular course of business of
26 information between commonly owned banks in connection

1 with a transaction authorized under paragraph (23) of
2 Section 5 and conducted at an affiliate facility.

3 (14) The furnishing of information in accordance with
4 the federal Personal Responsibility and Work Opportunity
5 Reconciliation Act of 1996. Any bank governed by this Act
6 shall enter into an agreement for data exchanges with a
7 State agency provided the State agency pays to the bank a
8 reasonable fee not to exceed its actual cost incurred. A
9 bank providing information in accordance with this item
10 shall not be liable to any account holder or other person
11 for any disclosure of information to a State agency, for
12 encumbering or surrendering any assets held by the bank in
13 response to a lien or order to withhold and deliver issued
14 by a State agency, or for any other action taken pursuant
15 to this item, including individual or mechanical errors,
16 provided the action does not constitute gross negligence or
17 willful misconduct. A bank shall have no obligation to
18 hold, encumber, or surrender assets until it has been
19 served with a subpoena, summons, warrant, court or
20 administrative order, lien, or levy.

21 (15) The exchange in the regular course of business of
22 information between a bank and any commonly owned affiliate
23 of the bank, subject to the provisions of the Financial
24 Institutions Insurance Sales Law.

25 (16) The furnishing of information to law enforcement
26 authorities, the Illinois Department on Aging and its

1 regional administrative and provider agencies, the
2 Department of Human Services Office of Inspector General,
3 or public guardians: (i) upon subpoena by the investigatory
4 entity or the guardian, or (ii) if there is suspicion by
5 the bank that a customer who is an elderly or disabled
6 person has been or may become the victim of financial
7 exploitation. For the purposes of this item (16), the term:
8 (i) "elderly person" means a person who is 60 or more years
9 of age, (ii) "disabled person" means a person who has or
10 reasonably appears to the bank to have a physical or mental
11 disability that impairs his or her ability to seek or
12 obtain protection from or prevent financial exploitation,
13 and (iii) "financial exploitation" means tortious or
14 illegal use of the assets or resources of an elderly or
15 disabled person, and includes, without limitation,
16 misappropriation of the elderly or disabled person's
17 assets or resources by undue influence, breach of fiduciary
18 relationship, intimidation, fraud, deception, extortion,
19 or the use of assets or resources in any manner contrary to
20 law. A bank or person furnishing information pursuant to
21 this item (16) shall be entitled to the same rights and
22 protections as a person furnishing information under the
23 Adult Protective Services Act and ~~Elder Abuse and Neglect~~
24 ~~Act,~~ the Illinois Domestic Violence Act of 1986, ~~and the~~
25 ~~Abuse of Adults with Disabilities Intervention Act.~~

26 (17) The disclosure of financial records or

1 information as necessary to effect, administer, or enforce
2 a transaction requested or authorized by the customer, or
3 in connection with:

4 (A) servicing or processing a financial product or
5 service requested or authorized by the customer;

6 (B) maintaining or servicing a customer's account
7 with the bank; or

8 (C) a proposed or actual securitization or
9 secondary market sale (including sales of servicing
10 rights) related to a transaction of a customer.

11 Nothing in this item (17), however, authorizes the sale
12 of the financial records or information of a customer
13 without the consent of the customer.

14 (18) The disclosure of financial records or
15 information as necessary to protect against actual or
16 potential fraud, unauthorized transactions, claims, or
17 other liability.

18 (19) (a) The disclosure of financial records or
19 information related to a private label credit program
20 between a financial institution and a private label party
21 in connection with that private label credit program. Such
22 information is limited to outstanding balance, available
23 credit, payment and performance and account history,
24 product references, purchase information, and information
25 related to the identity of the customer.

26 (b) (1) For purposes of this paragraph (19) of

1 subsection (b) of Section 48.1, a "private label credit
2 program" means a credit program involving a financial
3 institution and a private label party that is used by a
4 customer of the financial institution and the private label
5 party primarily for payment for goods or services sold,
6 manufactured, or distributed by a private label party.

7 (2) For purposes of this paragraph (19) of subsection
8 (b) of Section 48.1, a "private label party" means, with
9 respect to a private label credit program, any of the
10 following: a retailer, a merchant, a manufacturer, a trade
11 group, or any such person's affiliate, subsidiary, member,
12 agent, or service provider.

13 (c) Except as otherwise provided by this Act, a bank may
14 not disclose to any person, except to the customer or his duly
15 authorized agent, any financial records or financial
16 information obtained from financial records relating to that
17 customer of that bank unless:

18 (1) the customer has authorized disclosure to the
19 person;

20 (2) the financial records are disclosed in response to
21 a lawful subpoena, summons, warrant, citation to discover
22 assets, or court order which meets the requirements of
23 subsection (d) of this Section; or

24 (3) the bank is attempting to collect an obligation
25 owed to the bank and the bank complies with the provisions
26 of Section 2I of the Consumer Fraud and Deceptive Business

1 Practices Act.

2 (d) A bank shall disclose financial records under paragraph
3 (2) of subsection (c) of this Section under a lawful subpoena,
4 summons, warrant, citation to discover assets, or court order
5 only after the bank mails a copy of the subpoena, summons,
6 warrant, citation to discover assets, or court order to the
7 person establishing the relationship with the bank, if living,
8 and, otherwise his personal representative, if known, at his
9 last known address by first class mail, postage prepaid, unless
10 the bank is specifically prohibited from notifying the person
11 by order of court or by applicable State or federal law. A bank
12 shall not mail a copy of a subpoena to any person pursuant to
13 this subsection if the subpoena was issued by a grand jury
14 under the Statewide Grand Jury Act.

15 (e) Any officer or employee of a bank who knowingly and
16 willfully furnishes financial records in violation of this
17 Section is guilty of a business offense and, upon conviction,
18 shall be fined not more than \$1,000.

19 (f) Any person who knowingly and willfully induces or
20 attempts to induce any officer or employee of a bank to
21 disclose financial records in violation of this Section is
22 guilty of a business offense and, upon conviction, shall be
23 fined not more than \$1,000.

24 (g) A bank shall be reimbursed for costs that are
25 reasonably necessary and that have been directly incurred in
26 searching for, reproducing, or transporting books, papers,

1 records, or other data of a customer required or requested to
2 be produced pursuant to a lawful subpoena, summons, warrant,
3 citation to discover assets, or court order. The Commissioner
4 shall determine the rates and conditions under which payment
5 may be made.

6 (Source: P.A. 94-495, eff. 8-8-05; 94-851, eff. 6-13-06;
7 95-661, eff. 1-1-08.)

8 Section 65. The Illinois Savings and Loan Act of 1985 is
9 amended by changing Section 3-8 as follows:

10 (205 ILCS 105/3-8) (from Ch. 17, par. 3303-8)

11 Sec. 3-8. Access to books and records; communication with
12 members.

13 (a) Every member or holder of capital shall have the right
14 to inspect the books and records of the association that
15 pertain to his account. Otherwise, the right of inspection and
16 examination of the books and records shall be limited as
17 provided in this Act, and no other person shall have access to
18 the books and records or shall be entitled to a list of the
19 members.

20 (b) For the purpose of this Section, the term "financial
21 records" means any original, any copy, or any summary of (i) a
22 document granting signature authority over a deposit or
23 account; (ii) a statement, ledger card, or other record on any
24 deposit or account that shows each transaction in or with

1 respect to that account; (iii) a check, draft, or money order
2 drawn on an association or issued and payable by an
3 association; or (iv) any other item containing information
4 pertaining to any relationship established in the ordinary
5 course of an association's business between an association and
6 its customer, including financial statements or other
7 financial information provided by the member or holder of
8 capital.

9 (c) This Section does not prohibit:

10 (1) The preparation, examination, handling, or
11 maintenance of any financial records by any officer,
12 employee, or agent of an association having custody of
13 those records or the examination of those records by a
14 certified public accountant engaged by the association to
15 perform an independent audit.

16 (2) The examination of any financial records by, or the
17 furnishing of financial records by an association to, any
18 officer, employee, or agent of the Commissioner of Banks
19 and Real Estate or federal depository institution
20 regulator for use solely in the exercise of his duties as
21 an officer, employee, or agent.

22 (3) The publication of data furnished from financial
23 records relating to members or holders of capital where the
24 data cannot be identified to any particular member, holder
25 of capital, or account.

26 (4) The making of reports or returns required under

1 Chapter 61 of the Internal Revenue Code of 1986.

2 (5) Furnishing information concerning the dishonor of
3 any negotiable instrument permitted to be disclosed under
4 the Uniform Commercial Code.

5 (6) The exchange in the regular course of business of
6 (i) credit information between an association and other
7 associations or financial institutions or commercial
8 enterprises, directly or through a consumer reporting
9 agency or (ii) financial records or information derived
10 from financial records between an association and other
11 associations or financial institutions or commercial
12 enterprises for the purpose of conducting due diligence
13 pursuant to a purchase or sale involving the association or
14 assets or liabilities of the association.

15 (7) The furnishing of information to the appropriate
16 law enforcement authorities where the association
17 reasonably believes it has been the victim of a crime.

18 (8) The furnishing of information pursuant to the
19 Uniform Disposition of Unclaimed Property Act.

20 (9) The furnishing of information pursuant to the
21 Illinois Income Tax Act and the Illinois Estate and
22 Generation-Skipping Transfer Tax Act.

23 (10) The furnishing of information pursuant to the
24 federal "Currency and Foreign Transactions Reporting Act",
25 (Title 31, United States Code, Section 1051 et seq.).

26 (11) The furnishing of information pursuant to any

1 other statute that by its terms or by regulations
2 promulgated thereunder requires the disclosure of
3 financial records other than by subpoena, summons,
4 warrant, or court order.

5 (12) The exchange of information between an
6 association and an affiliate of the association; as used in
7 this item, "affiliate" includes any company, partnership,
8 or organization that controls, is controlled by, or is
9 under common control with an association.

10 (13) The furnishing of information in accordance with
11 the federal Personal Responsibility and Work Opportunity
12 Reconciliation Act of 1996. Any association governed by
13 this Act shall enter into an agreement for data exchanges
14 with a State agency provided the State agency pays to the
15 association a reasonable fee not to exceed its actual cost
16 incurred. An association providing information in
17 accordance with this item shall not be liable to any
18 account holder or other person for any disclosure of
19 information to a State agency, for encumbering or
20 surrendering any assets held by the association in response
21 to a lien or order to withhold and deliver issued by a
22 State agency, or for any other action taken pursuant to
23 this item, including individual or mechanical errors,
24 provided the action does not constitute gross negligence or
25 willful misconduct. An association shall have no
26 obligation to hold, encumber, or surrender assets until it

1 has been served with a subpoena, summons, warrant, court or
2 administrative order, lien, or levy.

3 (14) The furnishing of information to law enforcement
4 authorities, the Illinois Department on Aging and its
5 regional administrative and provider agencies, the
6 Department of Human Services Office of Inspector General,
7 or public guardians: (i) upon subpoena by the investigatory
8 entity or the guardian, or (ii) if there is suspicion by
9 the association that a customer who is an elderly or
10 disabled person has been or may become the victim of
11 financial exploitation. For the purposes of this item (14),
12 the term: (i) "elderly person" means a person who is 60 or
13 more years of age, (ii) "disabled person" means a person
14 who has or reasonably appears to the association to have a
15 physical or mental disability that impairs his or her
16 ability to seek or obtain protection from or prevent
17 financial exploitation, and (iii) "financial exploitation"
18 means tortious or illegal use of the assets or resources of
19 an elderly or disabled person, and includes, without
20 limitation, misappropriation of the elderly or disabled
21 person's assets or resources by undue influence, breach of
22 fiduciary relationship, intimidation, fraud, deception,
23 extortion, or the use of assets or resources in any manner
24 contrary to law. An association or person furnishing
25 information pursuant to this item (14) shall be entitled to
26 the same rights and protections as a person furnishing

1 information under the Adult Protective Services Act and
2 ~~Elder Abuse and Neglect Act~~, the Illinois Domestic Violence
3 Act of 1986, ~~and the Abuse of Adults with Disabilities~~
4 ~~Intervention Act~~.

5 (15) The disclosure of financial records or
6 information as necessary to effect, administer, or enforce
7 a transaction requested or authorized by the member or
8 holder of capital, or in connection with:

9 (A) servicing or processing a financial product or
10 service requested or authorized by the member or holder
11 of capital;

12 (B) maintaining or servicing an account of a member
13 or holder of capital with the association; or

14 (C) a proposed or actual securitization or
15 secondary market sale (including sales of servicing
16 rights) related to a transaction of a member or holder
17 of capital.

18 Nothing in this item (15), however, authorizes the sale
19 of the financial records or information of a member or
20 holder of capital without the consent of the member or
21 holder of capital.

22 (16) The disclosure of financial records or
23 information as necessary to protect against or prevent
24 actual or potential fraud, unauthorized transactions,
25 claims, or other liability.

26 (17) (a) The disclosure of financial records or

1 information related to a private label credit program
2 between a financial institution and a private label party
3 in connection with that private label credit program. Such
4 information is limited to outstanding balance, available
5 credit, payment and performance and account history,
6 product references, purchase information, and information
7 related to the identity of the customer.

8 (b) (1) For purposes of this paragraph (17) of
9 subsection (c) of Section 3-8, a "private label credit
10 program" means a credit program involving a financial
11 institution and a private label party that is used by a
12 customer of the financial institution and the private label
13 party primarily for payment for goods or services sold,
14 manufactured, or distributed by a private label party.

15 (2) For purposes of this paragraph (17) of subsection
16 (c) of Section 3-8, a "private label party" means, with
17 respect to a private label credit program, any of the
18 following: a retailer, a merchant, a manufacturer, a trade
19 group, or any such person's affiliate, subsidiary, member,
20 agent, or service provider.

21 (d) An association may not disclose to any person, except
22 to the member or holder of capital or his duly authorized
23 agent, any financial records relating to that member or holder
24 of capital of that association unless:

25 (1) The member or holder of capital has authorized
26 disclosure to the person; or

1 (2) The financial records are disclosed in response to
2 a lawful subpoena, summons, warrant, citation to discover
3 assets, or court order that meets the requirements of
4 subsection (e) of this Section.

5 (e) An association shall disclose financial records under
6 subsection (d) of this Section pursuant to a lawful subpoena,
7 summons, warrant, citation to discover assets, or court order
8 only after the association mails a copy of the subpoena,
9 summons, warrant, citation to discover assets, or court order
10 to the person establishing the relationship with the
11 association, if living, and, otherwise, his personal
12 representative, if known, at his last known address by first
13 class mail, postage prepaid, unless the association is
14 specifically prohibited from notifying that person by order of
15 court.

16 (f)(1) Any officer or employee of an association who
17 knowingly and willfully furnishes financial records in
18 violation of this Section is guilty of a business offense and,
19 upon conviction, shall be fined not more than \$1,000.

20 (2) Any person who knowingly and willfully induces or
21 attempts to induce any officer or employee of an association to
22 disclose financial records in violation of this Section is
23 guilty of a business offense and, upon conviction, shall be
24 fined not more than \$1,000.

25 (g) However, if any member desires to communicate with the
26 other members of the association with reference to any question

1 pending or to be presented at a meeting of the members, the
2 association shall give him upon request a statement of the
3 approximate number of members entitled to vote at the meeting
4 and an estimate of the cost of preparing and mailing the
5 communication. The requesting member then shall submit the
6 communication to the Commissioner who, if he finds it to be
7 appropriate and truthful, shall direct that it be prepared and
8 mailed to the members upon the requesting member's payment or
9 adequate provision for payment of the expenses of preparation
10 and mailing.

11 (h) An association shall be reimbursed for costs that are
12 necessary and that have been directly incurred in searching
13 for, reproducing, or transporting books, papers, records, or
14 other data of a customer required to be reproduced pursuant to
15 a lawful subpoena, warrant, citation to discover assets, or
16 court order.

17 (Source: P.A. 94-495, eff. 8-8-05; 94-851, eff. 6-13-06;
18 95-661, eff. 1-1-08.)

19 Section 70. The Savings Bank Act is amended by changing
20 Section 4013 as follows:

21 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

22 Sec. 4013. Access to books and records; communication with
23 members and shareholders.

24 (a) Every member or shareholder shall have the right to

1 inspect books and records of the savings bank that pertain to
2 his accounts. Otherwise, the right of inspection and
3 examination of the books and records shall be limited as
4 provided in this Act, and no other person shall have access to
5 the books and records nor shall be entitled to a list of the
6 members or shareholders.

7 (b) For the purpose of this Section, the term "financial
8 records" means any original, any copy, or any summary of (1) a
9 document granting signature authority over a deposit or
10 account; (2) a statement, ledger card, or other record on any
11 deposit or account that shows each transaction in or with
12 respect to that account; (3) a check, draft, or money order
13 drawn on a savings bank or issued and payable by a savings
14 bank; or (4) any other item containing information pertaining
15 to any relationship established in the ordinary course of a
16 savings bank's business between a savings bank and its
17 customer, including financial statements or other financial
18 information provided by the member or shareholder.

19 (c) This Section does not prohibit:

20 (1) The preparation examination, handling, or
21 maintenance of any financial records by any officer,
22 employee, or agent of a savings bank having custody of
23 records or examination of records by a certified public
24 accountant engaged by the savings bank to perform an
25 independent audit.

26 (2) The examination of any financial records by, or the

1 furnishing of financial records by a savings bank to, any
2 officer, employee, or agent of the Commissioner of Banks
3 and Real Estate or the federal depository institution
4 regulator for use solely in the exercise of his duties as
5 an officer, employee, or agent.

6 (3) The publication of data furnished from financial
7 records relating to members or holders of capital where the
8 data cannot be identified to any particular member,
9 shareholder, or account.

10 (4) The making of reports or returns required under
11 Chapter 61 of the Internal Revenue Code of 1986.

12 (5) Furnishing information concerning the dishonor of
13 any negotiable instrument permitted to be disclosed under
14 the Uniform Commercial Code.

15 (6) The exchange in the regular course of business of
16 (i) credit information between a savings bank and other
17 savings banks or financial institutions or commercial
18 enterprises, directly or through a consumer reporting
19 agency or (ii) financial records or information derived
20 from financial records between a savings bank and other
21 savings banks or financial institutions or commercial
22 enterprises for the purpose of conducting due diligence
23 pursuant to a purchase or sale involving the savings bank
24 or assets or liabilities of the savings bank.

25 (7) The furnishing of information to the appropriate
26 law enforcement authorities where the savings bank

1 reasonably believes it has been the victim of a crime.

2 (8) The furnishing of information pursuant to the
3 Uniform Disposition of Unclaimed Property Act.

4 (9) The furnishing of information pursuant to the
5 Illinois Income Tax Act and the Illinois Estate and
6 Generation-Skipping Transfer Tax Act.

7 (10) The furnishing of information pursuant to the
8 federal "Currency and Foreign Transactions Reporting Act",
9 (Title 31, United States Code, Section 1051 et seq.).

10 (11) The furnishing of information pursuant to any
11 other statute which by its terms or by regulations
12 promulgated thereunder requires the disclosure of
13 financial records other than by subpoena, summons,
14 warrant, or court order.

15 (12) The furnishing of information in accordance with
16 the federal Personal Responsibility and Work Opportunity
17 Reconciliation Act of 1996. Any savings bank governed by
18 this Act shall enter into an agreement for data exchanges
19 with a State agency provided the State agency pays to the
20 savings bank a reasonable fee not to exceed its actual cost
21 incurred. A savings bank providing information in
22 accordance with this item shall not be liable to any
23 account holder or other person for any disclosure of
24 information to a State agency, for encumbering or
25 surrendering any assets held by the savings bank in
26 response to a lien or order to withhold and deliver issued

1 by a State agency, or for any other action taken pursuant
2 to this item, including individual or mechanical errors,
3 provided the action does not constitute gross negligence or
4 willful misconduct. A savings bank shall have no obligation
5 to hold, encumber, or surrender assets until it has been
6 served with a subpoena, summons, warrant, court or
7 administrative order, lien, or levy.

8 (13) The furnishing of information to law enforcement
9 authorities, the Illinois Department on Aging and its
10 regional administrative and provider agencies, the
11 Department of Human Services Office of Inspector General,
12 or public guardians: (i) upon subpoena by the investigatory
13 entity or the guardian, or (ii) if there is suspicion by
14 the savings bank that a customer who is an elderly or
15 disabled person has been or may become the victim of
16 financial exploitation. For the purposes of this item (13),
17 the term: (i) "elderly person" means a person who is 60 or
18 more years of age, (ii) "disabled person" means a person
19 who has or reasonably appears to the savings bank to have a
20 physical or mental disability that impairs his or her
21 ability to seek or obtain protection from or prevent
22 financial exploitation, and (iii) "financial exploitation"
23 means tortious or illegal use of the assets or resources of
24 an elderly or disabled person, and includes, without
25 limitation, misappropriation of the elderly or disabled
26 person's assets or resources by undue influence, breach of

1 fiduciary relationship, intimidation, fraud, deception,
2 extortion, or the use of assets or resources in any manner
3 contrary to law. A savings bank or person furnishing
4 information pursuant to this item (13) shall be entitled to
5 the same rights and protections as a person furnishing
6 information under the Adult Protective Services Act and
7 ~~Elder Abuse and Neglect Act,~~ the Illinois Domestic Violence
8 Act of 1986, ~~and the Abuse of Adults with Disabilities~~
9 ~~Intervention Act.~~

10 (14) The disclosure of financial records or
11 information as necessary to effect, administer, or enforce
12 a transaction requested or authorized by the member or
13 holder of capital, or in connection with:

14 (A) servicing or processing a financial product or
15 service requested or authorized by the member or holder
16 of capital;

17 (B) maintaining or servicing an account of a member
18 or holder of capital with the savings bank; or

19 (C) a proposed or actual securitization or
20 secondary market sale (including sales of servicing
21 rights) related to a transaction of a member or holder
22 of capital.

23 Nothing in this item (14), however, authorizes the sale
24 of the financial records or information of a member or
25 holder of capital without the consent of the member or
26 holder of capital.

1 (15) The exchange in the regular course of business of
2 information between a savings bank and any commonly owned
3 affiliate of the savings bank, subject to the provisions of
4 the Financial Institutions Insurance Sales Law.

5 (16) The disclosure of financial records or
6 information as necessary to protect against or prevent
7 actual or potential fraud, unauthorized transactions,
8 claims, or other liability.

9 (17) (a) The disclosure of financial records or
10 information related to a private label credit program
11 between a financial institution and a private label party
12 in connection with that private label credit program. Such
13 information is limited to outstanding balance, available
14 credit, payment and performance and account history,
15 product references, purchase information, and information
16 related to the identity of the customer.

17 (b) (1) For purposes of this paragraph (17) of
18 subsection (c) of Section 4013, a "private label credit
19 program" means a credit program involving a financial
20 institution and a private label party that is used by a
21 customer of the financial institution and the private label
22 party primarily for payment for goods or services sold,
23 manufactured, or distributed by a private label party.

24 (2) For purposes of this paragraph (17) of subsection
25 (c) of Section 4013, a "private label party" means, with
26 respect to a private label credit program, any of the

1 following: a retailer, a merchant, a manufacturer, a trade
2 group, or any such person's affiliate, subsidiary, member,
3 agent, or service provider.

4 (d) A savings bank may not disclose to any person, except
5 to the member or holder of capital or his duly authorized
6 agent, any financial records relating to that member or
7 shareholder of the savings bank unless:

8 (1) the member or shareholder has authorized
9 disclosure to the person; or

10 (2) the financial records are disclosed in response to
11 a lawful subpoena, summons, warrant, citation to discover
12 assets, or court order that meets the requirements of
13 subsection (e) of this Section.

14 (e) A savings bank shall disclose financial records under
15 subsection (d) of this Section pursuant to a lawful subpoena,
16 summons, warrant, citation to discover assets, or court order
17 only after the savings bank mails a copy of the subpoena,
18 summons, warrant, citation to discover assets, or court order
19 to the person establishing the relationship with the savings
20 bank, if living, and otherwise, his personal representative, if
21 known, at his last known address by first class mail, postage
22 prepaid, unless the savings bank is specifically prohibited
23 from notifying the person by order of court.

24 (f) Any officer or employee of a savings bank who knowingly
25 and willfully furnishes financial records in violation of this
26 Section is guilty of a business offense and, upon conviction,

1 shall be fined not more than \$1,000.

2 (g) Any person who knowingly and willfully induces or
3 attempts to induce any officer or employee of a savings bank to
4 disclose financial records in violation of this Section is
5 guilty of a business offense and, upon conviction, shall be
6 fined not more than \$1,000.

7 (h) If any member or shareholder desires to communicate
8 with the other members or shareholders of the savings bank with
9 reference to any question pending or to be presented at an
10 annual or special meeting, the savings bank shall give that
11 person, upon request, a statement of the approximate number of
12 members or shareholders entitled to vote at the meeting and an
13 estimate of the cost of preparing and mailing the
14 communication. The requesting member shall submit the
15 communication to the Commissioner who, upon finding it to be
16 appropriate and truthful, shall direct that it be prepared and
17 mailed to the members upon the requesting member's or
18 shareholder's payment or adequate provision for payment of the
19 expenses of preparation and mailing.

20 (i) A savings bank shall be reimbursed for costs that are
21 necessary and that have been directly incurred in searching
22 for, reproducing, or transporting books, papers, records, or
23 other data of a customer required to be reproduced pursuant to
24 a lawful subpoena, warrant, citation to discover assets, or
25 court order.

26 (j) Notwithstanding the provisions of this Section, a

1 savings bank may sell or otherwise make use of lists of
2 customers' names and addresses. All other information
3 regarding a customer's account are subject to the disclosure
4 provisions of this Section. At the request of any customer,
5 that customer's name and address shall be deleted from any list
6 that is to be sold or used in any other manner beyond
7 identification of the customer's accounts.

8 (Source: P.A. 94-495, eff. 8-8-05; 94-851, eff. 6-13-06;
9 95-661, eff. 1-1-08.)

10 Section 75. The Illinois Credit Union Act is amended by
11 changing Section 10 as follows:

12 (205 ILCS 305/10) (from Ch. 17, par. 4411)

13 Sec. 10. Credit union records; member financial records.

14 (1) A credit union shall establish and maintain books,
15 records, accounting systems and procedures which accurately
16 reflect its operations and which enable the Department to
17 readily ascertain the true financial condition of the credit
18 union and whether it is complying with this Act.

19 (2) A photostatic or photographic reproduction of any
20 credit union records shall be admissible as evidence of
21 transactions with the credit union.

22 (3) (a) For the purpose of this Section, the term "financial
23 records" means any original, any copy, or any summary of (1) a
24 document granting signature authority over an account, (2) a

1 statement, ledger card or other record on any account which
2 shows each transaction in or with respect to that account, (3)
3 a check, draft or money order drawn on a financial institution
4 or other entity or issued and payable by or through a financial
5 institution or other entity, or (4) any other item containing
6 information pertaining to any relationship established in the
7 ordinary course of business between a credit union and its
8 member, including financial statements or other financial
9 information provided by the member.

10 (b) This Section does not prohibit:

11 (1) The preparation, examination, handling or
12 maintenance of any financial records by any officer,
13 employee or agent of a credit union having custody of such
14 records, or the examination of such records by a certified
15 public accountant engaged by the credit union to perform an
16 independent audit.

17 (2) The examination of any financial records by or the
18 furnishing of financial records by a credit union to any
19 officer, employee or agent of the Department, the National
20 Credit Union Administration, Federal Reserve board or any
21 insurer of share accounts for use solely in the exercise of
22 his duties as an officer, employee or agent.

23 (3) The publication of data furnished from financial
24 records relating to members where the data cannot be
25 identified to any particular customer of account.

26 (4) The making of reports or returns required under

1 Chapter 61 of the Internal Revenue Code of 1954.

2 (5) Furnishing information concerning the dishonor of
3 any negotiable instrument permitted to be disclosed under
4 the Uniform Commercial Code.

5 (6) The exchange in the regular course of business of
6 (i) credit information between a credit union and other
7 credit unions or financial institutions or commercial
8 enterprises, directly or through a consumer reporting
9 agency or (ii) financial records or information derived
10 from financial records between a credit union and other
11 credit unions or financial institutions or commercial
12 enterprises for the purpose of conducting due diligence
13 pursuant to a merger or a purchase or sale of assets or
14 liabilities of the credit union.

15 (7) The furnishing of information to the appropriate
16 law enforcement authorities where the credit union
17 reasonably believes it has been the victim of a crime.

18 (8) The furnishing of information pursuant to the
19 Uniform Disposition of Unclaimed Property Act.

20 (9) The furnishing of information pursuant to the
21 Illinois Income Tax Act and the Illinois Estate and
22 Generation-Skipping Transfer Tax Act.

23 (10) The furnishing of information pursuant to the
24 federal "Currency and Foreign Transactions Reporting Act",
25 Title 31, United States Code, Section 1051 et sequentia.

26 (11) The furnishing of information pursuant to any

1 other statute which by its terms or by regulations
2 promulgated thereunder requires the disclosure of
3 financial records other than by subpoena, summons, warrant
4 or court order.

5 (12) The furnishing of information in accordance with
6 the federal Personal Responsibility and Work Opportunity
7 Reconciliation Act of 1996. Any credit union governed by
8 this Act shall enter into an agreement for data exchanges
9 with a State agency provided the State agency pays to the
10 credit union a reasonable fee not to exceed its actual cost
11 incurred. A credit union providing information in
12 accordance with this item shall not be liable to any
13 account holder or other person for any disclosure of
14 information to a State agency, for encumbering or
15 surrendering any assets held by the credit union in
16 response to a lien or order to withhold and deliver issued
17 by a State agency, or for any other action taken pursuant
18 to this item, including individual or mechanical errors,
19 provided the action does not constitute gross negligence or
20 willful misconduct. A credit union shall have no obligation
21 to hold, encumber, or surrender assets until it has been
22 served with a subpoena, summons, warrant, court or
23 administrative order, lien, or levy.

24 (13) The furnishing of information to law enforcement
25 authorities, the Illinois Department on Aging and its
26 regional administrative and provider agencies, the

1 Department of Human Services Office of Inspector General,
2 or public guardians: (i) upon subpoena by the investigatory
3 entity or the guardian, or (ii) if there is suspicion by
4 the credit union that a member who is an elderly or
5 disabled person has been or may become the victim of
6 financial exploitation. For the purposes of this item (13),
7 the term: (i) "elderly person" means a person who is 60 or
8 more years of age, (ii) "disabled person" means a person
9 who has or reasonably appears to the credit union to have a
10 physical or mental disability that impairs his or her
11 ability to seek or obtain protection from or prevent
12 financial exploitation, and (iii) "financial exploitation"
13 means tortious or illegal use of the assets or resources of
14 an elderly or disabled person, and includes, without
15 limitation, misappropriation of the elderly or disabled
16 person's assets or resources by undue influence, breach of
17 fiduciary relationship, intimidation, fraud, deception,
18 extortion, or the use of assets or resources in any manner
19 contrary to law. A credit union or person furnishing
20 information pursuant to this item (13) shall be entitled to
21 the same rights and protections as a person furnishing
22 information under the Adult Protective Services Act and
23 ~~Elder Abuse and Neglect Act~~, the Illinois Domestic Violence
24 Act of 1986, ~~and the Abuse of Adults with Disabilities~~
25 ~~Intervention Act~~.

26 (14) The disclosure of financial records or

1 information as necessary to effect, administer, or enforce
2 a transaction requested or authorized by the member, or in
3 connection with:

4 (A) servicing or processing a financial product or
5 service requested or authorized by the member;

6 (B) maintaining or servicing a member's account
7 with the credit union; or

8 (C) a proposed or actual securitization or
9 secondary market sale (including sales of servicing
10 rights) related to a transaction of a member.

11 Nothing in this item (14), however, authorizes the sale
12 of the financial records or information of a member without
13 the consent of the member.

14 (15) The disclosure of financial records or
15 information as necessary to protect against or prevent
16 actual or potential fraud, unauthorized transactions,
17 claims, or other liability.

18 (16) (a) The disclosure of financial records or
19 information related to a private label credit program
20 between a financial institution and a private label party
21 in connection with that private label credit program. Such
22 information is limited to outstanding balance, available
23 credit, payment and performance and account history,
24 product references, purchase information, and information
25 related to the identity of the customer.

26 (b) (1) For purposes of this paragraph (16) of

1 subsection (b) of Section 10, a "private label credit
2 program" means a credit program involving a financial
3 institution and a private label party that is used by a
4 customer of the financial institution and the private label
5 party primarily for payment for goods or services sold,
6 manufactured, or distributed by a private label party.

7 (2) For purposes of this paragraph (16) of subsection
8 (b) of Section 10, a "private label party" means, with
9 respect to a private label credit program, any of the
10 following: a retailer, a merchant, a manufacturer, a trade
11 group, or any such person's affiliate, subsidiary, member,
12 agent, or service provider.

13 (c) Except as otherwise provided by this Act, a credit
14 union may not disclose to any person, except to the member or
15 his duly authorized agent, any financial records relating to
16 that member of the credit union unless:

17 (1) the member has authorized disclosure to the person;

18 (2) the financial records are disclosed in response to
19 a lawful subpoena, summons, warrant, citation to discover
20 assets, or court order that meets the requirements of
21 subparagraph (d) of this Section; or

22 (3) the credit union is attempting to collect an
23 obligation owed to the credit union and the credit union
24 complies with the provisions of Section 2I of the Consumer
25 Fraud and Deceptive Business Practices Act.

26 (d) A credit union shall disclose financial records under

1 subparagraph (c)(2) of this Section pursuant to a lawful
2 subpoena, summons, warrant, citation to discover assets, or
3 court order only after the credit union mails a copy of the
4 subpoena, summons, warrant, citation to discover assets, or
5 court order to the person establishing the relationship with
6 the credit union, if living, and otherwise his personal
7 representative, if known, at his last known address by first
8 class mail, postage prepaid unless the credit union is
9 specifically prohibited from notifying the person by order of
10 court or by applicable State or federal law. In the case of a
11 grand jury subpoena, a credit union shall not mail a copy of a
12 subpoena to any person pursuant to this subsection if the
13 subpoena was issued by a grand jury under the Statewide Grand
14 Jury Act or notifying the person would constitute a violation
15 of the federal Right to Financial Privacy Act of 1978.

16 (e)(1) Any officer or employee of a credit union who
17 knowingly and wilfully furnishes financial records in
18 violation of this Section is guilty of a business offense and
19 upon conviction thereof shall be fined not more than \$1,000.

20 (2) Any person who knowingly and wilfully induces or
21 attempts to induce any officer or employee of a credit union to
22 disclose financial records in violation of this Section is
23 guilty of a business offense and upon conviction thereof shall
24 be fined not more than \$1,000.

25 (f) A credit union shall be reimbursed for costs which are
26 reasonably necessary and which have been directly incurred in

1 searching for, reproducing or transporting books, papers,
2 records or other data of a member required or requested to be
3 produced pursuant to a lawful subpoena, summons, warrant,
4 citation to discover assets, or court order. The Secretary and
5 the Director may determine, by rule, the rates and conditions
6 under which payment shall be made. Delivery of requested
7 documents may be delayed until final reimbursement of all costs
8 is received.

9 (Source: P.A. 97-133, eff. 1-1-12.)

10 Section 80. The Home Health, Home Services, and Home
11 Nursing Agency Licensing Act is amended by changing Sections
12 6.3 and 6.7 as follows:

13 (210 ILCS 55/6.3)

14 Sec. 6.3. Home services agencies; standards; fees.

15 (a) Before January 1, 2008, the Department shall adopt
16 standards for the licensure and operation of home services
17 agencies operated in this State. The structure of the standards
18 shall be based on the concept of home services and its focus on
19 assistance with activities of daily living, housekeeping,
20 personal laundry, and companionship being provided to an
21 individual intended to enable that individual to remain safely
22 and comfortably in his or her own personal residence. As home
23 services do not include services that would be required to be
24 performed by an individual licensed under the Nurse Practice

1 Act, the standards shall be developed from a similar concept.
2 After consideration and recommendations by the Home Health and
3 Home Services Advisory Committee, the Department shall adopt
4 such rules and regulations as are necessary for the proper
5 regulation of home services agencies. Requirements for
6 licensure as a home services agency shall include the
7 following:

8 (1) Compliance with the requirements of the Health Care
9 Worker Background Check Act.

10 (2) Notification, in a form and manner established by
11 the Department by rule, to home services workers and
12 consumers as to the party or parties responsible under
13 State and federal laws for payment of employment taxes,
14 social security taxes, and workers' compensation,
15 liability, the day-to-day supervision of workers, and the
16 hiring, firing, and discipline of workers with the
17 placement arrangement for home services.

18 (3) Compliance with rules, as adopted by the
19 Department, in regard to (i) reporting by the licensee of
20 any known or suspected incidences of abuse, neglect, or
21 financial exploitation of an eligible adult, as defined in
22 the Adult Protective Services Act ~~Elder Abuse and Neglect~~
23 ~~Act~~, by a home services worker employed by or placed by the
24 licensee or (ii) reports to a law enforcement agency in
25 connection with any other individual protected under the
26 laws of the State of Illinois.

1 (4) Compliance with rules, as adopted by the
2 Department, addressing the health, safety, and well-being
3 of clients receiving home services.

4 (b) The Department may establish fees for home services
5 agency licensure in rules in a manner that will make the
6 program self-supporting. The amount of the licensure fees shall
7 be based on the funding required for operation of the licensure
8 program. Notwithstanding any other provision of this Section,
9 the Department may not charge any fee to a certified local
10 health department in connection with the licensure of a home
11 services agency.

12 (Source: P.A. 95-639, eff. 10-5-07; 96-577, eff. 8-18-09.)

13 (210 ILCS 55/6.7)

14 Sec. 6.7. Home nursing agencies; standards; fees.

15 (a) Before January 1, 2008, the Department shall adopt
16 standards for the licensure and operation of home nursing
17 agencies operated in this State. After consideration and
18 recommendations by the Home Health and Home Services Advisory
19 Committee, the Department shall adopt such rules as are
20 necessary for the proper regulation of home nursing agencies.
21 Requirements for licensure as a home nursing agency shall
22 include the following:

23 (1) Compliance with the requirements of the Health Care
24 Worker Background Check Act.

25 (2) Notification, in a form and manner established by

1 the Department by rule, to home nursing agency workers and
2 consumers as to the party or parties responsible under
3 State and federal laws for payment of employment taxes,
4 social security taxes, and workers' compensation,
5 liability, the day-to-day supervision of workers, and the
6 hiring, firing, and discipline of workers with the
7 placement arrangement for home nursing services.

8 (3) Compliance with rules, as adopted by the
9 Department, in regard to (i) reporting by the licensee of
10 any known or suspected incidences of abuse, neglect, or
11 financial exploitation of an eligible adult, as defined in
12 the Adult Protective Services Act ~~Elder Abuse and Neglect~~
13 ~~Act~~, by a home nursing care worker employed by or placed by
14 the licensee or (ii) reports to a law enforcement agency in
15 connection with any other individual protected under the
16 laws of the State of Illinois.

17 (4) Compliance with rules, as adopted by the
18 Department, addressing the health, safety, and well-being
19 of clients receiving home nursing services.

20 (b) The Department may establish fees for home nursing
21 agency licensure in rules in a manner that will make the
22 program self-supporting. The amount of the licensure fees shall
23 be based on the funding required for the operation of the
24 licensure program. Notwithstanding any other provision of this
25 Section, the Department may not charge any fee to a certified
26 local health department in connection with the licensure of a

1 home nursing agency.

2 (Source: P.A. 96-577, eff. 8-18-09.)

3 Section 85. The Clinical Social Work and Social Work
4 Practice Act is amended by changing Section 16 as follows:

5 (225 ILCS 20/16) (from Ch. 111, par. 6366)

6 (Section scheduled to be repealed on January 1, 2018)

7 Sec. 16. Privileged Communications and Exceptions.

8 1. No licensed clinical social worker or licensed social
9 worker shall disclose any information acquired from persons
10 consulting the social worker in a professional capacity, except
11 that which may be voluntarily disclosed under the following
12 circumstances:

13 (a) In the course of formally reporting, conferring or
14 consulting with administrative superiors, colleagues or
15 consultants who share professional responsibility,
16 including a professional responsibility to maintain
17 confidentiality, in which instance all recipients of such
18 information are similarly bound to regard the
19 communication as privileged;

20 (b) With the written consent of the person who provided
21 the information;

22 (c) In case of death or disability, with the written
23 consent of a personal representative, other person
24 authorized to sue, or the beneficiary of an insurance

1 policy on the person's life, health or physical condition;

2 (d) When a communication reveals the intended
3 commission of a crime or harmful act and such disclosure is
4 judged necessary by the licensed clinical social worker or
5 licensed social worker to protect any person from a clear,
6 imminent risk of serious mental or physical harm or injury,
7 or to forestall a serious threat to the public safety;

8 (e) When the person waives the privilege by bringing
9 any public charges against the licensee; or

10 (f) When the information is acquired during the course
11 of investigating a report or working on a case of ~~elder~~
12 abuse, neglect, or financial exploitation, or self-neglect
13 of an eligible adult by a designated adult protective
14 services agency ~~Elder Abuse Provider Agency~~ and disclosure
15 of the information is in accordance with the provisions of
16 Section 8 of the Adult Protective Services Act ~~Elder Abuse~~
17 ~~and Neglect Act~~.

18 2. When the person is a minor under the laws of the State
19 of Illinois and the information acquired by the licensed
20 clinical social worker or licensed social worker indicates the
21 minor was the victim or subject of a crime, the licensed
22 clinical social worker or licensed social worker may be
23 required to testify in any judicial proceedings in which the
24 commission of that crime is the subject of inquiry and when,
25 after in camera review of the information that the licensed
26 clinical social worker or licensed social worker acquired, the

1 court determines that the interests of the minor in having the
2 information held privileged are outweighed by the requirements
3 of justice, the need to protect the public safety or the need
4 to protect the minor, except as provided under the Abused and
5 Neglected Child Reporting Act.

6 3. Any person having access to records or any one who
7 participates in providing social work services or who, in
8 providing any human services, is supervised by a licensed
9 clinical social worker or licensed social worker, is similarly
10 bound to regard all information and communications as
11 privileged in accord with this Section.

12 4. Nothing shall be construed to prohibit a licensed
13 clinical social worker or licensed social worker from
14 voluntarily testifying in court hearings concerning matters of
15 adoption, child abuse, child neglect or other matters
16 pertaining to children, except as provided under the Abused and
17 Neglected Child Reporting Act.

18 5. The Mental Health and Developmental Disabilities
19 Confidentiality Act, as now or hereafter amended, is
20 incorporated herein as if all of its provisions were included
21 in this Act.

22 (Source: P.A. 96-71, eff. 7-23-09.)

23 Section 90. The Respiratory Care Practice Act is amended by
24 changing Section 95 as follows:

1 (225 ILCS 106/95)

2 (Section scheduled to be repealed on January 1, 2016)

3 Sec. 95. Grounds for discipline.

4 (a) The Department may refuse to issue, renew, or may
5 revoke, suspend, place on probation, reprimand, or take other
6 disciplinary action as the Department considers appropriate,
7 including the issuance of fines not to exceed \$5,000 for each
8 violation, with regard to any license for any one or more of
9 the following:

10 (1) Material misstatement in furnishing information to
11 the Department or to any other State or federal agency.

12 (2) Violations of this Act, or any of its rules.

13 (3) Conviction of any crime under the laws of the
14 United States or any state or territory thereof that is a
15 felony or a misdemeanor, an essential element of which is
16 dishonesty, or of any crime that is directly related to the
17 practice of the profession.

18 (4) Making any misrepresentation for the purpose of
19 obtaining a license.

20 (5) Professional incompetence or negligence in the
21 rendering of respiratory care services.

22 (6) Malpractice.

23 (7) Aiding or assisting another person in violating any
24 rules or provisions of this Act.

25 (8) Failing to provide information within 60 days in
26 response to a written request made by the Department.

1 (9) Engaging in dishonorable, unethical, or
2 unprofessional conduct of a character likely to deceive,
3 defraud, or harm the public.

4 (10) Violating the rules of professional conduct
5 adopted by the Department.

6 (11) Discipline by another jurisdiction, if at least
7 one of the grounds for the discipline is the same or
8 substantially equivalent to those set forth in this Act.

9 (12) Directly or indirectly giving to or receiving from
10 any person, firm, corporation, partnership, or association
11 any fee, commission, rebate, or other form of compensation
12 for any professional services not actually rendered.
13 Nothing in this paragraph (12) affects any bona fide
14 independent contractor or employment arrangements among
15 health care professionals, health facilities, health care
16 providers, or other entities, except as otherwise
17 prohibited by law. Any employment arrangements may include
18 provisions for compensation, health insurance, pension, or
19 other employment benefits for the provision of services
20 within the scope of the licensee's practice under this Act.
21 Nothing in this paragraph (12) shall be construed to
22 require an employment arrangement to receive professional
23 fees for services rendered.

24 (13) A finding by the Department that the licensee,
25 after having the license placed on probationary status, has
26 violated the terms of the probation.

1 (14) Abandonment of a patient.

2 (15) Willfully filing false reports relating to a
3 licensee's practice including, but not limited to, false
4 records filed with a federal or State agency or department.

5 (16) Willfully failing to report an instance of
6 suspected child abuse or neglect as required by the Abused
7 and Neglected Child Reporting Act.

8 (17) Providing respiratory care, other than pursuant
9 to an order.

10 (18) Physical or mental disability including, but not
11 limited to, deterioration through the aging process or loss
12 of motor skills that results in the inability to practice
13 the profession with reasonable judgment, skill, or safety.

14 (19) Solicitation of professional services by using
15 false or misleading advertising.

16 (20) Failure to file a tax return, or to pay the tax,
17 penalty, or interest shown in a filed return, or to pay any
18 final assessment of tax penalty, or interest, as required
19 by any tax Act administered by the Illinois Department of
20 Revenue or any successor agency or the Internal Revenue
21 Service or any successor agency.

22 (21) Irregularities in billing a third party for
23 services rendered or in reporting charges for services not
24 rendered.

25 (22) Being named as a perpetrator in an indicated
26 report by the Department of Children and Family Services

1 under the Abused and Neglected Child Reporting Act, and
2 upon proof by clear and convincing evidence that the
3 licensee has caused a child to be an abused child or
4 neglected child as defined in the Abused and Neglected
5 Child Reporting Act.

6 (23) Habitual or excessive use or addiction to alcohol,
7 narcotics, stimulants, or any other chemical agent or drug
8 that results in an inability to practice with reasonable
9 skill, judgment, or safety.

10 (24) Being named as a perpetrator in an indicated
11 report by the Department on Aging under the Adult
12 Protective Services Act ~~Elder Abuse and Neglect Act~~, and
13 upon proof by clear and convincing evidence that the
14 licensee has caused an adult with disabilities or an older
15 adult ~~elderly person~~ to be abused or neglected as defined
16 in the Adult Protective Services Act ~~Elder Abuse and~~
17 ~~Neglect Act~~.

18 (25) Willfully failing to report an instance of
19 suspected ~~elder~~ abuse, ~~or~~ neglect, financial exploitation,
20 or self-neglect of an adult with disabilities or an older
21 adult as required by the Adult Protective Services Act
22 ~~Elder Abuse and Neglect Act~~.

23 (b) The determination by a court that a licensee is subject
24 to involuntary admission or judicial admission as provided in
25 the Mental Health and Developmental Disabilities Code will
26 result in an automatic suspension of his or her license. The

1 suspension will end upon a finding by a court that the licensee
2 is no longer subject to involuntary admission or judicial
3 admission, the issuance of an order so finding and discharging
4 the patient, and the recommendation of the Board to the
5 Director that the licensee be allowed to resume his or her
6 practice.

7 (Source: P.A. 96-1482, eff. 11-29-10.)

8 Section 95. The Professional Counselor and Clinical
9 Professional Counselor Licensing and Practice Act is amended by
10 changing Sections 75 and 80 as follows:

11 (225 ILCS 107/75)

12 (Section scheduled to be repealed on January 1, 2023)

13 Sec. 75. Privileged communications and exceptions.

14 (a) No licensed professional counselor or licensed
15 clinical professional counselor shall disclose any information
16 acquired from persons consulting the counselor in a
17 professional capacity, except that which may be voluntarily
18 disclosed under the following circumstances:

19 (1) In the course of formally reporting, conferring, or
20 consulting with administrative superiors, colleagues, or
21 consultants who share professional responsibility, in
22 which instance all recipients of the information are
23 similarly bound to regard the communication as privileged;

24 (2) With the written consent of the person who provided

1 the information;

2 (3) In the case of death or disability, with the
3 written consent of a personal representative, other person
4 authorized to sue, or the beneficiary of an insurance
5 policy on the person's life, health or physical condition;

6 (4) When a communication reveals the intended
7 commission of a crime or harmful act and such disclosure is
8 judged necessary by the licensed professional counselor or
9 licensed clinical professional counselor to protect any
10 person from a clear, imminent risk of serious mental or
11 physical harm or injury, or to forestall a serious threat
12 to the public safety; or

13 (5) When the person waives the privilege by bringing
14 any public charges against the licensee.

15 (b) When the person is a minor under the laws of the State
16 of Illinois and the information acquired by the licensed
17 professional counselor or licensed clinical professional
18 counselor indicates the minor was the victim or subject of a
19 crime, the licensed professional counselor or licensed
20 clinical professional counselor may be required to testify in
21 any judicial proceedings in which the commission of that crime
22 is the subject of inquiry when, after in camera review of the
23 information that the licensed professional counselor or
24 licensed clinical professional counselor acquired, the court
25 determines that the interests of the minor in having the
26 information held privileged are outweighed by the requirements

1 of justice, the need to protect the public safety or the need
2 to protect the minor, except as provided under the Abused and
3 Neglected Child Reporting Act.

4 (c) Any person having access to records or anyone who
5 participates in providing professional counseling or clinical
6 professional counseling services, or, in providing any human
7 services, is supervised by a licensed professional counselor or
8 licensed clinical professional counselor, is similarly bound
9 to regard all information and communications as privileged in
10 accord with this Section.

11 (d) Nothing in this Act shall be construed to prohibit a
12 licensed professional counselor or licensed clinical
13 professional counselor from voluntarily testifying in court
14 hearings concerning matters of adoption, child abuse, child
15 neglect or other matters pertaining to children, except as
16 provided under the Abused and Neglected Child Reporting Act and
17 matters pertaining to adults with disabilities and older adults
18 ~~elders~~ as set forth in the Adult Protective Services Act ~~Elder~~
19 ~~Abuse and Neglect Act~~.

20 (e) The Mental Health and Developmental Disabilities
21 Confidentiality Act is incorporated herein as if all of its
22 provisions were included in this Act. In the event of a
23 conflict between the application of this Section and the Mental
24 Health and Developmental Disabilities Confidentiality Act to a
25 specific situation, the provisions of the Mental Health and
26 Developmental Disabilities Confidentiality Act shall control.

1 (f) Licensed professional counselors and licensed clinical
2 professional counselors when performing professional
3 counseling services or clinical professional counseling
4 services shall comply with counselor licensure rules and laws
5 contained in this Section and Section 80 of this Act regardless
6 of their employment or work setting.

7 (Source: P.A. 97-706, eff. 6-25-12.)

8 (225 ILCS 107/80)

9 (Section scheduled to be repealed on January 1, 2023)

10 Sec. 80. Grounds for discipline.

11 (a) The Department may refuse to issue, renew, or may
12 revoke, suspend, place on probation, reprimand, or take other
13 disciplinary or non-disciplinary action as the Department
14 deems appropriate, including the issuance of fines not to
15 exceed \$10,000 for each violation, with regard to any license
16 for any one or more of the following:

17 (1) Material misstatement in furnishing information to
18 the Department or to any other State agency.

19 (2) Violations or negligent or intentional disregard
20 of this Act or rules adopted under this Act.

21 (3) Conviction by plea of guilty or nolo contendere,
22 finding of guilt, jury verdict, or entry of judgment or by
23 sentencing of any crime, including, but not limited to,
24 convictions, preceding sentences of supervision,
25 conditional discharge, or first offender probation, under

1 the laws of any jurisdiction of the United States: (i) that
2 is a felony or (ii) that is a misdemeanor, an essential
3 element of which is dishonesty, or that is directly related
4 to the practice of the profession.

5 (4) Fraud or any misrepresentation in applying for or
6 procuring a license under this Act or in connection with
7 applying for renewal of a license under this Act.

8 (5) Professional incompetence or gross negligence in
9 the rendering of professional counseling or clinical
10 professional counseling services.

11 (6) Malpractice.

12 (7) Aiding or assisting another person in violating any
13 provision of this Act or any rules.

14 (8) Failing to provide information within 60 days in
15 response to a written request made by the Department.

16 (9) Engaging in dishonorable, unethical, or
17 unprofessional conduct of a character likely to deceive,
18 defraud, or harm the public and violating the rules of
19 professional conduct adopted by the Department.

20 (10) Habitual or excessive use or abuse of drugs as
21 defined in law as controlled substances, alcohol, or any
22 other substance which results in inability to practice with
23 reasonable skill, judgment, or safety.

24 (11) Discipline by another jurisdiction, the District
25 of Columbia, territory, county, or governmental agency, if
26 at least one of the grounds for the discipline is the same

1 or substantially equivalent to those set forth in this
2 Section.

3 (12) Directly or indirectly giving to or receiving from
4 any person, firm, corporation, partnership, or association
5 any fee, commission, rebate or other form of compensation
6 for any professional service not actually rendered.
7 Nothing in this paragraph (12) affects any bona fide
8 independent contractor or employment arrangements among
9 health care professionals, health facilities, health care
10 providers, or other entities, except as otherwise
11 prohibited by law. Any employment arrangements may include
12 provisions for compensation, health insurance, pension, or
13 other employment benefits for the provision of services
14 within the scope of the licensee's practice under this Act.
15 Nothing in this paragraph (12) shall be construed to
16 require an employment arrangement to receive professional
17 fees for services rendered.

18 (13) A finding by the Board that the licensee, after
19 having the license placed on probationary status, has
20 violated the terms of probation.

21 (14) Abandonment of a client.

22 (15) Willfully filing false reports relating to a
23 licensee's practice, including but not limited to false
24 records filed with federal or State agencies or
25 departments.

26 (16) Willfully failing to report an instance of

1 suspected child abuse or neglect as required by the Abused
2 and Neglected Child Reporting Act and in matters pertaining
3 to ~~elders or~~ suspected ~~elder~~ abuse, neglect, financial
4 exploitation, or self-neglect of adults with disabilities
5 and older adults as set forth in the Adult Protective
6 Services Act ~~Elder Abuse and Neglect Act.~~

7 (17) Being named as a perpetrator in an indicated
8 report by the Department of Children and Family Services
9 pursuant to the Abused and Neglected Child Reporting Act,
10 and upon proof by clear and convincing evidence that the
11 licensee has caused a child to be an abused child or
12 neglected child as defined in the Abused and Neglected
13 Child Reporting Act.

14 (18) Physical or mental illness or disability,
15 including, but not limited to, deterioration through the
16 aging process or loss of abilities and skills which results
17 in the inability to practice the profession with reasonable
18 judgment, skill, or safety.

19 (19) Solicitation of professional services by using
20 false or misleading advertising.

21 (20) Allowing one's license under this Act to be used
22 by an unlicensed person in violation of this Act.

23 (21) A finding that licensure has been applied for or
24 obtained by fraudulent means.

25 (22) Practicing under a false or, except as provided by
26 law, an assumed name.

1 (23) Gross and willful overcharging for professional
2 services including filing statements for collection of
3 fees or monies for which services are not rendered.

4 (24) Rendering professional counseling or clinical
5 professional counseling services without a license or
6 practicing outside the scope of a license.

7 (25) Clinical supervisors failing to adequately and
8 responsibly monitor supervisees.

9 All fines imposed under this Section shall be paid within
10 60 days after the effective date of the order imposing the
11 fine.

12 (b) The Department shall deny, without hearing, any
13 application or renewal for a license under this Act to any
14 person who has defaulted on an educational loan guaranteed by
15 the Illinois State Assistance Commission or any governmental
16 agency of this State in accordance with item (5) of subsection
17 (a) of Section 2105-15 of the Department of Professional
18 Regulation Law of the Civil Administrative Code of Illinois.

19 (b-5) The Department may refuse to issue or may suspend
20 without hearing, as provided for in the Code of Civil
21 Procedure, the license of any person who fails to file a
22 return, pay the tax, penalty, or interest shown in a filed
23 return, or pay any final assessment of the tax, penalty, or
24 interest as required by any tax Act administered by the
25 Illinois Department of Revenue, until such time as the
26 requirements of any such tax Act are satisfied in accordance

1 with subsection (g) of Section 2105-15 of the Department of
2 Professional Regulation Law of the Civil Administrative Code of
3 Illinois.

4 (b-10) In cases where the Department of Healthcare and
5 Family Services has previously determined a licensee or a
6 potential licensee is more than 30 days delinquent in the
7 payment of child support and has subsequently certified the
8 delinquency to the Department, the Department may refuse to
9 issue or renew or may revoke or suspend that person's license
10 or may take other disciplinary action against that person based
11 solely upon the certification of delinquency made by the
12 Department of Healthcare and Family Services in accordance with
13 item (5) of subsection (a) of Section 2105-15 of the Department
14 of Professional Regulation Law of the Civil Administrative Code
15 of Illinois.

16 (c) The determination by a court that a licensee is subject
17 to involuntary admission or judicial admission as provided in
18 the Mental Health and Developmental Disabilities Code will
19 result in an automatic suspension of his or her license. The
20 suspension will end upon a finding by a court that the licensee
21 is no longer subject to involuntary admission or judicial
22 admission, the issuance of an order so finding and discharging
23 the patient, and the recommendation of the Board to the
24 Secretary that the licensee be allowed to resume professional
25 practice.

26 (c-5) In enforcing this Act, the Department, upon a showing

1 of a possible violation, may compel an individual licensed to
2 practice under this Act, or who has applied for licensure under
3 this Act, to submit to a mental or physical examination, or
4 both, as required by and at the expense of the Department. The
5 Department may order the examining physician to present
6 testimony concerning the mental or physical examination of the
7 licensee or applicant. No information shall be excluded by
8 reason of any common law or statutory privilege relating to
9 communications between the licensee or applicant and the
10 examining physician. The examining physicians shall be
11 specifically designated by the Department. The individual to be
12 examined may have, at his or her own expense, another physician
13 of his or her choice present during all aspects of this
14 examination. The examination shall be performed by a physician
15 licensed to practice medicine in all its branches. Failure of
16 an individual to submit to a mental or physical examination,
17 when directed, shall result in an automatic suspension without
18 hearing.

19 A person holding a license under this Act or who has
20 applied for a license under this Act who, because of a physical
21 or mental illness or disability, including, but not limited to,
22 deterioration through the aging process or loss of motor skill,
23 is unable to practice the profession with reasonable judgment,
24 skill, or safety, may be required by the Department to submit
25 to care, counseling, or treatment by physicians approved or
26 designated by the Department as a condition, term, or

1 restriction for continued, reinstated, or renewed licensure to
2 practice. Submission to care, counseling, or treatment as
3 required by the Department shall not be considered discipline
4 of a license. If the licensee refuses to enter into a care,
5 counseling, or treatment agreement or fails to abide by the
6 terms of the agreement, the Department may file a complaint to
7 revoke, suspend, or otherwise discipline the license of the
8 individual. The Secretary may order the license suspended
9 immediately, pending a hearing by the Department. Fines shall
10 not be assessed in disciplinary actions involving physical or
11 mental illness or impairment.

12 In instances in which the Secretary immediately suspends a
13 person's license under this Section, a hearing on that person's
14 license must be convened by the Department within 15 days after
15 the suspension and completed without appreciable delay. The
16 Department shall have the authority to review the subject
17 individual's record of treatment and counseling regarding the
18 impairment to the extent permitted by applicable federal
19 statutes and regulations safeguarding the confidentiality of
20 medical records.

21 An individual licensed under this Act and affected under
22 this Section shall be afforded an opportunity to demonstrate to
23 the Department that he or she can resume practice in compliance
24 with acceptable and prevailing standards under the provisions
25 of his or her license.

26 (d) (Blank).

1 (Source: P.A. 96-1482, eff. 11-29-10; 97-706, eff. 6-25-12.)

2 Section 100. The Elder Abuse and Neglect Act is amended by
3 changing the title of the Act and by changing Sections 1, 2, 3,
4 3.5, 4, 4.1, 5, 8, 9, and 15 and by adding Sections 7.1, 7.5,
5 and 15.5 as follows:

6 (320 ILCS 20/Act title)

7 An Act in relation to adult protective services ~~the abuse~~
8 ~~and neglect of elderly persons.~~

9 (320 ILCS 20/1) (from Ch. 23, par. 6601)

10 Sec. 1. Short title. This Act shall be known and may be
11 cited as the Adult Protective Services Act ~~"Elder Abuse and~~
12 ~~Neglect Act"~~.

13 (Source: P.A. 85-1184.)

14 (320 ILCS 20/2) (from Ch. 23, par. 6602)

15 Sec. 2. Definitions. As used in this Act, unless the
16 context requires otherwise:

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

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

1 relies upon treatment by spiritual means through prayer alone,
2 in accordance with the tenets and practices of a recognized
3 church or religious denomination.

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

8 (a-5) "Abuser" means a person who abuses, neglects, or
9 financially exploits an eligible adult.

10 (a-6) "Adult with disabilities" means a person aged 18
11 through 59 who resides in a domestic living situation and whose
12 disability impairs his or her ability to seek or obtain
13 protection from abuse, neglect, or exploitation.

14 (a-7) "Caregiver" means a person who either as a result of
15 a family relationship, voluntarily, or in exchange for
16 compensation has assumed responsibility for all or a portion of
17 the care of an eligible adult who needs assistance with
18 activities of daily living.

19 (b) "Department" means the Department on Aging of the State
20 of Illinois.

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

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

1 (d) "Domestic living situation" means a residence where the
2 eligible adult at the time of the report lives alone or with
3 his or her family or a caregiver, or others, or ~~a board and~~
4 ~~care home or~~ other community-based unlicensed facility, but is
5 not:

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

8 (1.5) A facility licensed under the ID/DD Community
9 Care Act;

10 (1.7) A facility licensed under the Specialized Mental
11 Health Rehabilitation Act;

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

14 (3) A home, institution, or other place operated by the
15 federal government or agency thereof or by the State of
16 Illinois;

17 (4) A hospital, sanitarium, or other institution, the
18 principal activity or business of which is the diagnosis,
19 care, and treatment of human illness through the
20 maintenance and operation of organized facilities
21 therefor, which is required to be licensed under the
22 Hospital Licensing Act;

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

25 (6) (Blank);

26 (7) A "community-integrated living arrangement" as

1 defined in the Community-Integrated Living Arrangements
2 Licensure and Certification Act or a "community
3 residential alternative" as licensed under that Act;

4 (8) An assisted living or shared housing establishment
5 as defined in the Assisted Living and Shared Housing Act;
6 or

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

9 (e) "Eligible adult" means either an adult with
10 disabilities aged 18 through 59 or a person aged 60 ~~years of~~
11 age or older who resides in a domestic living situation and is,
12 or is alleged to be, abused, neglected, or financially
13 exploited by another individual or who neglects himself or
14 herself.

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

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

23 (f-5) "Mandated reporter" means any of the following
24 persons while engaged in carrying out their professional
25 duties:

26 (1) a professional or professional's delegate while

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

21 (1.5) an employee of an entity providing developmental
22 disabilities services or service coordination funded by
23 the Department of Human Services;

24 (2) an employee of a vocational rehabilitation
25 facility prescribed or supervised by the Department of
26 Human Services;

1 (3) an administrator, employee, or person providing
2 services in or through an unlicensed community based
3 facility;

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

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

15 (6) personnel of the Department of Human Services, the
16 Guardianship and Advocacy Commission, the State Fire
17 Marshal, local fire departments, the Department on Aging
18 and its subsidiary Area Agencies on Aging and provider
19 agencies, and the Office of State Long Term Care Ombudsman;

20 (7) any employee of the State of Illinois not otherwise
21 specified herein who is involved in providing services to
22 eligible adults, including professionals providing medical
23 or rehabilitation services and all other persons having
24 direct contact with eligible adults;

25 (8) a person who performs the duties of a coroner or
26 medical examiner; or

1 (9) a person who performs the duties of a paramedic or
2 an emergency medical technician.

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

12 (h) "Provider agency" means any public or nonprofit agency
13 in a planning and service area appointed by the regional
14 administrative agency with prior approval by the Department on
15 Aging to receive and assess reports of alleged or suspected
16 abuse, neglect, or financial exploitation. A provider agency is
17 also referenced as a "designated agency" in this Act.

18 (i) "Regional administrative agency" means any public or
19 nonprofit agency in a planning and service area so designated
20 by the Department, provided that the designated Area Agency on
21 Aging shall be designated the regional administrative agency if
22 it so requests. The Department shall assume the functions of
23 the regional administrative agency for any planning and service
24 area where another agency is not so designated.

25 (i-5) "Self-neglect" means a condition that is the result
26 of an eligible adult's inability, due to physical or mental

1 impairments, or both, or a diminished capacity, to perform
2 essential self-care tasks that substantially threaten his or
3 her own health, including: providing essential food, clothing,
4 shelter, and health care; and obtaining goods and services
5 necessary to maintain physical health, mental health,
6 emotional well-being, and general safety. The term includes
7 compulsive hoarding, which is characterized by the acquisition
8 and retention of large quantities of items and materials that
9 produce an extensively cluttered living space, which
10 significantly impairs the performance of essential self-care
11 tasks or otherwise substantially threatens life or safety.

12 (j) "Substantiated case" means a reported case of alleged
13 or suspected abuse, neglect, financial exploitation, or
14 self-neglect in which a provider agency, after assessment,
15 determines that there is reason to believe abuse, neglect, or
16 financial exploitation has occurred.

17 (Source: P.A. 96-339, eff. 7-1-10; 96-526, eff. 1-1-10; 96-572,
18 eff. 1-1-10; 96-1000, eff. 7-2-10; 97-38, eff. 6-28-11; 97-227,
19 eff. 1-1-12; 97-300, eff. 8-11-11; 97-706, eff. 6-25-12;
20 97-813, eff. 7-13-12; 97-1141, eff. 12-28-12.)

21 (320 ILCS 20/3) (from Ch. 23, par. 6603)

22 Sec. 3. Responsibilities.

23 (a) The Department shall establish, design, and manage a
24 protective services program ~~of response and services~~ for
25 eligible adults ~~persons 60 years of age and older~~ who have

1 been, or are alleged to be, victims of abuse, neglect,
2 financial exploitation, or self-neglect. The Department shall
3 contract with or fund, ~~or~~ contract with and fund, regional
4 administrative agencies, provider agencies, or both, for the
5 provision of those functions, and, contingent on adequate
6 funding, with attorneys or legal services provider agencies for
7 the provision of legal assistance pursuant to this Act. For
8 self-neglect, the ~~The~~ program shall include the following
9 services for eligible adults who have been removed from their
10 residences for the purpose of cleanup or repairs: temporary
11 housing; counseling; and caseworker services to try to ensure
12 that the conditions necessitating the removal do not reoccur.

13 (a-1) The Department shall by rule develop standards for
14 minimum staffing levels and staff qualifications. The
15 Department shall by rule establish mandatory standards for the
16 investigation of abuse, neglect, financial exploitation, or
17 self-neglect of eligible adults and mandatory procedures for
18 linking eligible adults to appropriate services and supports.

19 (a-5) A provider agency shall, in accordance with rules
20 promulgated by the Department, establish a multi-disciplinary
21 team to act in an advisory role for the purpose of providing
22 professional knowledge and expertise in the handling of complex
23 abuse cases involving eligible adults. Each multi-disciplinary
24 team shall consist of one volunteer representative from the
25 following professions: banking or finance; disability care;
26 health care; law; law enforcement; mental health care; and

1 clergy. A provider agency may also choose to add
2 representatives from the fields of substance abuse, domestic
3 violence, sexual assault, or other related fields. To support
4 multi-disciplinary teams in this role, law enforcement
5 agencies and coroners or medical examiners shall supply records
6 as may be requested in particular cases.

7 (b) Each regional administrative agency shall designate
8 provider agencies within its planning and service area with
9 prior approval by the Department on Aging, monitor the use of
10 services, provide technical assistance to the provider
11 agencies and be involved in program development activities.

12 (c) Provider agencies shall assist, to the extent possible,
13 eligible adults who need agency services to allow them to
14 continue to function independently. Such assistance shall
15 include, but not be limited to, receiving reports of alleged or
16 suspected abuse, neglect, financial exploitation, or
17 self-neglect, conducting face-to-face assessments of such
18 reported cases, determination of substantiated cases, referral
19 of substantiated cases for necessary support services,
20 referral of criminal conduct to law enforcement in accordance
21 with Department guidelines, and provision of case work and
22 follow-up services on substantiated cases. In the case of a
23 report of alleged or suspected abuse or neglect that places an
24 eligible adult at risk of injury or death, a provider agency
25 shall respond to the report on an emergency basis in accordance
26 with guidelines established by the Department by

1 administrative rule and shall ensure that it is capable of
2 responding to such a report 24 hours per day, 7 days per week.
3 A provider agency may use an on-call system to respond to
4 reports of alleged or suspected abuse or neglect after hours
5 and on weekends.

6 (c-5) Where a provider agency has reason to believe that
7 the death of an eligible adult may be the result of abuse or
8 neglect, including any reports made after death, the agency
9 shall immediately report the matter to both the appropriate law
10 enforcement agency and the coroner or medical examiner. Between
11 30 and 45 days after making such a report, the provider agency
12 again shall contact the law enforcement agency and coroner or
13 medical examiner to determine whether any further action was
14 taken. Upon request by a provider agency, a law enforcement
15 agency and coroner or medical examiner shall supply a summary
16 of its action in response to a reported death of an eligible
17 adult. A copy of the report shall be maintained and all
18 subsequent follow-up with the law enforcement agency and
19 coroner or medical examiner shall be documented in the case
20 record of the eligible adult.

21 (d) Upon sufficient appropriations to implement a
22 statewide program, the Department shall implement a program,
23 based on the recommendations of the ~~Elder~~ Self-Neglect Steering
24 Committee, for (i) responding to reports of possible
25 self-neglect, (ii) protecting the autonomy, rights, privacy,
26 and privileges of adults during investigations of possible

1 self-neglect and consequential judicial proceedings regarding
2 competency, (iii) collecting and sharing relevant information
3 and data among the Department, provider agencies, regional
4 administrative agencies, and relevant seniors, (iv) developing
5 working agreements between provider agencies and law
6 enforcement, where practicable, and (v) developing procedures
7 for collecting data regarding incidents of self-neglect.

8 (Source: P.A. 95-76, eff. 6-1-08; 96-526, eff. 1-1-10; 96-572,
9 eff. 1-1-10; 96-1000, eff. 7-2-10.)

10 (320 ILCS 20/3.5)

11 Sec. 3.5. Other Responsibilities. The Department shall
12 also be responsible for the following activities, contingent
13 upon adequate funding; implementation shall be expanded to
14 adults with disabilities within 3 months after the effective
15 date of this amendatory Act of the 98th General Assembly:

16 (a) promotion of a wide range of endeavors for the purpose
17 of preventing ~~elder~~ abuse, neglect, financial exploitation,
18 and self-neglect ~~in both domestic and institutional settings,~~
19 including, but not limited to, promotion of public and
20 professional education to increase awareness of ~~elder~~ abuse,
21 neglect, financial exploitation, and self-neglect; τ to
22 increase reports; to establish access to and use of the Health
23 Care Worker Registry; τ and to improve response by various
24 legal, financial, social, and health systems;

25 (b) coordination of efforts with other agencies, councils,

1 and like entities, to include but not be limited to, the
2 Administrative Office of the Illinois Courts, the Office of the
3 Attorney General, the State Police, the Illinois Law
4 Enforcement Training Standards Board, the State Triad, the
5 Illinois Criminal Justice Information Authority, the
6 Departments of Public Health, Healthcare and Family Services,
7 ~~Public Aid~~, and Human Services, the Illinois Guardianship and
8 Advocacy Commission, the Family Violence Coordinating Council,
9 the Illinois Violence Prevention Authority, and other entities
10 which may impact awareness of, and response to, ~~elder~~ abuse,
11 neglect, financial exploitation, and self-neglect;

12 (c) collection and analysis of data;

13 (d) monitoring of the performance of regional
14 administrative agencies and adult protective services ~~elder~~
15 ~~abuse provider~~ agencies;

16 (e) promotion of prevention activities;

17 (f) establishing and coordinating an aggressive training
18 program on the unique nature of adult ~~elder~~ abuse cases with
19 other agencies, councils, and like entities, to include but not
20 be limited to the Office of the Attorney General, the State
21 Police, the Illinois Law Enforcement Training Standards Board,
22 the State Triad, the Illinois Criminal Justice Information
23 Authority, the State Departments of Public Health, Healthcare
24 and Family Services ~~Public Aid~~, and Human Services, the Family
25 Violence Coordinating Council, the Illinois Violence
26 Prevention Authority, the agency designated by the Governor

1 under Section 1 of the Protection and Advocacy for
2 Developmentally Disabled Persons Act, and other entities that
3 may impact awareness of and response to ~~elder~~ abuse, neglect,
4 financial exploitation, and self-neglect;

5 (g) solicitation of financial institutions for the purpose
6 of making information available to the general public warning
7 of financial exploitation of adults ~~the elderly~~ and related
8 financial fraud or abuse, including such information and
9 warnings available through signage or other written materials
10 provided by the Department on the premises of such financial
11 institutions, provided that the manner of displaying or
12 distributing such information is subject to the sole discretion
13 of each financial institution;

14 (g-1) developing by joint rulemaking with the Department of
15 Financial and Professional Regulation minimum training
16 standards which shall be used by financial institutions for
17 their current and new employees with direct customer contact;
18 the Department of Financial and Professional Regulation shall
19 retain sole visitation and enforcement authority under this
20 subsection (g-1); the Department of Financial and Professional
21 Regulation shall provide bi-annual reports to the Department
22 setting forth aggregate statistics on the training programs
23 required under this subsection (g-1); and

24 (h) coordinating efforts with utility and electric
25 companies to send notices in utility bills to explain to
26 persons 60 years of age or older their rights regarding

1 telemarketing and home repair fraud.

2 (Source: P.A. 96-1103, eff. 7-19-10.)

3 (320 ILCS 20/4) (from Ch. 23, par. 6604)

4 Sec. 4. Reports of abuse or neglect.

5 (a) Any person who suspects the abuse, neglect, financial
6 exploitation, or self-neglect of an eligible adult may report
7 this suspicion to an agency designated to receive such reports
8 under this Act or to the Department.

9 (a-5) If any mandated reporter has reason to believe that
10 an eligible adult, who because of a disability or other
11 condition or impairment ~~dysfunction~~ is unable to seek
12 assistance for himself or herself, has, within the previous 12
13 months, been subjected to abuse, neglect, or financial
14 exploitation, the mandated reporter shall, within 24 hours
15 after developing such belief, report this suspicion to an
16 agency designated to receive such reports under this Act or to
17 the Department. The agency designated to receive such reports
18 under this Act or the Department may establish a manner in
19 which a mandated reporter can make the required report through
20 an Internet reporting tool. Information sent and received
21 through the Internet reporting tool is subject to the same
22 rules in this Act as other types of confidential reporting
23 established by the designated agency or the Department.
24 Whenever a mandated reporter is required to report under this
25 Act in his or her capacity as a member of the staff of a medical

1 or other public or private institution, facility, ~~board and~~
2 ~~care home,~~ or agency, he or she shall make a report to an
3 agency designated to receive such reports under this Act or to
4 the Department in accordance with the provisions of this Act
5 and may also notify the person in charge of the institution,
6 facility, board and care home, or agency or his or her
7 designated agent that the report has been made. Under no
8 circumstances shall any person in charge of such institution,
9 facility, board and care home, or agency, or his or her
10 designated agent to whom the notification has been made,
11 exercise any control, restraint, modification, or other change
12 in the report or the forwarding of the report to an agency
13 designated to receive such reports under this Act or to the
14 Department. The privileged quality of communication between
15 any professional person required to report and his or her
16 patient or client shall not apply to situations involving
17 abused, neglected, or financially exploited eligible adults
18 and shall not constitute grounds for failure to report as
19 required by this Act.

20 (a-7) A person making a report under this Act in the belief
21 that it is in the alleged victim's best interest shall be
22 immune from criminal or civil liability or professional
23 disciplinary action on account of making the report,
24 notwithstanding any requirements concerning the
25 confidentiality of information with respect to such eligible
26 adult which might otherwise be applicable.

1 (a-9) Law enforcement officers shall continue to report
2 incidents of alleged abuse pursuant to the Illinois Domestic
3 Violence Act of 1986, notwithstanding any requirements under
4 this Act.

5 (b) Any person, institution or agency participating in the
6 making of a report, providing information or records related to
7 a report, assessment, or services, or participating in the
8 investigation of a report under this Act in good faith, or
9 taking photographs or x-rays as a result of an authorized
10 assessment, shall have immunity from any civil, criminal or
11 other liability in any civil, criminal or other proceeding
12 brought in consequence of making such report or assessment or
13 on account of submitting or otherwise disclosing such
14 photographs or x-rays to any agency designated to receive
15 reports of alleged or suspected abuse or neglect. Any person,
16 institution or agency authorized by the Department to provide
17 assessment, intervention, or administrative services under
18 this Act shall, in the good faith performance of those
19 services, have immunity from any civil, criminal or other
20 liability in any civil, criminal, or other proceeding brought
21 as a consequence of the performance of those services. For the
22 purposes of any civil, criminal, or other proceeding, the good
23 faith of any person required to report, permitted to report, or
24 participating in an investigation of a report of alleged or
25 suspected abuse, neglect, financial exploitation, or
26 self-neglect shall be presumed.

1 (c) The identity of a person making a report of alleged or
2 suspected abuse, neglect, financial exploitation, or
3 self-neglect under this Act may be disclosed by the Department
4 or other agency provided for in this Act only with such
5 person's written consent or by court order, but is otherwise
6 confidential.

7 (d) The Department shall by rule establish a system for
8 filing and compiling reports made under this Act.

9 (e) Any physician who willfully fails to report as required
10 by this Act shall be referred to the Illinois State Medical
11 Disciplinary Board for action in accordance with subdivision
12 (A) (22) of Section 22 of the Medical Practice Act of 1987. Any
13 dentist or dental hygienist who willfully fails to report as
14 required by this Act shall be referred to the Department of
15 Professional Regulation for action in accordance with
16 paragraph 19 of Section 23 of the Illinois Dental Practice Act.
17 Any optometrist who willfully fails to report as required by
18 this Act shall be referred to the Department of Financial and
19 Professional Regulation for action in accordance with
20 paragraph (15) of subsection (a) of Section 24 of the Illinois
21 Optometric Practice Act of 1987. Any other mandated reporter
22 required by this Act to report suspected abuse, neglect, or
23 financial exploitation who willfully fails to report the same
24 is guilty of a Class A misdemeanor.

25 (Source: P.A. 96-378, eff. 1-1-10; 96-526, eff. 1-1-10;
26 96-1000, eff. 7-2-10; 97-860, eff. 7-30-12.)

1 (320 ILCS 20/4.1)

2 Sec. 4.1. Employer discrimination. No employer shall
3 discharge, demote or suspend, or threaten to discharge, demote
4 or suspend, or in any manner discriminate against any employee
5 who makes any good faith oral or written report of suspected
6 ~~elder~~ abuse, neglect, or financial exploitation or who is or
7 will be a witness or testify in any investigation or proceeding
8 concerning a report of suspected ~~elder~~ abuse, neglect, or
9 financial exploitation.

10 (Source: P.A. 90-628, eff. 1-1-99.)

11 (320 ILCS 20/5) (from Ch. 23, par. 6605)

12 Sec. 5. Procedure.

13 (a) A provider agency designated to receive reports of
14 alleged or suspected abuse, neglect, financial exploitation,
15 or self-neglect under this Act shall, upon receiving such a
16 report, conduct a face-to-face assessment with respect to such
17 report, in accord with established law and Department
18 protocols, procedures, and policies. Face-to-face assessments,
19 casework, and follow-up of reports of self-neglect by the
20 provider agencies designated to receive reports of
21 self-neglect shall be subject to sufficient appropriation for
22 statewide implementation of assessments, casework, and
23 follow-up of reports of self-neglect. In the absence of
24 sufficient appropriation for statewide implementation of

1 assessments, casework, and follow-up of reports of
2 self-neglect, the designated adult protective services ~~elder~~
3 ~~abuse~~ provider agency shall refer all reports of self-neglect
4 to the appropriate agency or agencies as designated by the
5 Department for any follow-up. The assessment shall include, but
6 not be limited to, a visit to the residence of the eligible
7 adult who is the subject of the report and may include
8 interviews or consultations with service agencies or
9 individuals who may have knowledge of the eligible adult's
10 circumstances. If, after the assessment, the provider agency
11 determines that the case is substantiated it shall develop a
12 service care plan for the eligible adult and may report its
13 findings to the appropriate law enforcement agency in accord
14 with established law and Department protocols, procedures, and
15 policies. In developing a case ~~the~~ plan, the provider agency
16 may consult with any other appropriate provider of services,
17 and such providers shall be immune from civil or criminal
18 liability on account of such acts. The plan shall include
19 alternative suggested or recommended services which are
20 appropriate to the needs of the eligible adult and which
21 involve the least restriction of the eligible adult's
22 activities commensurate with his or her needs. Only those
23 services to which consent is provided in accordance with
24 Section 9 of this Act shall be provided, contingent upon the
25 availability of such services.

26 (b) A provider agency shall refer evidence of crimes

1 against an eligible adult to the appropriate law enforcement
2 agency according to Department policies. A referral to law
3 enforcement may be made at intake or any time during the case.
4 Where a provider agency has reason to believe the death of an
5 eligible adult may be the result of abuse or neglect, the
6 agency shall immediately report the matter to the coroner or
7 medical examiner and shall cooperate fully with any subsequent
8 investigation.

9 (c) If any person other than the alleged victim refuses to
10 allow the provider agency to begin an investigation, interferes
11 with the provider agency's ability to conduct an investigation,
12 or refuses to give access to an eligible adult, the appropriate
13 law enforcement agency must be consulted regarding the
14 investigation.

15 (Source: P.A. 94-1064, eff. 1-1-07.)

16 (320 ILCS 20/7.1 new)

17 Sec. 7.1. Final investigative report. A provider agency
18 shall prepare a final investigative report, upon the completion
19 or closure of an investigation, in all cases of reported abuse,
20 neglect, financial exploitation, or self-neglect of an
21 eligible adult, whether or not there is a substantiated
22 finding.

23 (320 ILCS 20/7.5 new)

24 Sec. 7.5. Health Care Worker Registry.

1 (a) Study Committee for the Health Care Worker Registry.
2 The Department on Aging shall, within 6 months after the
3 effective date of this amendatory Act of the 98th General
4 Assembly, convene and lead a committee together with the
5 Department of Human Services and the Department of Public
6 Health to study access, use, and possible expansion of the
7 Health Care Worker Registry for reporting abuse, neglect, or
8 financial exploitation of an eligible adult under this Act. The
9 committee shall issue a report to the Governor and the General
10 Assembly with its findings and recommendations within 12 months
11 after the effective date of this amendatory Act of the 98th
12 General Assembly.

13 (a-1) Reporting to the registry. The Department on Aging
14 shall report to the Department of Public Health's Health Care
15 Worker Registry the identity and administrative finding of a
16 verified and substantiated decision of abuse, neglect, or
17 financial exploitation of an eligible adult under this Act that
18 is made against any caregiver, including consultants and
19 volunteers, employed by a provider licensed, certified, or
20 regulated by, or paid with public funds from, the Department of
21 Public Health, Healthcare and Family Services, or Human
22 Services, or the Department on Aging. For uncompensated or
23 privately paid caregivers, the Department on Aging shall report
24 only a verified and substantiated decision of significant
25 abuse, neglect, or financial exploitation of an eligible adult
26 under this Act. An administrative finding placed in the

1 registry shall preclude any caregiver from providing direct
2 access or other services, including consulting and
3 volunteering, in a position with a provider that is licensed,
4 certified, or regulated by, or paid with public funds from or
5 on behalf of, the State of Illinois or any Department thereof,
6 or by the Department of Public Health, Healthcare and Family
7 Services, or Human Services, or the Department on Aging that
8 permits the caregiver direct access to an adult aged 60 or
9 older or an adult, over 18, with a disability or to that
10 individual's living quarters or personal, financial, or
11 medical records.

12 (b) Definitions. As used in this Section:

13 "Direct care" includes, but is not limited to, direct
14 access to an individual, his or her living quarters, or his or
15 her personal, financial, or medical records for the purpose of
16 providing nursing care or assistance with feeding, dressing,
17 movement, bathing, toileting, other personal needs and
18 activities of daily living, or assistance with financial
19 transactions.

20 "Privately paid caregiver" means any caregiver who has been
21 paid with resources other than public funds, regardless of
22 licensure, certification, or regulation by the State of
23 Illinois and any Department thereof. A privately paid caregiver
24 does not include any caregiver that has been licensed,
25 certified, or regulated by a State agency, or paid with public
26 funds.

1 "Significant" means a finding of abuse, neglect, or
2 financial exploitation as determined by the Department that (i)
3 represents a meaningful failure to adequately provide for, or a
4 material indifference to, the financial, health, safety, or
5 medical needs of an eligible adult or (ii) results in an
6 eligible adult's death or other serious deterioration of an
7 eligible adult's financial resources, physical condition, or
8 mental condition.

9 "Uncompensated caregiver" means a caregiver who, in an
10 informal capacity, assists an eligible adult with activities of
11 daily living, financial transactions, or chore housekeeping
12 type duties. "Uncompensated caregiver" does not refer to an
13 individual serving in a formal capacity as a volunteer with a
14 provider licensed, certified, or regulated by a State agency.

15 (c) Access to and use of the Registry. Access to the
16 registry shall be limited to licensed, certified, or regulated
17 providers by the Department of Public Health, Healthcare and
18 Family Service, or Human Services, or the Department on Aging.
19 The State of Illinois, any Department thereof, or a provider
20 licensed, certified, or regulated, or paid with public funds
21 by, from, or on behalf of the Department of Public Health,
22 Healthcare and Family Services, or Human Services, or the
23 Department on Aging, shall not hire or compensate any person
24 seeking employment, retain any contractors, or accept any
25 volunteers to provide direct access without first conducting an
26 online check of the person through the Department of Public

1 Health's Health Care Worker Registry. The provider shall
2 maintain a copy of the results of the online check to
3 demonstrate compliance with this requirement. The provider is
4 prohibited from hiring, compensating, or accepting a person,
5 including as a consultant or volunteer, for whom the online
6 check reveals a verified and substantiated claim of abuse,
7 neglect, or financial exploitation, to provide direct access to
8 any adult aged 60 or older or any adult, over 18, with a
9 disability. Additionally, a provider is prohibited from
10 retaining a person for whom they gain knowledge of a verified
11 and substantiated claim of abuse, neglect, or financial
12 exploitation in a position that permits the caregiver direct
13 access to provide direct care to any adult aged 60 or older or
14 any adult, over 18, with a disability or direct access to that
15 individual's living quarters or personal, financial, or
16 medical records. Failure to comply with this requirement may
17 subject such a provider to corrective action by the appropriate
18 regulatory agency or other lawful remedies provided under the
19 applicable licensure, certification, or regulatory laws and
20 rules.

21 (d) Notice to caregiver. Prior to reporting to the
22 registry, the Department on Aging shall notify the caregiver of
23 its obligation to make a report to the registry. Notice to the
24 caregiver shall contain a clear and concise statement of the
25 grounds upon which the verified and substantiated finding of
26 abuse, neglect, or financial exploitation is based and shall

1 set forth the procedures for challenging the finding. Notice is
2 sufficient if provided by certified mail to the caregiver's
3 last known address. If the caregiver does not reply within 30
4 calendar days after the date of the notice, the Department
5 shall report the name of the caregiver and the substantiated
6 finding to the registry. Nothing in this subsection shall
7 diminish or impair the rights of a person who is a member of a
8 collective bargaining unit under the Illinois Public Labor
9 Relations Act or under any other federal labor statute.

10 (e) Notification to eligible adults, guardians, or agents.
11 As part of its investigation, the Department on Aging shall
12 notify an eligible adult, or an eligible adult's guardian or
13 agent, that a caregiver's name may be placed on the registry
14 based on a finding as described in subsection (a-1) of this
15 Section.

16 (f) Notification to employer. A provider licensed,
17 certified, or regulated by the Department of Public Health,
18 Healthcare and Family Services, or Human Services, or the
19 Department on Aging shall be notified of an administrative
20 finding against any caregiver who is an employee, consultant,
21 or volunteer of a verified and substantiated decision of abuse,
22 neglect, or financial exploitation of an eligible adult under
23 this Act. If there is an imminent risk of danger to the
24 eligible adult or an imminent risk of misuse of personal,
25 medical, or financial information, the caregiver shall
26 immediately be barred from direct access to the eligible adult,

1 his or her living quarters, or his or her personal, financial,
2 or medical records, pending the outcome of any registry
3 challenge, criminal prosecution, or other type of collateral
4 action.

5 (g) Uncompensated caregiver report challenges. The process
6 by which a challenge to reporting is filed shall be established
7 through the Department's administrative rules. Upon receiving
8 a timely challenge by a caregiver in response to the notice of
9 a registry report, the Department shall review the content of
10 the challenge and issue an administrative decision as to
11 whether the significant decision warrants reporting the
12 caregiver's name to the registry. A written copy of the
13 decision shall be provided to the caregiver.

14 (h) Uncompensated caregiver registry hearings. If a
15 caregiver's report challenge is not successful, then he or she
16 may request an administrative hearing within 60 calendar days
17 after the date of the decision or submit a written response in
18 lieu of an administrative hearing. If the request is timely,
19 the Department on Aging shall not make a report to the registry
20 and the caregiver shall be granted an opportunity to appear in
21 person if a hearing is requested. The caregiver shall present
22 reasons why the abuse, neglect, or financial exploitation is
23 not significant or should not otherwise be reported to the
24 registry. The administrative law judge considering the written
25 response or presiding over the hearing shall summarize
26 pertinent findings of fact and conclusions of law and make a

1 recommendation to the Director of the Department on Aging as to
2 whether the significant finding warrants reporting the name of
3 the caregiver to the registry. The Director shall render and
4 adopt the final decision. The parties may jointly request that
5 the administrative law judge consider a stipulated disposition
6 of these proceedings.

7 (i) Caregiver's rights to collateral action. The
8 Department on Aging shall not make any report to the registry
9 if a caregiver notifies the Department in writing, including
10 any supporting documentation, that he or she is formally
11 challenging an adverse employment action resulting from a
12 verified and substantiated finding of abuse, neglect, or
13 financial exploitation by complaint filed with the Illinois
14 Civil Service Commission, or by another means which seeks to
15 enforce the caregiver's rights pursuant to any applicable
16 collective bargaining agreement. If an action taken by an
17 employer against a caregiver as a result of a finding of abuse,
18 neglect, or financial exploitation is overturned through an
19 action filed with the Illinois Civil Service Commission or
20 under any applicable collective bargaining agreement after
21 that caregiver's name has already been sent to the registry,
22 the caregiver's name shall be removed from the registry.

23 (j) Removal from registry. At any time after a report to
24 the registry, but no more than once in each successive 3-year
25 period thereafter, for a maximum of 3 such requests, a
26 caregiver may write to the Director of the Department on Aging

1 to request removal of his or her name from the registry in
2 relationship to a single incident. The caregiver shall bear the
3 burden of showing cause that establishes, by a preponderance of
4 the evidence, that removal of his or her name from the registry
5 is in the public interest. Upon receiving such a request, the
6 Department on Aging shall conduct an investigation and consider
7 any evidentiary material provided. The Department shall issue a
8 decision either granting or denying removal within 60 calendar
9 days, and shall issue such decision to the caregiver and the
10 registry. The waiver process at the Department of Public Health
11 does not apply to registry reports from the Department on
12 Aging. The Department on Aging shall establish standards for
13 the removal of a name from the registry by rule.

14 (k) Referral of registry reports to health care facilities.
15 In the event an eligible adult receiving services from a
16 provider agency changes his or her residence from a domestic
17 living situation to that of a health care facility, the
18 provider agency shall use reasonable efforts to promptly inform
19 the health care facility and the appropriate Regional Long Term
20 Care Ombudsman about any registry reports relating to the
21 eligible adult. For purposes of this Section, a health care
22 facility includes, but is not limited to, any residential
23 facility licensed, certified, or regulated by the Department of
24 Public Health, Healthcare and Family Services, or Human
25 Services.

1 (320 ILCS 20/8) (from Ch. 23, par. 6608)

2 Sec. 8. Access to records. All records concerning reports
3 of ~~elder~~ abuse, neglect, financial exploitation, or
4 self-neglect and all records generated as a result of such
5 reports shall be confidential and shall not be disclosed except
6 as specifically authorized by this Act or other applicable law.
7 In accord with established law and Department protocols,
8 procedures, and policies, access to such records, but not
9 access to the identity of the person or persons making a report
10 of alleged abuse, neglect, financial exploitation, or
11 self-neglect as contained in such records, shall be provided,
12 upon request, to the following persons and for the following
13 persons:

14 (1) Department staff, provider agency staff, other
15 aging network staff, and regional administrative agency
16 staff, including staff of the Chicago Department on Aging
17 while that agency is designated as a regional
18 administrative agency, in the furtherance of their
19 responsibilities under this Act;

20 (2) A law enforcement agency investigating known or
21 suspected ~~elder~~ abuse, neglect, financial exploitation, or
22 self-neglect. Where a provider agency has reason to believe
23 that the death of an eligible adult may be the result of
24 abuse or neglect, including any reports made after death,
25 the agency shall immediately provide the appropriate law
26 enforcement agency with all records pertaining to the

1 eligible adult;

2 (2.5) A law enforcement agency, fire department
3 agency, or fire protection district having proper
4 jurisdiction pursuant to a written agreement between a
5 provider agency and the law enforcement agency, fire
6 department agency, or fire protection district under which
7 the provider agency may furnish to the law enforcement
8 agency, fire department agency, or fire protection
9 district a list of all eligible adults who may be at
10 imminent risk of ~~elder~~ abuse, neglect, financial
11 exploitation, or self-neglect;

12 (3) A physician who has before him or her or who is
13 involved in the treatment of an eligible adult whom he or
14 she reasonably suspects may be abused, neglected,
15 financially exploited, or self-neglected or who has been
16 referred to the Adult Protective Services ~~Elder Abuse and~~
17 ~~Neglect~~ Program;

18 (4) An eligible adult reported to be abused, neglected,
19 financially exploited, or self-neglected, or such adult's
20 authorized guardian or agent, unless such guardian or agent
21 is the abuser or the alleged abuser;

22 (4.5) An executor or administrator of the estate of an
23 eligible adult who is deceased;

24 (5) In cases regarding ~~elder~~ abuse, neglect, or
25 financial exploitation, a court or a guardian ad litem,
26 upon its or his or her finding that access to such records

1 may be necessary for the determination of an issue before
2 the court. However, such access shall be limited to an in
3 camera inspection of the records, unless the court
4 determines that disclosure of the information contained
5 therein is necessary for the resolution of an issue then
6 pending before it;

7 (5.5) In cases regarding self-neglect, a guardian ad
8 litem;

9 (6) A grand jury, upon its determination that access to
10 such records is necessary in the conduct of its official
11 business;

12 (7) Any person authorized by the Director, in writing,
13 for audit or bona fide research purposes;

14 (8) A coroner or medical examiner who has reason to
15 believe that an eligible adult has died as the result of
16 abuse, neglect, financial exploitation, or self-neglect.
17 The provider agency shall immediately provide the coroner
18 or medical examiner with all records pertaining to the
19 eligible adult;

20 (8.5) A coroner or medical examiner having proper
21 jurisdiction, pursuant to a written agreement between a
22 provider agency and the coroner or medical examiner, under
23 which the provider agency may furnish to the office of the
24 coroner or medical examiner a list of all eligible adults
25 who may be at imminent risk of death as a result of abuse,
26 neglect, financial exploitation, or self-neglect; ~~and~~

1 (9) Department of Financial and Professional
2 Regulation staff and members of the Illinois Medical
3 Disciplinary Board or the Social Work Examining and
4 Disciplinary Board in the course of investigating alleged
5 violations of the Clinical Social Work and Social Work
6 Practice Act by provider agency staff or other licensing
7 bodies at the discretion of the Director of the Department
8 on Aging;

9 (9-a) Department of Healthcare and Family Services
10 staff when that Department is funding services to the
11 eligible adult, including access to the identity of the
12 eligible adult;

13 (9-b) Department of Human Services staff when that
14 Department is funding services to the eligible adult or is
15 providing reimbursement for services provided by the
16 abuser or alleged abuser, including access to the identity
17 of the eligible adult;

18 (10) Hearing officers in the course of conducting an
19 administrative hearing to determine whether a verified and
20 substantiated finding of significant abuse, neglect, or
21 financial exploitation of an eligible adult by a caregiver
22 warrants reporting to the Health Care Worker Registry; and

23 -

24 (11) The Illinois Guardianship and Advocacy Commission
25 and the agency designated by the Governor under Section 1
26 of the Protection and Advocacy for Developmentally

1 Disabled Persons Act shall have access, through the
2 Department, to records, including the findings, pertaining
3 to a completed or closed investigation of a report of
4 suspected abuse, neglect, financial exploitation, or
5 self-neglect of an eligible adult.

6 (Source: P.A. 96-526, eff. 1-1-10; 97-864, eff. 1-1-13.)

7 (320 ILCS 20/9) (from Ch. 23, par. 6609)

8 Sec. 9. Authority to consent to services.

9 (a) If an eligible adult consents to an assessment of a
10 reported incident of suspected abuse, neglect, financial
11 exploitation, or self-neglect and, following the assessment of
12 such report, consents to services being provided according to
13 the case plan, such services shall be arranged to meet the
14 adult's needs, based upon the availability of resources to
15 provide such services. If an adult withdraws his or her consent
16 for an assessment of the reported incident or withdraws his or
17 her consent for services and ~~or~~ refuses to accept such
18 services, the services shall not be provided.

19 (b) If it reasonably appears to the Department or other
20 agency designated under this Act that a person is an eligible
21 adult and lacks the capacity to consent to an assessment of a
22 reported incident of suspected abuse, neglect, financial
23 exploitation, or self-neglect or to necessary services,
24 ~~including an assessment,~~ the Department or other agency shall
25 notify the Illinois Guardianship and Advocacy Commission, the

1 Office of State Guardian, or any other appropriate agency, of
2 the potential need for ~~may seek the~~ appointment of a temporary
3 guardian as provided in Article XIa of the Probate Act of 1975
4 for the purpose of consenting to an assessment of the reported
5 incident and such services, together with an order for an
6 evaluation of the eligible adult's physical, psychological,
7 and medical condition and decisional capacity.

8 (c) A guardian of the person of an eligible adult may
9 consent to an assessment of the reported incident and to
10 services being provided according to the case plan. If an
11 eligible adult lacks capacity to consent ~~to services~~, an agent
12 having authority under a power of attorney may consent to an
13 assessment of the reported incident and to services. If the
14 guardian or agent is the suspected abuser and he or she
15 withdraws his or her consent for the assessment of the reported
16 incident, or refuses to allow services to be provided to the
17 eligible adult, the Department, an agency designated under this
18 Act, or the office of the Attorney General may request a court
19 order seeking appropriate remedies, and may in addition request
20 removal of the guardian and appointment of a successor guardian
21 or request removal of the agent and appointment of a guardian.

22 (d) If an emergency exists and the Department or other
23 agency designated under this Act reasonably believes that a
24 person is an eligible adult and lacks the capacity to consent
25 to necessary services, the Department or other agency may
26 request an ex parte order from the circuit court of the county

1 in which the petitioner or respondent resides or in which the
2 alleged abuse, neglect, financial exploitation, or
3 self-neglect occurred, authorizing an assessment of a report of
4 alleged or suspected abuse, neglect, financial exploitation,
5 or self-neglect or the provision of necessary services, or
6 both, including relief available under the Illinois Domestic
7 Violence Act of 1986 in accord with established law and
8 Department protocols, procedures, and policies. Petitions
9 filed under this subsection shall be treated as expedited
10 proceedings. When an eligible adult is at risk of serious
11 injury or death and it reasonably appears that the eligible
12 adult lacks capacity to consent to necessary services, the
13 Department or other agency designated under this Act may take
14 action necessary to ameliorate the risk in accordance with
15 administrative rules promulgated by the Department.

16 (d-5) For purposes of this Section, an eligible adult
17 "lacks the capacity to consent" if qualified staff of an agency
18 designated under this Act reasonably determine, in accordance
19 with administrative rules promulgated by the Department, that
20 he or she appears either (i) unable to receive and evaluate
21 information related to the assessment or services or (ii)
22 unable to communicate in any manner decisions related to the
23 assessment of the reported incident or services.

24 (e) Within 15 days after the entry of the ex parte
25 emergency order, the order shall expire, or, if the need for
26 assessment of the reported incident or services continues, the

1 provider agency shall petition for the appointment of a
2 guardian as provided in Article XIa of the Probate Act of 1975
3 for the purpose of consenting to such assessment or services or
4 to protect the eligible adult from further harm.

5 (f) If the court enters an ex parte order under subsection
6 (d) for an assessment of a reported incident ~~report~~ of alleged
7 or suspected abuse, neglect, financial exploitation, or
8 self-neglect, or for the provision of necessary services in
9 connection with alleged or suspected self-neglect, or for both,
10 the court, as soon as is practicable thereafter, shall appoint
11 a guardian ad litem for the eligible adult who is the subject
12 of the order, for the purpose of reviewing the reasonableness
13 of the order. The guardian ad litem shall review the order and,
14 if the guardian ad litem reasonably believes that the order is
15 unreasonable, the guardian ad litem shall file a petition with
16 the court stating the guardian ad litem's belief and requesting
17 that the order be vacated.

18 (g) In all cases in which there is a substantiated finding
19 of abuse, neglect, or financial exploitation by a guardian, the
20 Department shall, within 30 days after the finding, notify the
21 Probate Court with jurisdiction over the guardianship.

22 (Source: P.A. 96-526, eff. 1-1-10.)

23 (320 ILCS 20/15)

24 Sec. 15. Abuse Fatality Review Teams ~~Elder abuse fatality~~
25 ~~review teams.~~

1 (a) State policy. ~~In this Section, "review team" means a~~
2 ~~regional interagency elder abuse fatality review team~~
3 ~~established under this Section.~~

4 (1) Both the State and the community maintain a
5 commitment to preventing the abuse, neglect, and financial
6 exploitation of at-risk adults. This includes a charge to
7 bring perpetrators of crimes against at-risk adults to
8 justice and prevent untimely deaths in the community.

9 (2) When an at-risk adult dies, the response to the
10 death by the community, law enforcement, and the State must
11 include an accurate and complete determination of the cause
12 of death, and the development and implementation of
13 measures to prevent future deaths from similar causes.

14 (3) Multidisciplinary and multi-agency reviews of
15 deaths can assist the State and counties in developing a
16 greater understanding of the incidence and causes of
17 premature deaths and the methods for preventing those
18 deaths, improving methods for investigating deaths, and
19 identifying gaps in services to at-risk adults.

20 (4) Access to information regarding the deceased
21 person and his or her family by multidisciplinary and
22 multi-agency at-risk adult fatality review teams is
23 necessary in order to fulfill their purposes and duties.

24 (a-5) Definitions. As used in this Section:

25 "Advisory Council" means the Illinois At-Risk Adult
26 Fatality Review Team Advisory Council.

1 "Review Team" means a regional interagency at-risk
2 adult fatality review team.

3 (b) The Director, in consultation with the Advisory
4 Council, law enforcement, and other professionals who work in
5 the fields of investigating, treating, or preventing abuse or
6 neglect of at-risk adults, shall appoint members to a minimum
7 of one review team in each of the Department's planning and
8 service areas. Each member of a review team shall be appointed
9 for a 2-year term and shall be eligible for reappointment upon
10 the expiration of the term. A review team's purpose in
11 conducting review of at-risk adult deaths is: ~~The Department,~~
12 ~~or any other State or county agency with Department approval,~~
13 ~~may establish regional interagency elder abuse fatality review~~
14 ~~teams~~ (i) to assist local agencies in identifying and reviewing
15 suspicious deaths of adult ~~elderly~~ victims of alleged,
16 suspected, or substantiated abuse or neglect in domestic living
17 situations; ~~and~~ (ii) to facilitate communications between
18 officials responsible for autopsies and inquests and persons
19 involved in reporting or investigating alleged or suspected
20 cases of abuse, neglect, or financial exploitation of at-risk
21 adults and persons involved in providing services to at-risk
22 adults; (iii) to evaluate means by which the death might have
23 been prevented; and (iv) to report its findings to the
24 appropriate agencies and the Advisory Council and make
25 recommendations that may help to reduce the number of at-risk
26 adult deaths caused by abuse and neglect and that may help to

1 improve the investigations of deaths of at-risk adults and
2 increase prosecutions, if appropriate ~~persons 60 years of age~~
3 ~~or older.~~

4 (b-5) Each such team shall be composed of representatives
5 of entities and individuals including, but not limited to:

6 (1) the Department on Aging;

7 (2) coroners or medical examiners (or both);

8 (3) State's Attorneys;

9 (4) local police departments;

10 (5) forensic units;

11 (6) local health departments;

12 (7) a social service or health care agency that
13 provides services to persons with mental illness, in a
14 program whose accreditation to provide such services is
15 recognized by the Division of Mental Health within the
16 Department of Human Services;

17 (8) a social service or health care agency that
18 provides services to persons with developmental
19 disabilities, in a program whose accreditation to provide
20 such services is recognized by the Division of
21 Developmental Disabilities within the Department of Human
22 Services;

23 (9) a local hospital, trauma center, or provider of
24 emergency medicine; and

25 (10) providers of services for eligible adults in
26 domestic living situations; and

1 (11) a physician, psychiatrist, or other health care
2 provider knowledgeable about abuse and neglect of at-risk
3 adults , ~~the Department on Aging, coroners or medical~~
4 ~~examiners (or both), State's Attorneys, local police~~
5 ~~departments, forensic units, and providers of services for~~
6 ~~persons 60 years of age or older in domestic living~~
7 ~~situations.~~

8 (c) A review team shall review cases of deaths of at-risk
9 adults occurring in its planning and service area ~~persons 60~~
10 ~~years of age or older in domestic living situations~~ (i)
11 involving blunt force trauma or an undetermined manner or
12 suspicious cause of death, (ii) if requested by the deceased's
13 attending physician or an emergency room physician, (iii) upon
14 referral by a health care provider, (iv) upon referral by a
15 ~~coroner or medical examiner~~, (v) ~~or (iv)~~ constituting an open
16 or closed case from an adult ~~a senior~~ protective services
17 agency, law enforcement agency, ~~or~~ State's Attorney's office,
18 or the Department of Human Services' Office of the Inspector
19 General that involves alleged or suspected abuse, neglect, or
20 financial exploitation; or (vi) upon referral by a law
21 enforcement agency or State's Attorney's office. If such a
22 death occurs in a planning and service area where a review team
23 has not yet been established, the Director shall request that
24 the Advisory Council or another review team review that death.
25 A team may also review ~~other cases of~~ at-risk adults
26 ~~persons 60 years of age or older~~ if the alleged abuse or

1 neglect occurred while the person was residing in a domestic
2 living situation.

3 A review team shall meet not less than 6 times a year to
4 discuss cases for its possible review. Each review team, with
5 the advice and consent of the Department, shall establish
6 criteria to be used ~~by review teams~~ in discussing cases of
7 alleged, suspected, or substantiated abuse or neglect for
8 review and shall conduct its activities in accordance with any
9 applicable policies and procedures established by the
10 Department.

11 (c-5) The Illinois At-Risk Adult Fatality Review Teams
12 Advisory Council, consisting of one member from each review
13 team in Illinois, shall be the coordinating and oversight body
14 for review teams and activities in Illinois. The Director may
15 appoint to the Advisory Council any ex-officio members deemed
16 necessary. Persons with expertise needed by the Advisory
17 Council may be invited to meetings. The Advisory Council must
18 select from its members a chairperson and a vice-chairperson,
19 each to serve a 2-year term. The chairperson or
20 vice-chairperson may be selected to serve additional,
21 subsequent terms. The Advisory Council must meet at least 4
22 times during each calendar year.

23 The Department may provide or arrange for the staff support
24 necessary for the Advisory Council to carry out its duties. The
25 Director, in cooperation and consultation with the Advisory
26 Council, shall appoint, reappoint, and remove review team

1 members.

2 The Advisory Council has, but is not limited to, the
3 following duties:

4 (1) To serve as the voice of review teams in Illinois.

5 (2) To oversee the review teams in order to ensure that
6 the review teams' work is coordinated and in compliance
7 with State statutes and the operating protocol.

8 (3) To ensure that the data, results, findings, and
9 recommendations of the review teams are adequately used in
10 a timely manner to make any necessary changes to the
11 policies, procedures, and State statutes in order to
12 protect at-risk adults.

13 (4) To collaborate with the Department in order to
14 develop any legislation needed to prevent unnecessary
15 deaths of at-risk adults.

16 (5) To ensure that the review teams' review processes
17 are standardized in order to convey data, findings, and
18 recommendations in a usable format.

19 (6) To serve as a link with review teams throughout the
20 country and to participate in national review team
21 activities.

22 (7) To provide the review teams with the most current
23 information and practices concerning at-risk adult death
24 review and related topics.

25 (8) To perform any other functions necessary to enhance
26 the capability of the review teams to reduce and prevent

1 at-risk adult fatalities.

2 The Advisory Council may prepare an annual report, in
3 consultation with the Department, using aggregate data
4 gathered by review teams and using the review teams'
5 recommendations to develop education, prevention, prosecution,
6 or other strategies designed to improve the coordination of
7 services for at-risk adults and their families.

8 In any instance where a review team does not operate in
9 accordance with established protocol, the Director, in
10 consultation and cooperation with the Advisory Council, must
11 take any necessary actions to bring the review team into
12 compliance with the protocol.

13 (d) Any document or oral or written communication shared
14 within or produced by the a review team relating to a case
15 discussed or reviewed by the review team is confidential and is
16 not admissible as evidence in any civil or criminal proceeding,
17 except for use by a State's Attorney's office in prosecuting a
18 criminal case against a caregiver. Those records and
19 information are, however, subject to discovery or subpoena, and
20 are admissible as evidence, to the extent they are otherwise
21 available to the public ~~subject to disclosure to or~~
22 ~~discoverable by another party.~~

23 Any document or oral or written communication provided to a
24 review team by an individual or entity, and created by that
25 individual or entity solely for the use of the review team, is
26 confidential, ~~and~~ is not subject to disclosure to or

1 discoverable by another party, and is not admissible as
2 evidence in any civil or criminal proceeding, except for use by
3 a State's Attorney's office in prosecuting a criminal case
4 against a caregiver. Those records and information are,
5 however, subject to discovery or subpoena, and are admissible
6 as evidence, to the extent they are otherwise available to the
7 public.

8 Each entity or individual represented on the ~~an elder~~ abuse
9 fatality review team may share with other members of the team
10 information in the entity's or individual's possession
11 concerning the decedent who is the subject of the review or
12 concerning any person who was in contact with the decedent, as
13 well as any other information deemed by the entity or
14 individual to be pertinent to the review. Any such information
15 shared by an entity or individual with other members of the
16 review ~~a~~ team is confidential. The intent of this paragraph is
17 to permit the disclosure to members of the review ~~a~~ team of any
18 information deemed confidential or privileged or prohibited
19 from disclosure by any other provision of law. Release of
20 confidential communication between domestic violence advocates
21 and a domestic violence victim shall follow subsection (d) of
22 Section 227 of the Illinois Domestic Violence Act of 1986 which
23 allows for the waiver of privilege afforded to guardians,
24 executors, or administrators of the estate of the domestic
25 violence victim. This provision relating to the release of
26 confidential communication between domestic violence advocates

1 and a domestic violence victim shall exclude adult protective
2 service providers.

3 A coroner's or medical examiner's office may share with the
4 ~~a~~ review team medical records that have been made available to
5 the coroner's or medical examiner's office in connection with
6 that office's investigation of a death.

7 Members of a review team and the Advisory Council are not
8 subject to examination, in any civil or criminal proceeding,
9 concerning information presented to members of the review team
10 or the Advisory Council or opinions formed by members of the
11 review team or the Advisory Council based on that information.
12 A person may, however, be examined concerning information
13 provided to a review team or the Advisory Council.

14 (d-5) Meetings of the review teams and the Advisory Council
15 may be closed to the public under the Open Meetings Act.
16 Records and information provided to a review team and the
17 Advisory Council, and records maintained by a team or the
18 Advisory Council, are exempt from release under the Freedom of
19 Information Act.

20 (e) A review team's recommendation in relation to a case
21 discussed or reviewed by the review team, including, but not
22 limited to, a recommendation concerning an investigation or
23 prosecution ~~in relation to such a case~~, may be disclosed by the
24 review team upon the completion of its review and at the
25 discretion of a majority of its members who reviewed the case.

26 (e-5) The State shall indemnify and hold harmless members

1 of a review team and the Advisory Council for all their acts,
2 omissions, decisions, or other conduct arising out of the scope
3 of their service on the review team or Advisory Council, except
4 those involving willful or wanton misconduct. The method of
5 providing indemnification shall be as provided in the State
6 Employee Indemnification Act.

7 (f) The Department, in consultation with coroners, medical
8 examiners, and law enforcement agencies, shall use aggregate
9 data gathered by and ~~review teams and review teams'~~
10 recommendations from the Advisory Council and the review teams
11 to create an annual report and may use those data and
12 recommendations to develop education, prevention, prosecution,
13 or other strategies designed to improve the coordination of
14 services for at-risk adults ~~persons 60 years of age or older~~
15 and their families. The Department or other State or county
16 agency, in consultation with coroners, medical examiners, and
17 law enforcement agencies, also may use aggregate data gathered
18 by the review teams to create a database of at-risk
19 individuals.

20 (g) The Department shall adopt such rules and regulations
21 as it deems necessary to implement this Section.

22 (Source: P.A. 95-402, eff. 6-1-08.)

23 (320 ILCS 20/15.5 new)

24 Sec. 15.5. Independent monitor. Subject to appropriation,
25 to ensure the effectiveness and accountability of the adult

1 protective services system, the agency designated by the
2 Governor under Section 1 of the Protection and Advocacy for
3 Developmentally Disabled Persons Act shall monitor the system
4 and provide to the Department review and evaluation of the
5 system in accordance with administrative rules promulgated by
6 the Department.

7 Section 105. The Code of Criminal Procedure of 1963 is
8 amended by changing Sections 114-13.5 and 115-10.3 as follows:

9 (725 ILCS 5/114-13.5)

10 Sec. 114-13.5. Evidence deposition; elder abuse. In a
11 prosecution for abuse, neglect, or financial exploitation of an
12 eligible adult as defined in the Adult Protective Services Act
13 ~~Elder Abuse and Neglect Act~~, the eligible adult may give
14 testimony in the form of an evidence deposition and not be
15 required to appear in court to testify.

16 (Source: P.A. 93-301, eff. 1-1-04.)

17 (725 ILCS 5/115-10.3)

18 Sec. 115-10.3. Hearsay exception regarding elder adults.

19 (a) In a prosecution for a physical act, abuse, neglect, or
20 financial exploitation perpetrated upon or against an eligible
21 adult, as defined in the Adult Protective Services Act ~~Elder~~
22 ~~Abuse and Neglect Act~~, who has been diagnosed by a physician to
23 suffer from (i) any form of dementia, developmental disability,

1 or other form of mental incapacity or (ii) any physical
2 infirmity, including but not limited to prosecutions for
3 violations of Sections 10-1, 10-2, 10-3, 10-3.1, 10-4, 11-1.20,
4 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-11, 12-1, 12-2, 12-3,
5 12-3.05, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.5, 12-4.6,
6 12-4.7, 12-5, 12-6, 12-7.3, 12-7.4, 12-11, 12-11.1, 12-13,
7 12-14, 12-15, 12-16, 12-21, 16-1, 16-1.3, 17-1, 17-3, 17-56,
8 18-1, 18-2, 18-3, 18-4, 18-5, 18-6, 19-6, 20-1.1, 24-1.2, and
9 33A-2, or subsection (b) of Section 12-4.4a of ~~, or subsection~~
10 ~~(a) of Section 17-32, of the Criminal Code of 1961 or the~~
11 Criminal Code of 2012, the following evidence shall be admitted
12 as an exception to the hearsay rule:

13 (1) testimony by an eligible adult, of an out of court
14 statement made by the eligible adult, that he or she
15 complained of such act to another; and

16 (2) testimony of an out of court statement made by the
17 eligible adult, describing any complaint of such act or
18 matter or detail pertaining to any act which is an element
19 of an offense which is the subject of a prosecution for a
20 physical act, abuse, neglect, or financial exploitation
21 perpetrated upon or against the eligible adult.

22 (b) Such testimony shall only be admitted if:

23 (1) The court finds in a hearing conducted outside the
24 presence of the jury that the time, content, and
25 circumstances of the statement provide sufficient
26 safeguards of reliability; and

1 (2) The eligible adult either:

2 (A) testifies at the proceeding; or

3 (B) is unavailable as a witness and there is
4 corroborative evidence of the act which is the subject
5 of the statement.

6 (c) If a statement is admitted pursuant to this Section,
7 the court shall instruct the jury that it is for the jury to
8 determine the weight and credibility to be given the statement
9 and that, in making the determination, it shall consider the
10 condition of the eligible adult, the nature of the statement,
11 the circumstances under which the statement was made, and any
12 other relevant factor.

13 (d) The proponent of the statement shall give the adverse
14 party reasonable notice of his or her intention to offer the
15 statement and the particulars of the statement.

16 (Source: P.A. 96-1551, Article 1, Section 965, eff. 7-1-11;
17 96-1551, Article 2, Section 1040, eff. 7-1-11; 96-1551, Article
18 10, Section 10-145, eff. 7-1-11; 97-1108, eff. 1-1-13; 97-1109,
19 eff. 1-1-13; 97-1150, eff. 1-25-13.)

20 Section 110. The Code of Civil Procedure is amended by
21 changing Section 8-2701 as follows:

22 (735 ILCS 5/8-2701)

23 Sec. 8-2701. Admissibility of evidence; out of court
24 statements; elder abuse.

1 (a) An out of court statement made by an eligible adult, as
2 defined in the Adult Protective Services Act ~~Elder Abuse and~~
3 ~~Neglect Act~~, who has been diagnosed by a physician to suffer
4 from (i) any form of dementia, developmental disability, or
5 other form of mental incapacity or (ii) any physical infirmity
6 which prevents the eligible adult's appearance in court,
7 describing any act of elder abuse, neglect, or financial
8 exploitation, or testimony by an eligible adult of an out of
9 court statement made by the eligible adult that he or she
10 complained of such acts to another, is admissible in any civil
11 proceeding, if:

12 (1) the court conducts a hearing outside the presence
13 of the jury and finds that the time, content, and
14 circumstances of the statement provide sufficient
15 safeguards of reliability; and

16 (2) the eligible adult either:

17 (A) testifies at the proceeding; or

18 (B) is unavailable as a witness and there is
19 corroborative evidence of the act which is the subject
20 of the statement.

21 (b) If a statement is admitted pursuant to this Section,
22 the court shall instruct the jury that it is for the jury to
23 determine the weight and credibility to be given to the
24 statement and that, in making its determination, it shall
25 consider the condition of the eligible adult, the nature of the
26 statement, the circumstances under which the statement was

1 made, and any other relevant factors.

2 (c) The proponent of the statement shall give the adverse
3 party reasonable notice of an intention to offer the statement
4 and the particulars of the statement.

5 (Source: P.A. 90-628, eff. 1-1-99.)

6 Section 115. The Probate Act of 1975 is amended by changing
7 Section 11a-10 as follows:

8 (755 ILCS 5/11a-10) (from Ch. 110 1/2, par. 11a-10)

9 Sec. 11a-10. Procedures preliminary to hearing.

10 (a) Upon the filing of a petition pursuant to Section
11 11a-8, the court shall set a date and place for hearing to take
12 place within 30 days. The court shall appoint a guardian ad
13 litem to report to the court concerning the respondent's best
14 interests consistent with the provisions of this Section,
15 except that the appointment of a guardian ad litem shall not be
16 required when the court determines that such appointment is not
17 necessary for the protection of the respondent or a reasonably
18 informed decision on the petition. If the guardian ad litem is
19 not a licensed attorney, he or she shall be qualified, by
20 training or experience, to work with or advocate for the
21 developmentally disabled, mentally ill, physically disabled,
22 the elderly, or persons disabled because of mental
23 deterioration, depending on the type of disability that is
24 alleged in the petition. The court may allow the guardian ad

1 litem reasonable compensation. The guardian ad litem may
2 consult with a person who by training or experience is
3 qualified to work with persons with a developmental disability,
4 persons with mental illness, or physically disabled persons, or
5 persons disabled because of mental deterioration, depending on
6 the type of disability that is alleged. The guardian ad litem
7 shall personally observe the respondent prior to the hearing
8 and shall inform him orally and in writing of the contents of
9 the petition and of his rights under Section 11a-11. The
10 guardian ad litem shall also attempt to elicit the respondent's
11 position concerning the adjudication of disability, the
12 proposed guardian, a proposed change in residential placement,
13 changes in care that might result from the guardianship, and
14 other areas of inquiry deemed appropriate by the court.
15 Notwithstanding any provision in the Mental Health and
16 Developmental Disabilities Confidentiality Act or any other
17 law, a guardian ad litem shall have the right to inspect and
18 copy any medical or mental health record of the respondent
19 which the guardian ad litem deems necessary, provided that the
20 information so disclosed shall not be utilized for any other
21 purpose nor be redisclosed except in connection with the
22 proceedings. At or before the hearing, the guardian ad litem
23 shall file a written report detailing his or her observations
24 of the respondent, the responses of the respondent to any of
25 the inquires detailed in this Section, the opinion of the
26 guardian ad litem or other professionals with whom the guardian

1 ad litem consulted concerning the appropriateness of
2 guardianship, and any other material issue discovered by the
3 guardian ad litem. The guardian ad litem shall appear at the
4 hearing and testify as to any issues presented in his or her
5 report.

6 (b) The court (1) may appoint counsel for the respondent,
7 if the court finds that the interests of the respondent will be
8 best served by the appointment, and (2) shall appoint counsel
9 upon respondent's request or if the respondent takes a position
10 adverse to that of the guardian ad litem. The respondent shall
11 be permitted to obtain the appointment of counsel either at the
12 hearing or by any written or oral request communicated to the
13 court prior to the hearing. The summons shall inform the
14 respondent of this right to obtain appointed counsel. The court
15 may allow counsel for the respondent reasonable compensation.

16 (c) If the respondent is unable to pay the fee of the
17 guardian ad litem or appointed counsel, or both, the court may
18 enter an order for the petitioner to pay all such fees or such
19 amounts as the respondent or the respondent's estate may be
20 unable to pay. However, in cases where the Office of State
21 Guardian is the petitioner, consistent with Section 30 of the
22 Guardianship and Advocacy Act, where the public guardian is the
23 petitioner, consistent with Section 13-5 of the Probate Act of
24 1975, where an adult protective services ~~elder abuse provider~~
25 agency is the petitioner, pursuant to Section 9 of the Adult
26 Protective Services Act ~~Elder Abuse and Neglect Act, or where~~

1 ~~the Department of Human Services Office of Inspector General is~~
2 ~~the petitioner, consistent with Section 45 of the Abuse of~~
3 ~~Adults with Disabilities Intervention Act, no guardian ad litem~~
4 or legal fees shall be assessed against the Office of State
5 Guardian, the public guardian, or the adult protective services
6 agency ~~the elder abuse provider agency, or the Department of~~
7 ~~Human Services Office of Inspector General.~~

8 (d) The hearing may be held at such convenient place as the
9 court directs, including at a facility in which the respondent
10 resides.

11 (e) Unless he is the petitioner, the respondent shall be
12 personally served with a copy of the petition and a summons not
13 less than 14 days before the hearing. The summons shall be
14 printed in large, bold type and shall include the following
15 notice:

16 NOTICE OF RIGHTS OF RESPONDENT

17 You have been named as a respondent in a guardianship
18 petition asking that you be declared a disabled person. If the
19 court grants the petition, a guardian will be appointed for
20 you. A copy of the guardianship petition is attached for your
21 convenience.

22 The date and time of the hearing are:

23 The place where the hearing will occur is:

24 The Judge's name and phone number is:

25 If a guardian is appointed for you, the guardian may be
26 given the right to make all important personal decisions for

1 you, such as where you may live, what medical treatment you may
2 receive, what places you may visit, and who may visit you. A
3 guardian may also be given the right to control and manage your
4 money and other property, including your home, if you own one.
5 You may lose the right to make these decisions for yourself.

6 You have the following legal rights:

7 (1) You have the right to be present at the court
8 hearing.

9 (2) You have the right to be represented by a lawyer,
10 either one that you retain, or one appointed by the Judge.

11 (3) You have the right to ask for a jury of six persons
12 to hear your case.

13 (4) You have the right to present evidence to the court
14 and to confront and cross-examine witnesses.

15 (5) You have the right to ask the Judge to appoint an
16 independent expert to examine you and give an opinion about
17 your need for a guardian.

18 (6) You have the right to ask that the court hearing be
19 closed to the public.

20 (7) You have the right to tell the court whom you
21 prefer to have for your guardian.

22 You do not have to attend the court hearing if you do not
23 want to be there. If you do not attend, the Judge may appoint a
24 guardian if the Judge finds that a guardian would be of benefit
25 to you. The hearing will not be postponed or canceled if you do
26 not attend.

1 IT IS VERY IMPORTANT THAT YOU ATTEND THE HEARING IF YOU DO
2 NOT WANT A GUARDIAN OR IF YOU WANT SOMEONE OTHER THAN THE
3 PERSON NAMED IN THE GUARDIANSHIP PETITION TO BE YOUR GUARDIAN.
4 IF YOU DO NOT WANT A GUARDIAN OF IF YOU HAVE ANY OTHER
5 PROBLEMS, YOU SHOULD CONTACT AN ATTORNEY OR COME TO COURT AND
6 TELL THE JUDGE.

7 Service of summons and the petition may be made by a
8 private person 18 years of age or over who is not a party to the
9 action.

10 (f) Notice of the time and place of the hearing shall be
11 given by the petitioner by mail or in person to those persons,
12 including the proposed guardian, whose names and addresses
13 appear in the petition and who do not waive notice, not less
14 than 14 days before the hearing.

15 (Source: P.A. 96-1052, eff. 7-14-10; 97-375, eff. 8-15-11;
16 97-1095, eff. 8-24-12.)

17 Section 120. The Illinois Power of Attorney Act is amended
18 by changing Sections 2-7 and 2-10 as follows:

19 (755 ILCS 45/2-7) (from Ch. 110 1/2, par. 802-7)

20 Sec. 2-7. Duty - standard of care - record-keeping -
21 exoneration.

22 (a) The agent shall be under no duty to exercise the powers
23 granted by the agency or to assume control of or responsibility
24 for any of the principal's property, care or affairs,

1 regardless of the principal's physical or mental condition.
2 Whenever a power is exercised, the agent shall act in good
3 faith for the benefit of the principal using due care,
4 competence, and diligence in accordance with the terms of the
5 agency and shall be liable for negligent exercise. An agent who
6 acts with due care for the benefit of the principal shall not
7 be liable or limited merely because the agent also benefits
8 from the act, has individual or conflicting interests in
9 relation to the property, care or affairs of the principal or
10 acts in a different manner with respect to the agency and the
11 agent's individual interests. The agent shall not be affected
12 by any amendment or termination of the agency until the agent
13 has actual knowledge thereof. The agent shall not be liable for
14 any loss due to error of judgment nor for the act or default of
15 any other person.

16 (b) An agent that has accepted appointment must act in
17 accordance with the principal's expectations to the extent
18 actually known to the agent and otherwise in the principal's
19 best interests.

20 (c) An agent shall keep a record of all receipts,
21 disbursements, and significant actions taken under the
22 authority of the agency and shall provide a copy of this record
23 when requested to do so by:

24 (1) the principal, a guardian, another fiduciary
25 acting on behalf of the principal, and, after the death of
26 the principal, the personal representative or successors

1 in interest of the principal's estate;

2 (2) a representative of a provider agency, as defined
3 in Section 2 of the Adult Protective Services Act ~~Elder~~
4 ~~Abuse and Neglect Act~~, acting in the course of an
5 assessment of a complaint of elder abuse or neglect under
6 that Act;

7 (3) a representative of the Office of the State Long
8 Term Care Ombudsman, acting in the course of an
9 investigation of a complaint of financial exploitation of a
10 nursing home resident under Section 4.04 of the Illinois
11 Act on the Aging;

12 (4) a representative of the Office of Inspector General
13 for the Department of Human Services, acting in the course
14 of an assessment of a complaint of financial exploitation
15 of an adult with disabilities pursuant to Section 35 of the
16 Abuse of Adults with Disabilities Intervention Act; or

17 (5) a court under Section 2-10 of this Act.

18 (d) If the agent fails to provide his or her record of all
19 receipts, disbursements, and significant actions within 21
20 days after a request under subsection (c), the adult ~~elder~~
21 abuse provider agency or the State Long Term Care Ombudsman may
22 petition the court for an order requiring the agent to produce
23 his or her record of receipts, disbursements, and significant
24 actions. If the court finds that the agent's failure to provide
25 his or her record in a timely manner to the adult ~~elder~~ abuse
26 provider agency or the State Long Term Care Ombudsman was

1 without good cause, the court may assess reasonable costs and
2 attorney's fees against the agent, and order such other relief
3 as is appropriate.

4 (e) An agent is not required to disclose receipts,
5 disbursements, or other significant actions conducted on
6 behalf of the principal except as otherwise provided in the
7 power of attorney or as required under subsection (c).

8 (f) An agent that violates this Act is liable to the
9 principal or the principal's successors in interest for the
10 amount required (i) to restore the value of the principal's
11 property to what it would have been had the violation not
12 occurred, and (ii) to reimburse the principal or the
13 principal's successors in interest for the attorney's fees and
14 costs paid on the agent's behalf. This subsection does not
15 limit any other applicable legal or equitable remedies.

16 (Source: P.A. 96-1195, eff. 7-1-11.)

17 (755 ILCS 45/2-10) (from Ch. 110 1/2, par. 802-10)

18 Sec. 2-10. Agency-court relationship.

19 (a) Upon petition by any interested person (including the
20 agent), with such notice to interested persons as the court
21 directs and a finding by the court that the principal lacks
22 either the capacity to control or the capacity to revoke the
23 agency, the court may construe a power of attorney, review the
24 agent's conduct, and grant appropriate relief including
25 compensatory damages.

1 (b) If the court finds that the agent is not acting for the
2 benefit of the principal in accordance with the terms of the
3 agency or that the agent's action or inaction has caused or
4 threatens substantial harm to the principal's person or
5 property in a manner not authorized or intended by the
6 principal, the court may order a guardian of the principal's
7 person or estate to exercise any powers of the principal under
8 the agency, including the power to revoke the agency, or may
9 enter such other orders without appointment of a guardian as
10 the court deems necessary to provide for the best interests of
11 the principal.

12 (c) If the court finds that the agency requires
13 interpretation, the court may construe the agency and instruct
14 the agent, but the court may not amend the agency.

15 (d) If the court finds that the agent has not acted for the
16 benefit of the principal in accordance with the terms of the
17 agency and the Illinois Power of Attorney Act, or that the
18 agent's action caused or threatened substantial harm to the
19 principal's person or property in a manner not authorized or
20 intended by the principal, then the agent shall not be
21 authorized to pay or be reimbursed from the estate of the
22 principal the attorneys' fees and costs of the agent in
23 defending a proceeding brought pursuant to this Section.

24 (e) Upon a finding that the agent's action has caused
25 substantial harm to the principal's person or property, the
26 court may assess against the agent reasonable costs and

1 attorney's fees to a prevailing party who is a provider agency
2 as defined in Section 2 of the Adult Protective Services Act
3 ~~Elder Abuse and Neglect Act~~, a representative of the Office of
4 the State Long Term Care Ombudsman, or a governmental agency
5 having regulatory authority to protect the welfare of the
6 principal.

7 (f) As used in this Section, the term "interested person"
8 includes (1) the principal or the agent; (2) a guardian of the
9 person, guardian of the estate, or other fiduciary charged with
10 management of the principal's property; (3) the principal's
11 spouse, parent, or descendant; (4) a person who would be a
12 presumptive heir-at-law of the principal; (5) a person named as
13 a beneficiary to receive any property, benefit, or contractual
14 right upon the principal's death, or as a beneficiary of a
15 trust created by or for the principal; (6) a provider agency as
16 defined in Section 2 of the Adult Protective Services Act ~~Elder~~
17 ~~Abuse and Neglect Act~~, a representative of the Office of the
18 State Long Term Care Ombudsman, or a governmental agency having
19 regulatory authority to protect the welfare of the principal;
20 and (7) the principal's caregiver or another person who
21 demonstrates sufficient interest in the principal's welfare.

22 (g) Absent court order directing a guardian to exercise
23 powers of the principal under the agency, a guardian will have
24 no power, duty or liability with respect to any property
25 subject to the agency or any personal or health care matters
26 covered by the agency.

1 (h) Proceedings under this Section shall be commenced in
2 the county where the guardian was appointed or, if no Illinois
3 guardian is acting, then in the county where the agent or
4 principal resides or where the principal owns real property.

5 (i) This Section shall not be construed to limit any other
6 remedies available.

7 (Source: P.A. 96-1195, eff. 7-1-11.)

8 Section 999. Effective date. This Act takes effect July 1,
9 2013."