



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB1164

Introduced 1/30/2013, by Sen. William R. Haine

#### SYNOPSIS AS INTRODUCED:

See Index

Repeals the Abuse of Adults with Disabilities Intervention Act. Amends the Elder Abuse and Neglect Act. Changes the short title of the Act to the Adult Protective Services Act and amends various Acts to change references to the short title. Adds and defines new terms. Provides that within 6 months, the Department on Aging shall establish a centralized Adult Protective Services Helpline for the purposes of reporting the abuse, neglect, or financial exploitation of an eligible adult. Requires the Department on Aging to make the helpline accessible 24 hours a day, 7 days a week and to post its telephone number online. Requires the Department on Aging to report to the Department of Public Health's health care worker registry the identity and administrative finding against any caregiver of a verified and substantiated decision of significant abuse, neglect, or financial exploitation of an eligible adult. Contains provisions concerning notice to caregivers; report challenges; registry hearings; a caregiver's rights to collateral action; removal from the registry; and the referral of registry reports to health care facilities; the establishment of a Statewide Fatality Review Team; and other matters. Effective July 1, 2013.

LRB098 06324 KTG 36365 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning adult protective services.

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

4 Section 2. The Open Meetings Act is amended by changing  
5 Section 2 as follows:

6 (5 ILCS 120/2) (from Ch. 102, par. 42)

7 Sec. 2. Open meetings.

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

11 (b) Construction of exceptions. The exceptions contained  
12 in subsection (c) are in derogation of the requirement that  
13 public bodies meet in the open, and therefore, the exceptions  
14 are to be strictly construed, extending only to subjects  
15 clearly within their scope. The exceptions authorize but do not  
16 require the holding of a closed meeting to discuss a subject  
17 included within an enumerated exception.

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

20 (1) The appointment, employment, compensation,  
21 discipline, performance, or dismissal of specific  
22 employees of the public body or legal counsel for the  
23 public body, including hearing testimony on a complaint

1 lodged against an employee of the public body or against  
2 legal counsel for the public body to determine its  
3 validity.

4 (2) Collective negotiating matters between the public  
5 body and its employees or their representatives, or  
6 deliberations concerning salary schedules for one or more  
7 classes of employees.

8 (3) The selection of a person to fill a public office,  
9 as defined in this Act, including a vacancy in a public  
10 office, when the public body is given power to appoint  
11 under law or ordinance, or the discipline, performance or  
12 removal of the occupant of a public office, when the public  
13 body is given power to remove the occupant under law or  
14 ordinance.

15 (4) Evidence or testimony presented in open hearing, or  
16 in closed hearing where specifically authorized by law, to  
17 a quasi-adjudicative body, as defined in this Act, provided  
18 that the body prepares and makes available for public  
19 inspection a written decision setting forth its  
20 determinative reasoning.

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

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

1           (7) The sale or purchase of securities, investments, or  
2 investment contracts. This exception shall not apply to the  
3 investment of assets or income of funds deposited into the  
4 Illinois Prepaid Tuition Trust Fund.

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

9           (9) Student disciplinary cases.

10          (10) The placement of individual students in special  
11 education programs and other matters relating to  
12 individual students.

13          (11) Litigation, when an action against, affecting or  
14 on behalf of the particular public body has been filed and  
15 is pending before a court or administrative tribunal, or  
16 when the public body finds that an action is probable or  
17 imminent, in which case the basis for the finding shall be  
18 recorded and entered into the minutes of the closed  
19 meeting.

20          (12) The establishment of reserves or settlement of  
21 claims as provided in the Local Governmental and  
22 Governmental Employees Tort Immunity Act, if otherwise the  
23 disposition of a claim or potential claim might be  
24 prejudiced, or the review or discussion of claims, loss or  
25 risk management information, records, data, advice or  
26 communications from or with respect to any insurer of the

1 public body or any intergovernmental risk management  
2 association or self insurance pool of which the public body  
3 is a member.

4 (13) Conciliation of complaints of discrimination in  
5 the sale or rental of housing, when closed meetings are  
6 authorized by the law or ordinance prescribing fair housing  
7 practices and creating a commission or administrative  
8 agency for their enforcement.

9 (14) Informant sources, the hiring or assignment of  
10 undercover personnel or equipment, or ongoing, prior or  
11 future criminal investigations, when discussed by a public  
12 body with criminal investigatory responsibilities.

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

17 (16) Self evaluation, practices and procedures or  
18 professional ethics, when meeting with a representative of  
19 a statewide association of which the public body is a  
20 member.

21 (17) The recruitment, credentialing, discipline or  
22 formal peer review of physicians or other health care  
23 professionals for a hospital, or other institution  
24 providing medical care, that is operated by the public  
25 body.

26 (18) Deliberations for decisions of the Prisoner

1 Review Board.

2 (19) Review or discussion of applications received  
3 under the Experimental Organ Transplantation Procedures  
4 Act.

5 (20) The classification and discussion of matters  
6 classified as confidential or continued confidential by  
7 the State Government Suggestion Award Board.

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

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

14 (23) The operation by a municipality of a municipal  
15 utility or the operation of a municipal power agency or  
16 municipal natural gas agency when the discussion involves  
17 (i) contracts relating to the purchase, sale, or delivery  
18 of electricity or natural gas or (ii) the results or  
19 conclusions of load forecast studies.

20 (24) Meetings of a residential health care facility  
21 resident sexual assault and death review team or the  
22 Executive Council under the Abuse Prevention Review Team  
23 Act.

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

26 (26) Meetings of a mortality review team appointed

1 under the Department of Juvenile Justice Mortality Review  
2 Team Act.

3 (27) Confidential information, when discussed by one  
4 or more members of an elder abuse fatality review team,  
5 designated under Section 15 of the Adult Protective  
6 Services Act ~~Elder Abuse and Neglect Act~~, while  
7 participating in a review conducted by that team of the  
8 death of an elderly person in which abuse or neglect is  
9 suspected, alleged, or substantiated; provided that before  
10 the review team holds a closed meeting, or closes an open  
11 meeting, to discuss the confidential information, each  
12 participating review team member seeking to disclose the  
13 confidential information in the closed meeting or closed  
14 portion of the meeting must state on the record during an  
15 open meeting or the open portion of a meeting the nature of  
16 the information to be disclosed and the legal basis for  
17 otherwise holding that information confidential.

18 (28) Correspondence and records (i) that may not be  
19 disclosed under Section 11-9 of the Public Aid Code or (ii)  
20 that pertain to appeals under Section 11-8 of the Public  
21 Aid Code.

22 (29) Meetings between internal or external auditors  
23 and governmental audit committees, finance committees, and  
24 their equivalents, when the discussion involves internal  
25 control weaknesses, identification of potential fraud risk  
26 areas, known or suspected frauds, and fraud interviews

1 conducted in accordance with generally accepted auditing  
2 standards of the United States of America.

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

4 "Employee" means a person employed by a public body whose  
5 relationship with the public body constitutes an  
6 employer-employee relationship under the usual common law  
7 rules, and who is not an independent contractor.

8 "Public office" means a position created by or under the  
9 Constitution or laws of this State, the occupant of which is  
10 charged with the exercise of some portion of the sovereign  
11 power of this State. The term "public office" shall include  
12 members of the public body, but it shall not include  
13 organizational positions filled by members thereof, whether  
14 established by law or by a public body itself, that exist to  
15 assist the body in the conduct of its business.

16 "Quasi-adjudicative body" means an administrative body  
17 charged by law or ordinance with the responsibility to conduct  
18 hearings, receive evidence or testimony and make  
19 determinations based thereon, but does not include local  
20 electoral boards when such bodies are considering petition  
21 challenges.

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

26 (Source: P.A. 96-1235, eff. 1-1-11; 96-1378, eff. 7-29-10;



1 96-1428, eff. 8-11-10; 97-318, eff. 1-1-12; 97-333, eff.  
2 8-12-11; 97-452, eff. 8-19-11; 97-813, eff. 7-13-12; 97-876,  
3 eff. 8-1-12.)

4 Section 3. The State Employee Indemnification Act is  
5 amended by changing Section 1 as follows:

6 (5 ILCS 350/1) (from Ch. 127, par. 1301)

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

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

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

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

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

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

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

25 Section 4. The Illinois Act on the Aging is amended by

1 changing Section 4.01 as follows:

2 (20 ILCS 105/4.01) (from Ch. 23, par. 6104.01)

3 Sec. 4.01. Additional powers and duties of the Department.

4 In addition to powers and duties otherwise provided by law, the  
5 Department shall have the following powers and duties:

6 (1) To evaluate all programs, services, and facilities for  
7 the aged and for minority senior citizens within the State and  
8 determine the extent to which present public or private  
9 programs, services and facilities meet the needs of the aged.

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

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

18 (4) To receive and disburse State and federal funds made  
19 available directly to the Department including those funds made  
20 available under the Older Americans Act and the Senior  
21 Community Service Employment Program for providing services  
22 for senior citizens and minority senior citizens or for  
23 purposes related thereto, and shall develop and administer any  
24 State Plan for the Aging required by federal law.

25 (5) To solicit, accept, hold, and administer in behalf of

1 the State any grants or legacies of money, securities, or  
2 property to the State of Illinois for services to senior  
3 citizens and minority senior citizens or purposes related  
4 thereto.

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

8 (7) To promote community education regarding the problems  
9 of senior citizens and minority senior citizens through  
10 institutes, publications, radio, television and the local  
11 press.

12 (8) To cooperate with agencies of the federal government in  
13 studies and conferences designed to examine the needs of senior  
14 citizens and minority senior citizens and to prepare programs  
15 and facilities to meet those needs.

16 (9) To establish and maintain information and referral  
17 sources throughout the State when not provided by other  
18 agencies.

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

21 (11) To make and enforce rules and regulations necessary  
22 and proper to the performance of its duties.

23 (12) To establish and fund programs or projects or  
24 experimental facilities that are specially designed as  
25 alternatives to institutional care.

26 (13) To develop a training program to train the counselors

1 presently employed by the Department's aging network to provide  
2 Medicare beneficiaries with counseling and advocacy in  
3 Medicare, private health insurance, and related health care  
4 coverage plans. The Department shall report to the General  
5 Assembly on the implementation of the training program on or  
6 before December 1, 1986.

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

13 (15) To present one award annually in each of the  
14 categories of community service, education, the performance  
15 and graphic arts, and the labor force to outstanding Illinois  
16 senior citizens and minority senior citizens in recognition of  
17 their individual contributions to either community service,  
18 education, the performance and graphic arts, or the labor  
19 force. The awards shall be presented to 4 senior citizens and  
20 minority senior citizens selected from a list of 44 nominees  
21 compiled annually by the Department. Nominations shall be  
22 solicited from senior citizens' service providers, area  
23 agencies on aging, senior citizens' centers, and senior  
24 citizens' organizations. The Department shall establish a  
25 central location within the State to be designated as the  
26 Senior Illinoisans Hall of Fame for the public display of all

1 the annual awards, or replicas thereof.

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

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

14 (18) To develop a pamphlet in English and Spanish which may  
15 be used by physicians licensed to practice medicine in all of  
16 its branches pursuant to the Medical Practice Act of 1987,  
17 pharmacists licensed pursuant to the Pharmacy Practice Act, and  
18 Illinois residents 65 years of age or older for the purpose of  
19 assisting physicians, pharmacists, and patients in monitoring  
20 prescriptions provided by various physicians and to aid persons  
21 65 years of age or older in complying with directions for  
22 proper use of pharmaceutical prescriptions. The pamphlet may  
23 provide space for recording information including but not  
24 limited to the following:

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

26 (b) name and telephone number of the prescribing

1 physician;

2 (c) date of prescription;

3 (d) name of drug prescribed;

4 (e) directions for patient compliance; and

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

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

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

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

18 (21) From funds appropriated to the Department from the  
19 Meals on Wheels Fund, a special fund in the State treasury that  
20 is hereby created, and in accordance with State and federal  
21 guidelines and the intrastate funding formula, to make grants  
22 to area agencies on aging, designated by the Department, for  
23 the sole purpose of delivering meals to homebound persons 60  
24 years of age and older.

25 (22) To distribute, through its area agencies on aging,  
26 information alerting seniors on safety issues regarding



1 emergency weather conditions, including extreme heat and cold,  
2 flooding, tornadoes, electrical storms, and other severe storm  
3 weather. The information shall include all necessary  
4 instructions for safety and all emergency telephone numbers of  
5 organizations that will provide additional information and  
6 assistance.

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

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

20 (b) types of services to be received upon the  
21 redemption of service credits;

22 (c) issues of liability for the volunteers and the  
23 administering organizations;

24 (d) methods of tracking service credits earned and  
25 service credits redeemed;

26 (e) issues of time limits for redemption of service

1 credits;

2 (f) methods of recruitment of volunteers;

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

6 (h) accountability and assurance that services will be  
7 available to individuals who have earned service credits;  
8 and

9 (i) volunteer screening and qualifications.

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

12 (24) To function as the sole State agency to receive and  
13 disburse State and federal funds for providing adult protective  
14 services in a domestic living situation.

15 (Source: P.A. 95-298, eff. 8-20-07; 95-689, eff. 10-29-07;  
16 95-876, eff. 8-21-08; 96-918, eff. 6-9-10.)

17 Section 10. The Department of Human Services Act is amended  
18 by changing Section 1-17 as follows:

19 (20 ILCS 1305/1-17)

20 Sec. 1-17. Inspector General.

21 (a) Nature and purpose. It is the express intent of the  
22 General Assembly to ensure the health, safety, and financial  
23 condition of individuals receiving services in this State due  
24 to mental illness, developmental disability, or both by

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

15 (b) Definitions. The following definitions apply to this  
16 Section:

17 "Adult student with a disability" means an adult student,  
18 age 18 through 21, inclusive, with an Individual Education  
19 Program, other than a resident of a facility licensed by the  
20 Department of Children and Family Services in accordance with  
21 the Child Care Act of 1969. For purposes of this definition,  
22 "through age 21, inclusive", means through the day before the  
23 student's 22nd birthday.

24 "Agency" or "community agency" means (i) a community agency  
25 licensed, funded, or certified by the Department, but not  
26 licensed or certified by any other human services agency of the

1 State, to provide mental health service or developmental  
2 disabilities service, or (ii) a program licensed, funded, or  
3 certified by the Department, but not licensed or certified by  
4 any other human services agency of the State, to provide mental  
5 health service or developmental disabilities service.

6 "Aggravating circumstance" means a factor that is  
7 attendant to a finding and that tends to compound or increase  
8 the culpability of the accused.

9 "Allegation" means an assertion, complaint, suspicion, or  
10 incident involving any of the following conduct by an employee,  
11 facility, or agency against an individual or individuals:  
12 mental abuse, physical abuse, sexual abuse, neglect, or  
13 financial exploitation.

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

15 "Deflection" means a situation in which an individual is  
16 presented for admission to a facility or agency, and the  
17 facility staff or agency staff do not admit the individual.  
18 "Deflection" includes triage, redirection, and denial of  
19 admission.

20 "Department" means the Department of Human Services.

21 "Developmentally disabled" means having a developmental  
22 disability.

23 "Developmental disability" means "developmental  
24 disability" as defined in the Mental Health and Developmental  
25 Disabilities Code.

26 "Egregious neglect" means a finding of neglect as

1 determined by the Inspector General that (i) represents a gross  
2 failure to adequately provide for, or a callused indifference  
3 to, the health, safety, or medical needs of an individual and  
4 (ii) results in an individual's death or other serious  
5 deterioration of an individual's physical condition or mental  
6 condition.

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

16 "Facility" or "State-operated facility" means a mental  
17 health facility or developmental disabilities facility  
18 operated by the Department.

19 "Financial exploitation" means taking unjust advantage of  
20 an individual's assets, property, or financial resources  
21 through deception, intimidation, or conversion for the  
22 employee's, facility's, or agency's own advantage or benefit.

23 "Finding" means the Office of Inspector General's  
24 determination regarding whether an allegation is  
25 substantiated, unsubstantiated, or unfounded.

26 "Health care worker registry" or "registry" means the

1 health care worker registry created by the Nursing Home Care  
2 Act.

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

6 "Mental abuse" means the use of demeaning, intimidating, or  
7 threatening words, signs, gestures, or other actions by an  
8 employee about an individual and in the presence of an  
9 individual or individuals that results in emotional distress or  
10 maladaptive behavior, or could have resulted in emotional  
11 distress or maladaptive behavior, for any individual present.

12 "Mental illness" means "mental illness" as defined in the  
13 Mental Health and Developmental Disabilities Code.

14 "Mentally ill" means having a mental illness.

15 "Mitigating circumstance" means a condition that (i) is  
16 attendant to a finding, (ii) does not excuse or justify the  
17 conduct in question, but (iii) may be considered in evaluating  
18 the severity of the conduct, the culpability of the accused, or  
19 both the severity of the conduct and the culpability of the  
20 accused.

21 "Neglect" means an employee's, agency's, or facility's  
22 failure to provide adequate medical care, personal care, or  
23 maintenance and that, as a consequence, (i) causes an  
24 individual pain, injury, or emotional distress, (ii) results in  
25 either an individual's maladaptive behavior or the  
26 deterioration of an individual's physical condition or mental

1 condition, or (iii) places the individual's health or safety at  
2 substantial risk.

3 "Physical abuse" means an employee's non-accidental and  
4 inappropriate contact with an individual that causes bodily  
5 harm. "Physical abuse" includes actions that cause bodily harm  
6 as a result of an employee directing an individual or person to  
7 physically abuse another individual.

8 "Recommendation" means an admonition, separate from a  
9 finding, that requires action by the facility, agency, or  
10 Department to correct a systemic issue, problem, or deficiency  
11 identified during an investigation.

12 "Required reporter" means any employee who suspects,  
13 witnesses, or is informed of an allegation of any one or more  
14 of the following: mental abuse, physical abuse, sexual abuse,  
15 neglect, or financial exploitation.

16 "Secretary" means the Chief Administrative Officer of the  
17 Department.

18 "Sexual abuse" means any sexual contact or intimate  
19 physical contact between an employee and an individual,  
20 including an employee's coercion or encouragement of an  
21 individual to engage in sexual behavior that results in sexual  
22 contact, intimate physical contact, sexual behavior, or  
23 intimate physical behavior.

24 "Substantiated" means there is a preponderance of the  
25 evidence to support the allegation.

26 "Unfounded" means there is no credible evidence to support

1 the allegation.

2 "Unsubstantiated" means there is credible evidence, but  
3 less than a preponderance of evidence to support the  
4 allegation.

5 (c) Appointment. The Governor shall appoint, and the Senate  
6 shall confirm, an Inspector General. The Inspector General  
7 shall be appointed for a term of 4 years and shall function  
8 within the Department of Human Services and report to the  
9 Secretary and the Governor.

10 (d) Operation and appropriation. The Inspector General  
11 shall function independently within the Department with  
12 respect to the operations of the Office, including the  
13 performance of investigations and issuance of findings and  
14 recommendations. The appropriation for the Office of Inspector  
15 General shall be separate from the overall appropriation for  
16 the Department.

17 (e) Powers and duties. The Inspector General shall  
18 investigate reports of suspected mental abuse, physical abuse,  
19 sexual abuse, neglect, or financial exploitation of  
20 individuals in any mental health or developmental disabilities  
21 facility or agency and shall have authority to take immediate  
22 action to prevent any one or more of the following from  
23 happening to individuals under its jurisdiction: mental abuse,  
24 physical abuse, sexual abuse, neglect, or financial  
25 exploitation. Upon written request of an agency of this State,  
26 the Inspector General may assist another agency of the State in



1 investigating reports of the abuse, neglect, or abuse and  
2 neglect of persons with mental illness, persons with  
3 developmental disabilities, or persons with both. To comply  
4 with the requirements of subsection (k) of this Section, the  
5 Inspector General shall also review all reportable deaths for  
6 which there is no allegation of abuse or neglect. Nothing in  
7 this Section shall preempt any duties of the Medical Review  
8 Board set forth in the Mental Health and Developmental  
9 Disabilities Code. The Inspector General shall have no  
10 authority to investigate alleged violations of the State  
11 Officials and Employees Ethics Act. Allegations of misconduct  
12 under the State Officials and Employees Ethics Act shall be  
13 referred to the Office of the Governor's Executive Inspector  
14 General for investigation.

15 (f) Limitations. The Inspector General shall not conduct an  
16 investigation within an agency or facility if that  
17 investigation would be redundant to or interfere with an  
18 investigation conducted by another State agency. The Inspector  
19 General shall have no supervision over, or involvement in, the  
20 routine programmatic, licensing, funding, or certification  
21 operations of the Department. Nothing in this subsection limits  
22 investigations by the Department that may otherwise be required  
23 by law or that may be necessary in the Department's capacity as  
24 central administrative authority responsible for the operation  
25 of the State's mental health and developmental disabilities  
26 facilities.

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

16           (h) Training programs. The Inspector General shall (i)  
17 establish a comprehensive program to ensure that every person  
18 authorized to conduct investigations receives ongoing training  
19 relative to investigation techniques, communication skills,  
20 and the appropriate means of interacting with persons receiving  
21 treatment for mental illness, developmental disability, or  
22 both mental illness and developmental disability, and (ii)  
23 establish and conduct periodic training programs for facility  
24 and agency employees concerning the prevention and reporting of  
25 any one or more of the following: mental abuse, physical abuse,  
26 sexual abuse, neglect, egregious neglect, or financial

1 exploitation. Nothing in this Section shall be deemed to  
2 prevent the Office of Inspector General from conducting any  
3 other training as determined by the Inspector General to be  
4 necessary or helpful.

5 (i) Duty to cooperate.

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

18 (2) Any employee who fails to cooperate with an Office  
19 of the Inspector General investigation is in violation of  
20 this Act. Failure to cooperate with an investigation  
21 includes, but is not limited to, any one or more of the  
22 following: (i) creating and transmitting a false report to  
23 the Office of the Inspector General hotline, (ii) providing  
24 false information to an Office of the Inspector General  
25 Investigator during an investigation, (iii) colluding with  
26 other employees to cover up evidence, (iv) colluding with

1 other employees to provide false information to an Office  
2 of the Inspector General investigator, (v) destroying  
3 evidence, (vi) withholding evidence, or (vii) otherwise  
4 obstructing an Office of the Inspector General  
5 investigation. Additionally, any employee who, during an  
6 unannounced site visit or written response compliance  
7 check, fails to cooperate with requests from the Office of  
8 the Inspector General is in violation of this Act.

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

22 (k) Reporting allegations and deaths.

23 (1) Allegations. If an employee witnesses, is told of,  
24 or has reason to believe an incident of mental abuse,  
25 physical abuse, sexual abuse, neglect, or financial  
26 exploitation has occurred, the employee, agency, or

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

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

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

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

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

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

1 reporter.

2 (1) Reporting to law enforcement.

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

16 (2) Reporting allegations of adult students with  
17 disabilities. Upon receipt of a reportable allegation  
18 regarding an adult student with a disability, the  
19 Department's Office of the Inspector General shall  
20 determine whether the allegation meets the criteria for the  
21 Domestic Abuse Program under the Abuse of Adults with  
22 Disabilities Intervention Act. If the allegation is  
23 reportable to that program, the Office of the Inspector  
24 General shall initiate an investigation. If the allegation  
25 is not reportable to the Domestic Abuse Program, the Office  
26 of the Inspector General shall make an expeditious referral

1 to the respective law enforcement entity. If the alleged  
2 victim is already receiving services from the Department,  
3 the Office of the Inspector General shall also make a  
4 referral to the respective Department of Human Services'  
5 Division or Bureau.

6 (m) Investigative reports. Upon completion of an  
7 investigation, the Office of Inspector General shall issue an  
8 investigative report identifying whether the allegations are  
9 substantiated, unsubstantiated, or unfounded. Within 10  
10 business days after the transmittal of a completed  
11 investigative report substantiating an allegation, or if a  
12 recommendation is made, the Inspector General shall provide the  
13 investigative report on the case to the Secretary and to the  
14 director of the facility or agency where any one or more of the  
15 following occurred: mental abuse, physical abuse, sexual  
16 abuse, neglect, egregious neglect, or financial exploitation.  
17 In a substantiated case, the investigative report shall include  
18 any mitigating or aggravating circumstances that were  
19 identified during the investigation. If the case involves  
20 substantiated neglect, the investigative report shall also  
21 state whether egregious neglect was found. An investigative  
22 report may also set forth recommendations. All investigative  
23 reports prepared by the Office of the Inspector General shall  
24 be considered confidential and shall not be released except as  
25 provided by the law of this State or as required under  
26 applicable federal law. Unsubstantiated and unfounded reports

1 shall not be disclosed except as allowed under Section 6 of the  
2 Abused and Neglected Long Term Care Facility Residents  
3 Reporting Act. Raw data used to compile the investigative  
4 report shall not be subject to release unless required by law  
5 or a court order. "Raw data used to compile the investigative  
6 report" includes, but is not limited to, any one or more of the  
7 following: the initial complaint, witness statements,  
8 photographs, investigator's notes, police reports, or incident  
9 reports. If the allegations are substantiated, the accused  
10 shall be provided with a redacted copy of the investigative  
11 report. Death reports where there was no allegation of abuse or  
12 neglect shall only be released pursuant to applicable State or  
13 federal law or a valid court order.

14 (n) Written responses and reconsideration requests.

15 (1) Written responses. Within 30 calendar days from  
16 receipt of a substantiated investigative report or an  
17 investigative report which contains recommendations,  
18 absent a reconsideration request, the facility or agency  
19 shall file a written response that addresses, in a concise  
20 and reasoned manner, the actions taken to: (i) protect the  
21 individual; (ii) prevent recurrences; and (iii) eliminate  
22 the problems identified. The response shall include the  
23 implementation and completion dates of such actions. If the  
24 written response is not filed within the allotted 30  
25 calendar day period, the Secretary shall determine the  
26 appropriate corrective action to be taken.



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

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

13          (p) Secretary review. Upon review of the Inspector  
14          General's investigative report and any agency's or facility's  
15          written response, the Secretary shall accept or reject the  
16          written response and notify the Inspector General of that  
17          determination. The Secretary may further direct that other  
18          administrative action be taken, including, but not limited to,  
19          any one or more of the following: (i) additional site visits,  
20          (ii) training, (iii) provision of technical assistance  
21          relative to administrative needs, licensure or certification,  
22          or (iv) the imposition of appropriate sanctions.

23          (q) Action by facility or agency. Within 30 days of the  
24          date the Secretary approves the written response or directs  
25          that further administrative action be taken, the facility or  
26          agency shall provide an implementation report to the Inspector

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

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

20 (1) Appointment of on-site monitors.

21 (2) Transfer or relocation of an individual or  
22 individuals.

23 (3) Closure of units.

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

25 (i) Department licensing, (ii) funding, or (iii)  
26 certification.

1           The Inspector General may seek the assistance of the  
2 Illinois Attorney General or the office of any State's Attorney  
3 in implementing sanctions.

4           (s) Health care worker registry.

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

12           (2) Notice to employee. Prior to reporting the name of  
13 an employee, the employee shall be notified of the  
14 Department's obligation to report and shall be granted an  
15 opportunity to request an administrative hearing, the sole  
16 purpose of which is to determine if the substantiated  
17 finding warrants reporting to the registry. Notice to the  
18 employee shall contain a clear and concise statement of the  
19 grounds on which the report to the registry is based, offer  
20 the employee an opportunity for a hearing, and identify the  
21 process for requesting such a hearing. Notice is sufficient  
22 if provided by certified mail to the employee's last known  
23 address. If the employee fails to request a hearing within  
24 30 days from the date of the notice, the Inspector General  
25 shall report the name of the employee to the registry.  
26 Nothing in this subdivision (s) (2) shall diminish or impair

1 the rights of a person who is a member of a collective  
2 bargaining unit under the Illinois Public Labor Relations  
3 Act or under any other federal labor statute.

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

20 (4) Testimony at registry hearings. A person who makes  
21 a report or who investigates a report under this Act shall  
22 testify fully in any judicial proceeding resulting from  
23 such a report, as to any evidence of abuse or neglect, or  
24 the cause thereof. No evidence shall be excluded by reason  
25 of any common law or statutory privilege relating to  
26 communications between the alleged perpetrator of abuse or

1 neglect, or the individual alleged as the victim in the  
2 report, and the person making or investigating the report.  
3 Testimony at hearings is exempt from the confidentiality  
4 requirements of subsection (f) of Section 10 of the Mental  
5 Health and Developmental Disabilities Confidentiality Act.

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

23 (6) Removal from registry. At any time after the report  
24 to the registry, but no more than once in any 12-month  
25 period, an employee may petition the Department in writing  
26 to remove his or her name from the registry. Upon receiving

1 notice of such request, the Inspector General shall conduct  
2 an investigation into the petition. Upon receipt of such  
3 request, an administrative hearing will be set by the  
4 Department. At the hearing, the employee shall bear the  
5 burden of presenting evidence that establishes, by a  
6 preponderance of the evidence, that removal of the name  
7 from the registry is in the public interest. The parties  
8 may jointly request that the administrative law judge  
9 consider a stipulated disposition of these proceedings.

10 (t) Review of Administrative Decisions. The Department  
11 shall preserve a record of all proceedings at any formal  
12 hearing conducted by the Department involving health care  
13 worker registry hearings. Final administrative decisions of  
14 the Department are subject to judicial review pursuant to  
15 provisions of the Administrative Review Law.

16 (u) Quality Care Board. There is created, within the Office  
17 of the Inspector General, a Quality Care Board to be composed  
18 of 7 members appointed by the Governor with the advice and  
19 consent of the Senate. One of the members shall be designated  
20 as chairman by the Governor. Of the initial appointments made  
21 by the Governor, 4 Board members shall each be appointed for a  
22 term of 4 years and 3 members shall each be appointed for a  
23 term of 2 years. Upon the expiration of each member's term, a  
24 successor shall be appointed for a term of 4 years. In the case  
25 of a vacancy in the office of any member, the Governor shall  
26 appoint a successor for the remainder of the unexpired term.

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

10 The Board shall meet quarterly, and may hold other meetings  
11 on the call of the chairman. Four members shall constitute a  
12 quorum allowing the Board to conduct its business. The Board  
13 may adopt rules and regulations it deems necessary to govern  
14 its own procedures.

15 The Board shall monitor and oversee the operations,  
16 policies, and procedures of the Inspector General to ensure the  
17 prompt and thorough investigation of allegations of neglect and  
18 abuse. In fulfilling these responsibilities, the Board may do  
19 the following:

20 (1) Provide independent, expert consultation to the  
21 Inspector General on policies and protocols for  
22 investigations of alleged abuse, neglect, or both abuse and  
23 neglect.

24 (2) Review existing regulations relating to the  
25 operation of facilities.

26 (3) Advise the Inspector General as to the content of

1 training activities authorized under this Section.

2 (4) Recommend policies concerning methods for  
3 improving the intergovernmental relationships between the  
4 Office of the Inspector General and other State or federal  
5 offices.

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

24 (w) Program audit. The Auditor General shall conduct a  
25 program audit of the Office of the Inspector General on an  
26 as-needed basis, as determined by the Auditor General. The



1 audit shall specifically include the Inspector General's  
2 compliance with the Act and effectiveness in investigating  
3 reports of allegations occurring in any facility or agency. The  
4 Auditor General shall conduct the program audit according to  
5 the provisions of the Illinois State Auditing Act and shall  
6 report its findings to the General Assembly no later than  
7 January 1 following the audit period.

8 (x) Nothing in this Section shall be construed to mean that  
9 a patient is a victim of abuse or neglect because of health  
10 care services appropriately provided or not provided by health  
11 care professionals.

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

22 (Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10;  
23 96-407, eff. 8-13-09; 96-555, eff. 8-18-09; 96-1000, eff.  
24 7-2-10; 96-1446, eff. 8-20-10.)

25 (20 ILCS 2435/Act rep.)

1 Section 11. The Abuse of Adults with Disabilities  
2 Intervention Act is repealed.

3 Section 12. The Illinois Police Training Act is amended by  
4 changing Section 7 as follows:

5 (50 ILCS 705/7) (from Ch. 85, par. 507)

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

9 a. The curriculum for probationary police officers which  
10 shall be offered by all certified schools shall include but not  
11 be limited to courses of arrest, search and seizure, civil  
12 rights, human relations, cultural diversity, including racial  
13 and ethnic sensitivity, criminal law, law of criminal  
14 procedure, vehicle and traffic law including uniform and  
15 non-discriminatory enforcement of the Illinois Vehicle Code,  
16 traffic control and accident investigation, techniques of  
17 obtaining physical evidence, court testimonies, statements,  
18 reports, firearms training, first-aid (including  
19 cardiopulmonary resuscitation), handling of juvenile  
20 offenders, recognition of mental conditions which require  
21 immediate assistance and methods to safeguard and provide  
22 assistance to a person in need of mental treatment, recognition  
23 of elder abuse and neglect, as defined in Section 2 of the  
24 Adult Protective Services Act ~~Elder Abuse and Neglect Act,~~

1 crimes against the elderly, law of evidence, the hazards of  
2 high-speed police vehicle chases with an emphasis on  
3 alternatives to the high-speed chase, and physical training.  
4 The curriculum shall include specific training in techniques  
5 for immediate response to and investigation of cases of  
6 domestic violence and of sexual assault of adults and children.  
7 The curriculum shall include training in techniques designed to  
8 promote effective communication at the initial contact with  
9 crime victims and ways to comprehensively explain to victims  
10 and witnesses their rights under the Rights of Crime Victims  
11 and Witnesses Act and the Crime Victims Compensation Act. The  
12 curriculum shall also include a block of instruction aimed at  
13 identifying and interacting with persons with autism and other  
14 developmental disabilities, reducing barriers to reporting  
15 crimes against persons with autism, and addressing the unique  
16 challenges presented by cases involving victims or witnesses  
17 with autism and other developmental disabilities. The  
18 curriculum for permanent police officers shall include but not  
19 be limited to (1) refresher and in-service training in any of  
20 the courses listed above in this subparagraph, (2) advanced  
21 courses in any of the subjects listed above in this  
22 subparagraph, (3) training for supervisory personnel, and (4)  
23 specialized training in subjects and fields to be selected by  
24 the board.

25 b. Minimum courses of study, attendance requirements and  
26 equipment requirements.

1 c. Minimum requirements for instructors.

2 d. Minimum basic training requirements, which a  
3 probationary police officer must satisfactorily complete  
4 before being eligible for permanent employment as a local law  
5 enforcement officer for a participating local governmental  
6 agency. Those requirements shall include training in first aid  
7 (including cardiopulmonary resuscitation).

8 e. Minimum basic training requirements, which a  
9 probationary county corrections officer must satisfactorily  
10 complete before being eligible for permanent employment as a  
11 county corrections officer for a participating local  
12 governmental agency.

13 f. Minimum basic training requirements which a  
14 probationary court security officer must satisfactorily  
15 complete before being eligible for permanent employment as a  
16 court security officer for a participating local governmental  
17 agency. The Board shall establish those training requirements  
18 which it considers appropriate for court security officers and  
19 shall certify schools to conduct that training.

20 A person hired to serve as a court security officer must  
21 obtain from the Board a certificate (i) attesting to his or her  
22 successful completion of the training course; (ii) attesting to  
23 his or her satisfactory completion of a training program of  
24 similar content and number of hours that has been found  
25 acceptable by the Board under the provisions of this Act; or  
26 (iii) attesting to the Board's determination that the training

1 course is unnecessary because of the person's extensive prior  
2 law enforcement experience.

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

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

14 The Sheriff's Merit Commission, if one exists, or the  
15 Sheriff's Office if there is no Sheriff's Merit Commission,  
16 shall maintain a list of all individuals who have filed  
17 applications to become court security officers and who meet the  
18 eligibility requirements established under this Act. Either  
19 the Sheriff's Merit Commission, or the Sheriff's Office if no  
20 Sheriff's Merit Commission exists, shall establish a schedule  
21 of reasonable intervals for verification of the applicants'  
22 qualifications under this Act and as established by the Board.

23 (Source: P.A. 97-815, eff. 1-1-13; 97-862, eff. 1-1-13; revised  
24 8-3-12.)

25 Section 13. The Illinois Banking Act is amended by changing

1 Section 48.1 as follows:

2 (205 ILCS 5/48.1) (from Ch. 17, par. 360)

3 Sec. 48.1. Customer financial records; confidentiality.

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

6 (1) a document granting signature authority over a  
7 deposit or account;

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

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

13 (4) any other item containing information pertaining  
14 to any relationship established in the ordinary course of a  
15 bank's business between a bank and its customer, including  
16 financial statements or other financial information  
17 provided by the customer.

18 (b) This Section does not prohibit:

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

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

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

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

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

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

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

26          (7) The furnishing of information to the appropriate

1 law enforcement authorities where the bank reasonably  
2 believes it has been the victim of a crime.

3 (8) The furnishing of information under the Uniform  
4 Disposition of Unclaimed Property Act.

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

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

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

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

18 (13) The exchange in the regular course of business of  
19 information between commonly owned banks in connection  
20 with a transaction authorized under paragraph (23) of  
21 Section 5 and conducted at an affiliate facility.

22 (14) The furnishing of information in accordance with  
23 the federal Personal Responsibility and Work Opportunity  
24 Reconciliation Act of 1996. Any bank governed by this Act  
25 shall enter into an agreement for data exchanges with a  
26 State agency provided the State agency pays to the bank a



1 reasonable fee not to exceed its actual cost incurred. A  
2 bank providing information in accordance with this item  
3 shall not be liable to any account holder or other person  
4 for any disclosure of information to a State agency, for  
5 encumbering or surrendering any assets held by the bank in  
6 response to a lien or order to withhold and deliver issued  
7 by a State agency, or for any other action taken pursuant  
8 to this item, including individual or mechanical errors,  
9 provided the action does not constitute gross negligence or  
10 willful misconduct. A bank shall have no obligation to  
11 hold, encumber, or surrender assets until it has been  
12 served with a subpoena, summons, warrant, court or  
13 administrative order, lien, or levy.

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

18 (16) The furnishing of information to law enforcement  
19 authorities, the Illinois Department on Aging and its  
20 regional administrative and provider agencies, the  
21 Department of Human Services Office of Inspector General,  
22 or public guardians: (i) upon subpoena by the investigatory  
23 entity or the guardian, or (ii) if there is suspicion by  
24 the bank that a customer who is an elderly or disabled  
25 person has been or may become the victim of financial  
26 exploitation. For the purposes of this item (16), the term:

1 (i) "elderly person" means a person who is 60 or more years  
2 of age, (ii) "disabled person" means a person who has or  
3 reasonably appears to the bank to have a physical or mental  
4 disability that impairs his or her ability to seek or  
5 obtain protection from or prevent financial exploitation,  
6 and (iii) "financial exploitation" means tortious or  
7 illegal use of the assets or resources of an elderly or  
8 disabled person, and includes, without limitation,  
9 misappropriation of the elderly or disabled person's  
10 assets or resources by undue influence, breach of fiduciary  
11 relationship, intimidation, fraud, deception, extortion,  
12 or the use of assets or resources in any manner contrary to  
13 law. A bank or person furnishing information pursuant to  
14 this item (16) shall be entitled to the same rights and  
15 protections as a person furnishing information under the  
16 Adult Protective Services Act ~~Elder Abuse and Neglect Act~~,  
17 the Illinois Domestic Violence Act of 1986, and the Abuse  
18 of Adults with Disabilities Intervention Act.

19 (17) The disclosure of financial records or  
20 information as necessary to effect, administer, or enforce  
21 a transaction requested or authorized by the customer, or  
22 in connection with:

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

25 (B) maintaining or servicing a customer's account  
26 with the bank; or

1           (C) a proposed or actual securitization or  
2 secondary market sale (including sales of servicing  
3 rights) related to a transaction of a customer.

4           Nothing in this item (17), however, authorizes the sale  
5 of the financial records or information of a customer  
6 without the consent of the customer.

7           (18) The disclosure of financial records or  
8 information as necessary to protect against actual or  
9 potential fraud, unauthorized transactions, claims, or  
10 other liability.

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

19           (b) (1) For purposes of this paragraph (19) of  
20 subsection (b) of Section 48.1, a "private label credit  
21 program" means a credit program involving a financial  
22 institution and a private label party that is used by a  
23 customer of the financial institution and the private label  
24 party primarily for payment for goods or services sold,  
25 manufactured, or distributed by a private label party.

26           (2) For purposes of this paragraph (19) of subsection

1 (b) of Section 48.1, a "private label party" means, with  
2 respect to a private label credit program, any of the  
3 following: a retailer, a merchant, a manufacturer, a trade  
4 group, or any such person's affiliate, subsidiary, member,  
5 agent, or service provider.

6 (c) Except as otherwise provided by this Act, a bank may  
7 not disclose to any person, except to the customer or his duly  
8 authorized agent, any financial records or financial  
9 information obtained from financial records relating to that  
10 customer of that bank unless:

11 (1) the customer has authorized disclosure to the  
12 person;

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

17 (3) the bank is attempting to collect an obligation  
18 owed to the bank and the bank complies with the provisions  
19 of Section 2I of the Consumer Fraud and Deceptive Business  
20 Practices Act.

21 (d) A bank shall disclose financial records under paragraph  
22 (2) of subsection (c) of this Section under a lawful subpoena,  
23 summons, warrant, citation to discover assets, or court order  
24 only after the bank mails a copy of the subpoena, summons,  
25 warrant, citation to discover assets, or court order to the  
26 person establishing the relationship with the bank, if living,

1 and, otherwise his personal representative, if known, at his  
2 last known address by first class mail, postage prepaid, unless  
3 the bank is specifically prohibited from notifying the person  
4 by order of court or by applicable State or federal law. A bank  
5 shall not mail a copy of a subpoena to any person pursuant to  
6 this subsection if the subpoena was issued by a grand jury  
7 under the Statewide Grand Jury Act.

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

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

17 (g) A bank shall be reimbursed for costs that are  
18 reasonably necessary and that have been directly incurred in  
19 searching for, reproducing, or transporting books, papers,  
20 records, or other data of a customer required or requested to  
21 be produced pursuant to a lawful subpoena, summons, warrant,  
22 citation to discover assets, or court order. The Commissioner  
23 shall determine the rates and conditions under which payment  
24 may be made.

25 (Source: P.A. 94-495, eff. 8-8-05; 94-851, eff. 6-13-06;  
26 95-661, eff. 1-1-08.)

1           Section 14. The Illinois Savings and Loan Act of 1985 is  
2 amended by changing Section 3-8 as follows:

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

4           Sec. 3-8. Access to books and records; communication with  
5 members.

6           (a) Every member or holder of capital shall have the right  
7 to inspect the books and records of the association that  
8 pertain to his account. Otherwise, the right of inspection and  
9 examination of the books and records shall be limited as  
10 provided in this Act, and no other person shall have access to  
11 the books and records or shall be entitled to a list of the  
12 members.

13           (b) For the purpose of this Section, the term "financial  
14 records" means any original, any copy, or any summary of (i) a  
15 document granting signature authority over a deposit or  
16 account; (ii) a statement, ledger card, or other record on any  
17 deposit or account that shows each transaction in or with  
18 respect to that account; (iii) a check, draft, or money order  
19 drawn on an association or issued and payable by an  
20 association; or (iv) any other item containing information  
21 pertaining to any relationship established in the ordinary  
22 course of an association's business between an association and  
23 its customer, including financial statements or other  
24 financial information provided by the member or holder of

1 capital.

2 (c) This Section does not prohibit:

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

9 (2) The examination of any financial records by, or the  
10 furnishing of financial records by an association to, any  
11 officer, employee, or agent of the Commissioner of Banks  
12 and Real Estate or federal depository institution  
13 regulator for use solely in the exercise of his duties as  
14 an officer, employee, or agent.

15 (3) The publication of data furnished from financial  
16 records relating to members or holders of capital where the  
17 data cannot be identified to any particular member, holder  
18 of capital, 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 an association and other  
26 associations or financial institutions or commercial

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

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

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

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

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

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

24 (12) The exchange of information between an  
25 association and an affiliate of the association; as used in  
26 this item, "affiliate" includes any company, partnership,



1 or organization that controls, is controlled by, or is  
2 under common control with an association.

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

22 (14) The furnishing of information to law enforcement  
23 authorities, the Illinois Department on Aging and its  
24 regional administrative and provider agencies, the  
25 Department of Human Services Office of Inspector General,  
26 or public guardians: (i) upon subpoena by the investigatory

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

24 (15) The disclosure of financial records or  
25 information as necessary to effect, administer, or enforce  
26 a transaction requested or authorized by the member or

1 holder of capital, or in connection with:

2 (A) servicing or processing a financial product or  
3 service requested or authorized by the member or holder  
4 of capital;

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

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

11 Nothing in this item (15), however, authorizes the sale  
12 of the financial records or information of a member or  
13 holder of capital without the consent of the member or  
14 holder of capital.

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

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

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

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

14           (d) An association may not disclose to any person, except  
15 to the member or holder of capital or his duly authorized  
16 agent, any financial records relating to that member or holder  
17 of capital of that association unless:

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

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

24           (e) An association shall disclose financial records under  
25 subsection (d) of this Section pursuant to a lawful subpoena,  
26 summons, warrant, citation to discover assets, or court order

1 only after the association mails a copy of the subpoena,  
2 summons, warrant, citation to discover assets, or court order  
3 to the person establishing the relationship with the  
4 association, if living, and, otherwise, his personal  
5 representative, if known, at his last known address by first  
6 class mail, postage prepaid, unless the association is  
7 specifically prohibited from notifying that person by order of  
8 court.

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

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

18 (g) However, if any member desires to communicate with the  
19 other members of the association with reference to any question  
20 pending or to be presented at a meeting of the members, the  
21 association shall give him upon request a statement of the  
22 approximate number of members entitled to vote at the meeting  
23 and an estimate of the cost of preparing and mailing the  
24 communication. The requesting member then shall submit the  
25 communication to the Commissioner who, if he finds it to be  
26 appropriate and truthful, shall direct that it be prepared and

1 mailed to the members upon the requesting member's payment or  
2 adequate provision for payment of the expenses of preparation  
3 and mailing.

4 (h) An association shall be reimbursed for costs that are  
5 necessary and that have been directly incurred in searching  
6 for, reproducing, or transporting books, papers, records, or  
7 other data of a customer required to be reproduced pursuant to  
8 a lawful subpoena, warrant, citation to discover assets, or  
9 court order.

10 (Source: P.A. 94-495, eff. 8-8-05; 94-851, eff. 6-13-06;  
11 95-661, eff. 1-1-08.)

12 Section 15. The Savings Bank Act is amended by changing  
13 Section 4013 as follows:

14 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

15 Sec. 4013. Access to books and records; communication with  
16 members and shareholders.

17 (a) Every member or shareholder shall have the right to  
18 inspect books and records of the savings bank that pertain to  
19 his accounts. Otherwise, the right of inspection and  
20 examination of the books and records shall be limited as  
21 provided in this Act, and no other person shall have access to  
22 the books and records nor shall be entitled to a list of the  
23 members or shareholders.

24 (b) For the purpose of this Section, the term "financial

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

12 (c) This Section does not prohibit:

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

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

25 (3) The publication of data furnished from financial  
26 records relating to members or holders of capital where the

1 data cannot be identified to any particular member,  
2 shareholder, or account.

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

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

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

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

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

23 (9) The furnishing of information pursuant to the  
24 Illinois Income Tax Act and the Illinois Estate and  
25 Generation-Skipping Transfer Tax Act.

26 (10) The furnishing of information pursuant to the



1 federal "Currency and Foreign Transactions Reporting Act",  
2 (Title 31, United States Code, Section 1051 et seq.).

3 (11) The furnishing of information pursuant to any  
4 other statute which by its terms or by regulations  
5 promulgated thereunder requires the disclosure of  
6 financial records other than by subpoena, summons,  
7 warrant, or court order.

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

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

1 of 1986, and the Abuse of Adults with Disabilities  
2 Intervention Act.

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

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

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

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

16 Nothing in this item (14), however, authorizes the sale  
17 of the financial records or information of a member or  
18 holder of capital without the consent of the member or  
19 holder of capital.

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

24 (16) The disclosure of financial records or  
25 information as necessary to protect against or prevent  
26 actual or potential fraud, unauthorized transactions,

1 claims, or other liability.

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

10 (b) (1) For purposes of this paragraph (17) of  
11 subsection (c) of Section 4013, a "private label credit  
12 program" means a credit program involving a financial  
13 institution and a private label party that is used by a  
14 customer of the financial institution and the private label  
15 party primarily for payment for goods or services sold,  
16 manufactured, or distributed by a private label party.

17 (2) For purposes of this paragraph (17) of subsection  
18 (c) of Section 4013, a "private label party" means, with  
19 respect to a private label credit program, any of the  
20 following: a retailer, a merchant, a manufacturer, a trade  
21 group, or any such person's affiliate, subsidiary, member,  
22 agent, or service provider.

23 (d) A savings bank may not disclose to any person, except  
24 to the member or holder of capital or his duly authorized  
25 agent, any financial records relating to that member or  
26 shareholder of the savings bank unless:

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

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

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

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

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

26           (h) If any member or shareholder desires to communicate

1 with the other members or shareholders of the savings bank with  
2 reference to any question pending or to be presented at an  
3 annual or special meeting, the savings bank shall give that  
4 person, upon request, a statement of the approximate number of  
5 members or shareholders entitled to vote at the meeting and an  
6 estimate of the cost of preparing and mailing the  
7 communication. The requesting member shall submit the  
8 communication to the Commissioner who, upon finding it to be  
9 appropriate and truthful, shall direct that it be prepared and  
10 mailed to the members upon the requesting member's or  
11 shareholder's payment or adequate provision for payment of the  
12 expenses of preparation and mailing.

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

19 (j) Notwithstanding the provisions of this Section, a  
20 savings bank may sell or otherwise make use of lists of  
21 customers' names and addresses. All other information  
22 regarding a customer's account are subject to the disclosure  
23 provisions of this Section. At the request of any customer,  
24 that customer's name and address shall be deleted from any list  
25 that is to be sold or used in any other manner beyond  
26 identification of the customer's accounts.

1 (Source: P.A. 94-495, eff. 8-8-05; 94-851, eff. 6-13-06;  
2 95-661, eff. 1-1-08.)

3 Section 16. The Illinois Credit Union Act is amended by  
4 changing Section 10 as follows:

5 (205 ILCS 305/10) (from Ch. 17, par. 4411)

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

7 (1) A credit union shall establish and maintain books,  
8 records, accounting systems and procedures which accurately  
9 reflect its operations and which enable the Department to  
10 readily ascertain the true financial condition of the credit  
11 union and whether it is complying with this Act.

12 (2) A photostatic or photographic reproduction of any  
13 credit union records shall be admissible as evidence of  
14 transactions with the credit union.

15 (3) (a) For the purpose of this Section, the term "financial  
16 records" means any original, any copy, or any summary of (1) a  
17 document granting signature authority over an account, (2) a  
18 statement, ledger card or other record on any account which  
19 shows each transaction in or with respect to that account, (3)  
20 a check, draft or money order drawn on a financial institution  
21 or other entity or issued and payable by or through a financial  
22 institution or other entity, or (4) any other item containing  
23 information pertaining to any relationship established in the  
24 ordinary course of business between a credit union and its

1 member, including financial statements or other financial  
2 information provided by the member.

3 (b) This Section does not prohibit:

4 (1) The preparation, examination, handling or  
5 maintenance of any financial records by any officer,  
6 employee or agent of a credit union having custody of such  
7 records, or the examination of such records by a certified  
8 public accountant engaged by the credit union to perform an  
9 independent audit.

10 (2) The examination of any financial records by or the  
11 furnishing of financial records by a credit union to any  
12 officer, employee or agent of the Department, the National  
13 Credit Union Administration, Federal Reserve board or any  
14 insurer of share accounts for use solely in the exercise of  
15 his duties as an officer, employee or agent.

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

19 (4) The making of reports or returns required under  
20 Chapter 61 of the Internal Revenue Code of 1954.

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 credit union and other  
26 credit unions or financial institutions or commercial



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

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

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

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

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

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

24 (12) The furnishing of information in accordance with  
25 the federal Personal Responsibility and Work Opportunity  
26 Reconciliation Act of 1996. Any credit union governed by

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

17                 (13) The furnishing of information to law enforcement  
18                 authorities, the Illinois Department on Aging and its  
19                 regional administrative and provider agencies, the  
20                 Department of Human Services Office of Inspector General,  
21                 or public guardians: (i) upon subpoena by the investigatory  
22                 entity or the guardian, or (ii) if there is suspicion by  
23                 the credit union that a member who is an elderly or  
24                 disabled person has been or may become the victim of  
25                 financial exploitation. For the purposes of this item (13),  
26                 the term: (i) "elderly person" means a person who is 60 or

1 more years of age, (ii) "disabled person" means a person  
2 who has or reasonably appears to the credit union to have a  
3 physical or mental disability that impairs his or her  
4 ability to seek or obtain protection from or prevent  
5 financial exploitation, and (iii) "financial exploitation"  
6 means tortious or illegal use of the assets or resources of  
7 an elderly or disabled person, and includes, without  
8 limitation, misappropriation of the elderly or disabled  
9 person's assets or resources by undue influence, breach of  
10 fiduciary relationship, intimidation, fraud, deception,  
11 extortion, or the use of assets or resources in any manner  
12 contrary to law. A credit union or person furnishing  
13 information pursuant to this item (13) shall be entitled to  
14 the same rights and protections as a person furnishing  
15 information under the Adult Protective Services Act ~~Elder~~  
16 ~~Abuse and Neglect Act~~, the Illinois Domestic Violence Act  
17 of 1986, and the Abuse of Adults with Disabilities  
18 Intervention Act.

19 (14) The disclosure of financial records or  
20 information as necessary to effect, administer, or enforce  
21 a transaction requested or authorized by the member, or in  
22 connection with:

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

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

1           (C) a proposed or actual securitization or  
2 secondary market sale (including sales of servicing  
3 rights) related to a transaction of a member.

4           Nothing in this item (14), however, authorizes the sale  
5 of the financial records or information of a member without  
6 the consent of the member.

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

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

19           (b) (1) For purposes of this paragraph (16) of  
20 subsection (b) of Section 10, a "private label credit  
21 program" means a credit program involving a financial  
22 institution and a private label party that is used by a  
23 customer of the financial institution and the private label  
24 party primarily for payment for goods or services sold,  
25 manufactured, or distributed by a private label party.

26           (2) For purposes of this paragraph (16) of subsection

1 (b) of Section 10, a "private label party" means, with  
2 respect to a private label credit program, any of the  
3 following: a retailer, a merchant, a manufacturer, a trade  
4 group, or any such person's affiliate, subsidiary, member,  
5 agent, or service provider.

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

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

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

15 (3) the credit union is attempting to collect an  
16 obligation owed to the credit union and the credit union  
17 complies with the provisions of Section 2I of the Consumer  
18 Fraud and Deceptive Business Practices Act.

19 (d) A credit union shall disclose financial records under  
20 subparagraph (c)(2) of this Section pursuant to a lawful  
21 subpoena, summons, warrant, citation to discover assets, or  
22 court order only after the credit union mails a copy of the  
23 subpoena, summons, warrant, citation to discover assets, or  
24 court order to the person establishing the relationship with  
25 the credit union, if living, and otherwise his personal  
26 representative, if known, at his last known address by first

1 class mail, postage prepaid unless the credit union is  
2 specifically prohibited from notifying the person by order of  
3 court or by applicable State or federal law. In the case of a  
4 grand jury subpoena, a credit union shall not mail a copy of a  
5 subpoena to any person pursuant to this subsection if the  
6 subpoena was issued by a grand jury under the Statewide Grand  
7 Jury Act or notifying the person would constitute a violation  
8 of the federal Right to Financial Privacy Act of 1978.

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

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

18 (f) A credit union shall be reimbursed for costs which are  
19 reasonably necessary and which have been directly incurred in  
20 searching for, reproducing or transporting books, papers,  
21 records or other data of a member required or requested to be  
22 produced pursuant to a lawful subpoena, summons, warrant,  
23 citation to discover assets, or court order. The Secretary and  
24 the Director may determine, by rule, the rates and conditions  
25 under which payment shall be made. Delivery of requested  
26 documents may be delayed until final reimbursement of all costs

1 is received.

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

3 Section 17. The Home Health, Home Services, and Home  
4 Nursing Agency Licensing Act is amended by changing Sections  
5 6.3 and 6.7 as follows:

6 (210 ILCS 55/6.3)

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

8 (a) Before January 1, 2008, the Department shall adopt  
9 standards for the licensure and operation of home services  
10 agencies operated in this State. The structure of the standards  
11 shall be based on the concept of home services and its focus on  
12 assistance with activities of daily living, housekeeping,  
13 personal laundry, and companionship being provided to an  
14 individual intended to enable that individual to remain safely  
15 and comfortably in his or her own personal residence. As home  
16 services do not include services that would be required to be  
17 performed by an individual licensed under the Nurse Practice  
18 Act, the standards shall be developed from a similar concept.  
19 After consideration and recommendations by the Home Health and  
20 Home Services Advisory Committee, the Department shall adopt  
21 such rules and regulations as are necessary for the proper  
22 regulation of home services agencies. Requirements for  
23 licensure as a home services agency shall include the  
24 following:

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

3 (2) Notification, in a form and manner established by  
4 the Department by rule, to home services workers and  
5 consumers as to the party or parties responsible under  
6 State and federal laws for payment of employment taxes,  
7 social security taxes, and workers' compensation,  
8 liability, the day-to-day supervision of workers, and the  
9 hiring, firing, and discipline of workers with the  
10 placement arrangement for home services.

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

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

23 (b) The Department may establish fees for home services  
24 agency licensure in rules in a manner that will make the  
25 program self-supporting. The amount of the licensure fees shall  
26 be based on the funding required for operation of the licensure



1 program. Notwithstanding any other provision of this Section,  
2 the Department may not charge any fee to a certified local  
3 health department in connection with the licensure of a home  
4 services agency.

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

6 (210 ILCS 55/6.7)

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

8 (a) Before January 1, 2008, the Department shall adopt  
9 standards for the licensure and operation of home nursing  
10 agencies operated in this State. After consideration and  
11 recommendations by the Home Health and Home Services Advisory  
12 Committee, the Department shall adopt such rules as are  
13 necessary for the proper regulation of home nursing agencies.  
14 Requirements for licensure as a home nursing agency shall  
15 include the following:

16 (1) Compliance with the requirements of the Health Care  
17 Worker Background Check Act.

18 (2) Notification, in a form and manner established by  
19 the Department by rule, to home nursing agency workers and  
20 consumers as to the party or parties responsible under  
21 State and federal laws for payment of employment taxes,  
22 social security taxes, and workers' compensation,  
23 liability, the day-to-day supervision of workers, and the  
24 hiring, firing, and discipline of workers with the  
25 placement arrangement for home nursing services.

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

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

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

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

22           Section 18. The Clinical Social Work and Social Work  
23 Practice Act is amended by changing Section 16 as follows:

24           (225 ILCS 20/16) (from Ch. 111, par. 6366)

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

2 Sec. 16. Privileged Communications and Exceptions.

3 1. No licensed clinical social worker or licensed social  
4 worker shall disclose any information acquired from persons  
5 consulting the social worker in a professional capacity, except  
6 that which may be voluntarily disclosed under the following  
7 circumstances:

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

15 (b) With the written consent of the person who provided  
16 the information;

17 (c) In case of death or disability, with the written  
18 consent of a personal representative, other person  
19 authorized to sue, or the beneficiary of an insurance  
20 policy on the person's life, health or physical condition;

21 (d) When a communication reveals the intended  
22 commission of a crime or harmful act and such disclosure is  
23 judged necessary by the licensed clinical social worker or  
24 licensed social worker to protect any person from a clear,  
25 imminent risk of serious mental or physical harm or injury,  
26 or to forestall a serious threat to the public safety;

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

3 (f) When the information is acquired during the course  
4 of investigating a report or working on a case of elder  
5 abuse, neglect, or financial exploitation by a designated  
6 Elder Abuse Provider Agency and disclosure of the  
7 information is in accordance with the provisions of Section  
8 of the Adult Protective Services Act ~~Elder Abuse and~~  
9 ~~Neglect Act.~~

10 2. When the person is a minor under the laws of the State  
11 of Illinois and the information acquired by the licensed  
12 clinical social worker or licensed social worker indicates the  
13 minor was the victim or subject of a crime, the licensed  
14 clinical social worker or licensed social worker may be  
15 required to testify in any judicial proceedings in which the  
16 commission of that crime is the subject of inquiry and when,  
17 after in camera review of the information that the licensed  
18 clinical social worker or licensed social worker acquired, the  
19 court determines that the interests of the minor in having the  
20 information held privileged are outweighed by the requirements  
21 of justice, the need to protect the public safety or the need  
22 to protect the minor, except as provided under the Abused and  
23 Neglected Child Reporting Act.

24 3. Any person having access to records or any one who  
25 participates in providing social work services or who, in  
26 providing any human services, is supervised by a licensed

1 clinical social worker or licensed social worker, is similarly  
2 bound to regard all information and communications as  
3 privileged in accord with this Section.

4 4. Nothing shall be construed to prohibit a licensed  
5 clinical social worker or licensed social worker from  
6 voluntarily testifying in court hearings concerning matters of  
7 adoption, child abuse, child neglect or other matters  
8 pertaining to children, except as provided under the Abused and  
9 Neglected Child Reporting Act.

10 5. The Mental Health and Developmental Disabilities  
11 Confidentiality Act, as now or hereafter amended, is  
12 incorporated herein as if all of its provisions were included  
13 in this Act.

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

15 Section 19. The Respiratory Care Practice Act is amended by  
16 changing Section 95 as follows:

17 (225 ILCS 106/95)

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

19 Sec. 95. Grounds for discipline.

20 (a) The Department may refuse to issue, renew, or may  
21 revoke, suspend, place on probation, reprimand, or take other  
22 disciplinary action as the Department considers appropriate,  
23 including the issuance of fines not to exceed \$5,000 for each  
24 violation, with regard to any license for any one or more of

1 the following:

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

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

5 (3) Conviction of any crime under the laws of the  
6 United States or any state or territory thereof that is a  
7 felony or a misdemeanor, an essential element of which is  
8 dishonesty, or of any crime that is directly related to the  
9 practice of the profession.

10 (4) Making any misrepresentation for the purpose of  
11 obtaining a license.

12 (5) Professional incompetence or negligence in the  
13 rendering of respiratory care services.

14 (6) Malpractice.

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

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

19 (9) Engaging in dishonorable, unethical, or  
20 unprofessional conduct of a character likely to deceive,  
21 defraud, or harm the public.

22 (10) Violating the rules of professional conduct  
23 adopted by the Department.

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

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

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

19          (14) Abandonment of a patient.

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

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

26          (17) Providing respiratory care, other than pursuant

1 to an order.

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

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

8 (20) Failure to file a tax return, or to pay the tax,  
9 penalty, or interest shown in a filed return, or to pay any  
10 final assessment of tax penalty, or interest, as required  
11 by any tax Act administered by the Illinois Department of  
12 Revenue or any successor agency or the Internal Revenue  
13 Service or any successor agency.

14 (21) Irregularities in billing a third party for  
15 services rendered or in reporting charges for services not  
16 rendered.

17 (22) Being named as a perpetrator in an indicated  
18 report by the Department of Children and Family Services  
19 under the Abused and Neglected Child Reporting Act, and  
20 upon proof by clear and convincing evidence that the  
21 licensee has caused a child to be an abused child or  
22 neglected child as defined in the Abused and Neglected  
23 Child Reporting Act.

24 (23) Habitual or excessive use or addiction to alcohol,  
25 narcotics, stimulants, or any other chemical agent or drug  
26 that results in an inability to practice with reasonable



1 skill, judgment, or safety.

2 (24) Being named as a perpetrator in an indicated  
3 report by the Department on Aging under the Adult  
4 Protective Services Act ~~Elder Abuse and Neglect Act~~, and  
5 upon proof by clear and convincing evidence that the  
6 licensee has caused an elderly person to be abused or  
7 neglected as defined in the Elder Abuse and Neglect Act.

8 (25) Willfully failing to report an instance of  
9 suspected elder abuse or neglect as required by the Adult  
10 Protective Services Act ~~Elder Abuse and Neglect Act~~.

11 (b) The determination by a court that a licensee is subject  
12 to involuntary admission or judicial admission as provided in  
13 the Mental Health and Developmental Disabilities Code will  
14 result in an automatic suspension of his or her license. The  
15 suspension will end upon a finding by a court that the licensee  
16 is no longer subject to involuntary admission or judicial  
17 admission, the issuance of an order so finding and discharging  
18 the patient, and the recommendation of the Board to the  
19 Director that the licensee be allowed to resume his or her  
20 practice.

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

22 Section 20. The Professional Counselor and Clinical  
23 Professional Counselor Licensing and Practice Act is amended by  
24 changing Sections 75 and 80 as follows:

1 (225 ILCS 107/75)

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

3 Sec. 75. Privileged communications and exceptions.

4 (a) No licensed professional counselor or licensed  
5 clinical professional counselor shall disclose any information  
6 acquired from persons consulting the counselor in a  
7 professional capacity, except that which may be voluntarily  
8 disclosed under the following circumstances:

9 (1) In the course of formally reporting, conferring, or  
10 consulting with administrative superiors, colleagues, or  
11 consultants who share professional responsibility, in  
12 which instance all recipients of the information are  
13 similarly bound to regard the communication as privileged;

14 (2) With the written consent of the person who provided  
15 the information;

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

20 (4) When a communication reveals the intended  
21 commission of a crime or harmful act and such disclosure is  
22 judged necessary by the licensed professional counselor or  
23 licensed clinical professional counselor to protect any  
24 person from a clear, imminent risk of serious mental or  
25 physical harm or injury, or to forestall a serious threat  
26 to the public safety; or

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

3           (b) When the person is a minor under the laws of the State  
4           of Illinois and the information acquired by the licensed  
5           professional counselor or licensed clinical professional  
6           counselor indicates the minor was the victim or subject of a  
7           crime, the licensed professional counselor or licensed  
8           clinical professional counselor may be required to testify in  
9           any judicial proceedings in which the commission of that crime  
10          is the subject of inquiry when, after in camera review of the  
11          information that the licensed professional counselor or  
12          licensed clinical professional counselor acquired, the court  
13          determines that the interests of the minor in having the  
14          information held privileged are outweighed by the requirements  
15          of justice, the need to protect the public safety or the need  
16          to protect the minor, except as provided under the Abused and  
17          Neglected Child Reporting Act.

18          (c) Any person having access to records or anyone who  
19          participates in providing professional counseling or clinical  
20          professional counseling services, or, in providing any human  
21          services, is supervised by a licensed professional counselor or  
22          licensed clinical professional counselor, is similarly bound  
23          to regard all information and communications as privileged in  
24          accord with this Section.

25          (d) Nothing in this Act shall be construed to prohibit a  
26          licensed professional counselor or licensed clinical

1 professional counselor from voluntarily testifying in court  
2 hearings concerning matters of adoption, child abuse, child  
3 neglect or other matters pertaining to children, except as  
4 provided under the Abused and Neglected Child Reporting Act and  
5 matters pertaining to elders as set forth in the Adult  
6 Protective Services Act ~~Elder Abuse and Neglect Act~~.

7 (e) The Mental Health and Developmental Disabilities  
8 Confidentiality Act is incorporated herein as if all of its  
9 provisions were included in this Act. In the event of a  
10 conflict between the application of this Section and the Mental  
11 Health and Developmental Disabilities Confidentiality Act to a  
12 specific situation, the provisions of the Mental Health and  
13 Developmental Disabilities Confidentiality Act shall control.

14 (f) Licensed professional counselors and licensed clinical  
15 professional counselors when performing professional  
16 counseling services or clinical professional counseling  
17 services shall comply with counselor licensure rules and laws  
18 contained in this Section and Section 80 of this Act regardless  
19 of their employment or work setting.

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

21 (225 ILCS 107/80)

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

23 Sec. 80. Grounds for discipline.

24 (a) The Department may refuse to issue, renew, or may  
25 revoke, suspend, place on probation, reprimand, or take other

1 disciplinary or non-disciplinary action as the Department  
2 deems appropriate, including the issuance of fines not to  
3 exceed \$10,000 for each violation, with regard to any license  
4 for any one or more of the following:

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

7 (2) Violations or negligent or intentional disregard  
8 of this Act or rules adopted under this Act.

9 (3) Conviction by plea of guilty or nolo contendere,  
10 finding of guilt, jury verdict, or entry of judgment or by  
11 sentencing of any crime, including, but not limited to,  
12 convictions, preceding sentences of supervision,  
13 conditional discharge, or first offender probation, under  
14 the laws of any jurisdiction of the United States: (i) that  
15 is a felony or (ii) that is a misdemeanor, an essential  
16 element of which is dishonesty, or that is directly related  
17 to the practice of the profession.

18 (4) Fraud or any misrepresentation in applying for or  
19 procuring a license under this Act or in connection with  
20 applying for renewal of a license under this Act.

21 (5) Professional incompetence or gross negligence in  
22 the rendering of professional counseling or clinical  
23 professional counseling services.

24 (6) Malpractice.

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

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

3           (9) Engaging in dishonorable, unethical, or  
4 unprofessional conduct of a character likely to deceive,  
5 defraud, or harm the public and violating the rules of  
6 professional conduct adopted by the Department.

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

11           (11) Discipline by another jurisdiction, the District  
12 of Columbia, territory, county, or governmental agency, if  
13 at least one of the grounds for the discipline is the same  
14 or substantially equivalent to those set forth in this  
15 Section.

16           (12) Directly or indirectly giving to or receiving from  
17 any person, firm, corporation, partnership, or association  
18 any fee, commission, rebate or other form of compensation  
19 for any professional service not actually rendered.  
20 Nothing in this paragraph (12) affects any bona fide  
21 independent contractor or employment arrangements among  
22 health care professionals, health facilities, health care  
23 providers, or other entities, except as otherwise  
24 prohibited by law. Any employment arrangements may include  
25 provisions for compensation, health insurance, pension, or  
26 other employment benefits for the provision of services

1 within the scope of the licensee's practice under this Act.  
2 Nothing in this paragraph (12) shall be construed to  
3 require an employment arrangement to receive professional  
4 fees for services rendered.

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

8 (14) Abandonment of a client.

9 (15) Willfully filing false reports relating to a  
10 licensee's practice, including but not limited to false  
11 records filed with federal or State agencies or  
12 departments.

13 (16) Willfully failing to report an instance of  
14 suspected child abuse or neglect as required by the Abused  
15 and Neglected Child Reporting Act and in matters pertaining  
16 to elders or suspected elder abuse as set forth in the  
17 Adult Protective Services Act ~~Elder Abuse and Neglect Act~~.

18 (17) Being named as a perpetrator in an indicated  
19 report by the Department of Children and Family Services  
20 pursuant to the Abused and Neglected Child Reporting Act,  
21 and upon proof by clear and convincing evidence that the  
22 licensee has caused a child to be an abused child or  
23 neglected child as defined in the Abused and Neglected  
24 Child Reporting Act.

25 (18) Physical or mental illness or disability,  
26 including, but not limited to, deterioration through the

1 aging process or loss of abilities and skills which results  
2 in the inability to practice the profession with reasonable  
3 judgment, skill, or safety.

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

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

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

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

12 (23) Gross and willful overcharging for professional  
13 services including filing statements for collection of  
14 fees or monies for which services are not rendered.

15 (24) Rendering professional counseling or clinical  
16 professional counseling services without a license or  
17 practicing outside the scope of a license.

18 (25) Clinical supervisors failing to adequately and  
19 responsibly monitor supervisees.

20 All fines imposed under this Section shall be paid within  
21 60 days after the effective date of the order imposing the  
22 fine.

23 (b) The Department shall deny, without hearing, any  
24 application or renewal for a license under this Act to any  
25 person who has defaulted on an educational loan guaranteed by  
26 the Illinois State Assistance Commission or any governmental



1 agency of this State in accordance with item (5) of subsection  
2 (a) of Section 2105-15 of the Department of Professional  
3 Regulation Law of the Civil Administrative Code of Illinois.

4 (b-5) The Department may refuse to issue or may suspend  
5 without hearing, as provided for in the Code of Civil  
6 Procedure, the license of any person who fails to file a  
7 return, pay the tax, penalty, or interest shown in a filed  
8 return, or pay any final assessment of the tax, penalty, or  
9 interest as required by any tax Act administered by the  
10 Illinois Department of Revenue, until such time as the  
11 requirements of any such tax Act are satisfied in accordance  
12 with subsection (g) of Section 2105-15 of the Department of  
13 Professional Regulation Law of the Civil Administrative Code of  
14 Illinois.

15 (b-10) In cases where the Department of Healthcare and  
16 Family Services has previously determined a licensee or a  
17 potential licensee is more than 30 days delinquent in the  
18 payment of child support and has subsequently certified the  
19 delinquency to the Department, the Department may refuse to  
20 issue or renew or may revoke or suspend that person's license  
21 or may take other disciplinary action against that person based  
22 solely upon the certification of delinquency made by the  
23 Department of Healthcare and Family Services in accordance with  
24 item (5) of subsection (a) of Section 2105-15 of the Department  
25 of Professional Regulation Law of the Civil Administrative Code  
26 of Illinois.

1           (c) The determination by a court that a licensee is subject  
2 to involuntary admission or judicial admission as provided in  
3 the Mental Health and Developmental Disabilities Code will  
4 result in an automatic suspension of his or her license. The  
5 suspension will end upon a finding by a court that the licensee  
6 is no longer subject to involuntary admission or judicial  
7 admission, the issuance of an order so finding and discharging  
8 the patient, and the recommendation of the Board to the  
9 Secretary that the licensee be allowed to resume professional  
10 practice.

11           (c-5) In enforcing this Act, the Department, upon a showing  
12 of a possible violation, may compel an individual licensed to  
13 practice under this Act, or who has applied for licensure under  
14 this Act, to submit to a mental or physical examination, or  
15 both, as required by and at the expense of the Department. The  
16 Department may order the examining physician to present  
17 testimony concerning the mental or physical examination of the  
18 licensee or applicant. No information shall be excluded by  
19 reason of any common law or statutory privilege relating to  
20 communications between the licensee or applicant and the  
21 examining physician. The examining physicians shall be  
22 specifically designated by the Department. The individual to be  
23 examined may have, at his or her own expense, another physician  
24 of his or her choice present during all aspects of this  
25 examination. The examination shall be performed by a physician  
26 licensed to practice medicine in all its branches. Failure of

1 an individual to submit to a mental or physical examination,  
2 when directed, shall result in an automatic suspension without  
3 hearing.

4 A person holding a license under this Act or who has  
5 applied for a license under this Act who, because of a physical  
6 or mental illness or disability, including, but not limited to,  
7 deterioration through the aging process or loss of motor skill,  
8 is unable to practice the profession with reasonable judgment,  
9 skill, or safety, may be required by the Department to submit  
10 to care, counseling, or treatment by physicians approved or  
11 designated by the Department as a condition, term, or  
12 restriction for continued, reinstated, or renewed licensure to  
13 practice. Submission to care, counseling, or treatment as  
14 required by the Department shall not be considered discipline  
15 of a license. If the licensee refuses to enter into a care,  
16 counseling, or treatment agreement or fails to abide by the  
17 terms of the agreement, the Department may file a complaint to  
18 revoke, suspend, or otherwise discipline the license of the  
19 individual. The Secretary may order the license suspended  
20 immediately, pending a hearing by the Department. Fines shall  
21 not be assessed in disciplinary actions involving physical or  
22 mental illness or impairment.

23 In instances in which the Secretary immediately suspends a  
24 person's license under this Section, a hearing on that person's  
25 license must be convened by the Department within 15 days after  
26 the suspension and completed without appreciable delay. The

1 Department shall have the authority to review the subject  
2 individual's record of treatment and counseling regarding the  
3 impairment to the extent permitted by applicable federal  
4 statutes and regulations safeguarding the confidentiality of  
5 medical records.

6 An individual licensed under this Act and affected under  
7 this Section shall be afforded an opportunity to demonstrate to  
8 the Department that he or she can resume practice in compliance  
9 with acceptable and prevailing standards under the provisions  
10 of his or her license.

11 (d) (Blank).

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

13 Section 21. The Elder Abuse and Neglect Act is amended by  
14 changing the title of the Act and by changing Sections 1, 2, 3,  
15 3.5, 4, 4.1, 5, 8, 9, and 15 and by adding Section 7.5 as  
16 follows:

17 (320 ILCS 20/Act title)

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

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

21 Sec. 1. Short title. This Act shall be known and may be  
22 cited as the Adult Protective Services Act ~~"Elder Abuse and~~  
23 ~~Neglect Act"~~.

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

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

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

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

8 Nothing in this Act shall be construed to mean that an  
9 eligible adult is a victim of abuse, neglect, or self-neglect  
10 for the sole reason that he or she is being furnished with or  
11 relies upon treatment by spiritual means through prayer alone,  
12 in accordance with the tenets and practices of a recognized  
13 church or religious denomination.

14 Nothing in this Act shall be construed to mean that an  
15 eligible adult is a victim of abuse because of health care  
16 services provided or not provided by licensed health care  
17 professionals.

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

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

24 (a-7) "Caregiver" means a person who either as a result of  
25 a family relationship, voluntarily, or in exchange for

1 compensation has assumed responsibility for all or a portion of  
2 the care of an eligible adult who needs assistance with  
3 activities of daily living.

4 (b) "Department" means the Department on Aging of the State  
5 of Illinois.

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

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

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

16 (1) A licensed facility as defined in Section 1-113 of  
17 the Nursing Home Care Act, Section 1-113 of the ID/DD  
18 Community Care Act, or Section 1-113 of the Specialized  
19 Mental Health Rehabilitation Act;

20 (1.5) A facility licensed under the ID/DD Community  
21 Care Act;

22 (1.7) A facility licensed under the Specialized Mental  
23 Health Rehabilitation Act;

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

26 (3) A home, institution, or other place operated by the

1 federal government or agency thereof or by the State of  
2 Illinois;

3 (4) A hospital, sanitarium, or other institution, the  
4 principal activity or business of which is the diagnosis,  
5 care, and treatment of human illness through the  
6 maintenance and operation of organized facilities  
7 therefor, which is required to be licensed under the  
8 Hospital Licensing Act;

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

11 (6) (Blank);

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

16 (8) An assisted living or shared housing establishment  
17 as defined in the Assisted Living and Shared Housing Act;  
18 or

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

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

26 (f) "Emergency" means a situation in which an eligible

1 adult is living in conditions presenting a risk of death or  
2 physical, mental or sexual injury and the provider agency has  
3 reason to believe the eligible adult is unable to consent to  
4 services which would alleviate that risk.

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

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



1 Surgery Practice Act of 2004, and the Illinois Public  
2 Accounting Act;

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

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

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

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

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

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

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

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

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

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

17 (h) "Provider agency" means any public or nonprofit agency  
18 in a planning and service area appointed by the regional  
19 administrative agency with prior approval by the Department on  
20 Aging to receive and assess reports of alleged or suspected  
21 abuse, neglect, or financial exploitation.

22 (i) "Regional administrative agency" means any public or  
23 nonprofit agency in a planning and service area so designated  
24 by the Department, provided that the designated Area Agency on  
25 Aging shall be designated the regional administrative agency if  
26 it so requests. The Department shall assume the functions of

1 the regional administrative agency for any planning and service  
2 area where another agency is not so designated.

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

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

21 (Source: P.A. 96-339, eff. 7-1-10; 96-526, eff. 1-1-10; 96-572,  
22 eff. 1-1-10; 96-1000, eff. 7-2-10; 97-38, eff. 6-28-11; 97-227,  
23 eff. 1-1-12; 97-300, eff. 8-11-11; 97-706, eff. 6-25-12;  
24 97-813, eff. 7-13-12; 97-1141, eff. 12-28-12.)

25 (320 ILCS 20/3) (from Ch. 23, par. 6603)

1           Sec. 3. Responsibilities.

2           (a) The Department shall establish, design, and manage a  
3 protective services program ~~of response and services~~ for  
4 eligible adults ~~persons 60 years of age and older~~ who have  
5 been, or are alleged to be, victims of abuse, neglect,  
6 financial exploitation, or self-neglect. The Department shall  
7 contract with or fund or, contract with and fund, regional  
8 administrative agencies, provider agencies, or both, for the  
9 provision of protective services ~~those functions~~, and,  
10 contingent on adequate funding, with attorneys or legal  
11 services provider agencies for the provision of legal  
12 assistance pursuant to this Act. The program shall include the  
13 following services for eligible adults who have been removed  
14 from their residences for the purpose of cleanup or repairs:  
15 temporary housing; counseling; and caseworker services to try  
16 to ensure that the conditions necessitating the removal do not  
17 reoccur.

18           (a-1) Within 6 months after the effective date of this  
19 amendatory Act of the 98th General Assembly, the Department  
20 shall establish a centralized Adult Protective Services  
21 Helpline for the purposes of reporting the abuse, neglect, or  
22 financial exploitation of an eligible adult. The helpline shall  
23 perform intake and determine appropriate referrals, as  
24 necessary. The Department shall make the helpline accessible 24  
25 hours a day, 7 days a week and shall post its telephone number  
26 online.

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

6           (c) Provider agencies shall assist, to the extent possible,  
7 eligible adults who need agency services to allow them to  
8 continue to function independently. Such assistance shall  
9 include but not be limited to receiving reports of alleged or  
10 suspected abuse, neglect, financial exploitation, or  
11 self-neglect, conducting face-to-face assessments of such  
12 reported cases, determination of substantiated cases, referral  
13 of substantiated cases for necessary support services,  
14 referral of criminal conduct to law enforcement in accordance  
15 with Department guidelines, and provision of case work and  
16 follow-up services on substantiated cases. In the case of a  
17 report of alleged or suspected abuse or neglect that places an  
18 eligible adult at risk of injury or death, a provider agency  
19 shall respond to the report on an emergency basis in accordance  
20 with guidelines established by the Department by  
21 administrative rule and shall ensure that it is capable of  
22 responding to such a report 24 hours per day, 7 days per week.  
23 A provider agency may use an on-call system to respond to  
24 reports of alleged or suspected abuse or neglect after hours  
25 and on weekends.

26           (d) Upon sufficient appropriations to implement a

1 statewide program, the Department shall implement a program,  
2 based on the recommendations of the ~~Elder~~ Self-Neglect Steering  
3 Committee, for (i) responding to reports of possible  
4 self-neglect, (ii) protecting the autonomy, rights, privacy,  
5 and privileges of adults during investigations of possible  
6 self-neglect and consequential judicial proceedings regarding  
7 competency, (iii) collecting and sharing relevant information  
8 and data among the Department, provider agencies, regional  
9 administrative agencies, and relevant seniors, (iv) developing  
10 working agreements between provider agencies and law  
11 enforcement, where practicable, and (v) developing procedures  
12 for collecting data regarding incidents of self-neglect.

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

15 (320 ILCS 20/3.5)

16 Sec. 3.5. Other Responsibilities. The Department shall  
17 also be responsible for the following activities, contingent  
18 upon adequate funding:

19 (a) promotion of a wide range of endeavors for the purpose  
20 of preventing ~~elder~~ abuse, neglect, financial exploitation,  
21 and self-neglect in both domestic and institutional settings,  
22 including, but not limited to, promotion of public and  
23 professional education to increase awareness of ~~elder~~ abuse,  
24 neglect, financial exploitation, and self-neglect, to increase  
25 reports, and to improve response by various legal, financial,

1 social, and health systems;

2 (b) coordination of efforts with other agencies, councils,  
3 and like entities, to include but not be limited to, the Office  
4 of the Attorney General, the State Police, the Illinois Law  
5 Enforcement Training Standards Board, the State Triad, the  
6 Illinois Criminal Justice Information Authority, the  
7 Departments of Public Health, Public Aid, and Human Services,  
8 the Family Violence Coordinating Council, the Illinois  
9 Violence Prevention Authority, and other entities which may  
10 impact awareness of, and response to, ~~elder~~ abuse, neglect,  
11 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 ~~elder~~ abuse provider  
15 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, and other entities that may impact

1 awareness of and response to ~~elder~~ abuse, neglect, financial  
2 exploitation, and self-neglect;

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

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

22 (h) coordinating efforts with utility and electric  
23 companies to send notices in utility bills to explain to  
24 persons 60 years of age or older their rights regarding  
25 telemarketing and home repair fraud.

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



1 (320 ILCS 20/4) (from Ch. 23, par. 6604)

2 Sec. 4. Reports of abuse or neglect.

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

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

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

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

24 (a-9) Law enforcement officers shall continue to report  
25 incidents of alleged abuse pursuant to the Illinois Domestic  
26 Violence Act of 1986, notwithstanding any requirements under

1 this Act.

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

24 (c) The identity of a person making a report of alleged or  
25 suspected abuse, neglect, financial exploitation, or  
26 self-neglect under this Act may be disclosed by the Department

1 or other agency provided for in this Act only with such  
2 person's written consent or by court order, but is otherwise  
3 confidential.

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

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

22 (Source: P.A. 96-378, eff. 1-1-10; 96-526, eff. 1-1-10;  
23 96-1000, eff. 7-2-10; 97-860, eff. 7-30-12.)

24 (320 ILCS 20/4.1)

25 Sec. 4.1. Employer discrimination. No employer shall

1 discharge, demote or suspend, or threaten to discharge, demote  
2 or suspend, or in any manner discriminate against any employee  
3 who makes any good faith oral or written report of suspected  
4 ~~elder~~ abuse, neglect, or financial exploitation or who is or  
5 will be a witness or testify in any investigation or proceeding  
6 concerning a report of suspected ~~elder~~ abuse, neglect, or  
7 financial exploitation.

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

9 (320 ILCS 20/5) (from Ch. 23, par. 6605)

10 Sec. 5. Procedure.

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

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

23 (b) A provider agency shall refer evidence of crimes  
24 against an eligible adult to the appropriate law enforcement  
25 agency according to Department policies. A referral to law  
26 enforcement may be made at intake or any time during the case.

1 Where a provider agency has reason to believe the death of an  
2 eligible adult may be the result of abuse or neglect, the  
3 agency shall immediately report the matter to the coroner or  
4 medical examiner and shall cooperate fully with any subsequent  
5 investigation.

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

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

13 (320 ILCS 20/7.5 new)

14 Sec. 7.5. Health Care Worker Registry.

15 (a) Reporting to the registry. The Department on Aging  
16 shall report to the Department of Public Health's health care  
17 worker registry the identity and administrative finding  
18 against any caregiver of a verified and substantiated decision  
19 of significant abuse, neglect, or financial exploitation of an  
20 eligible adult under this Act. An administrative finding placed  
21 in the registry will preclude any caregiver from providing  
22 direct care in exchange for compensation in Illinois.

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

24 "Direct care" includes, but is not limited to, the  
25 provision of nursing care or assistance with feeding, dressing,

1 movement, bathing, toileting, or other personal needs or  
2 assistance with financial transactions.

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

11 (c) Notice to caregiver. Prior to reporting, the Department  
12 on Aging shall notify the caregiver of its obligation to make a  
13 report to the registry. Notice to the caregiver shall contain a  
14 clear and concise statement of the grounds upon which the  
15 report to the registry is based and shall set forth the  
16 procedures for challenging a report to the registry. Notice is  
17 sufficient if provided by certified mail to the caregiver's  
18 last known address. If the caregiver does not reply within 30  
19 calendar days after the date of the notice, the Department  
20 shall report the name of the caregiver to the registry. Nothing  
21 in this subsection shall diminish or impair the rights of a  
22 person who is a member of a collective bargaining unit under  
23 the Illinois Public Labor Relations Act or under any other  
24 federal labor statute.

25 (d) Report challenges. The process by which a challenge to  
26 reporting is filed shall be established through the



1 Department's administrative rules. Upon receiving a timely  
2 challenge by a caregiver in response to the notice of a  
3 registry report, the Department shall conduct an investigation  
4 and issue an administrative decision as to whether the verified  
5 and substantiated decision warrants reporting the caregiver's  
6 name to the registry. A written copy of the decision shall be  
7 provided to the caregiver.

8 (e) Registry hearings. If a caregiver's report challenge is  
9 not successful, then he or she may request an administrative  
10 hearing within 30 calendar days after the date of decision. If  
11 the request is timely, the Department on Aging shall not make a  
12 report to the registry and the caregiver shall be granted an  
13 opportunity to appear in person at a hearing. The caregiver  
14 shall present reasons why the abuse, neglect, or financial  
15 exploitation is not significant or should not otherwise be  
16 reported to the registry. The administrative law judge  
17 presiding over the hearing shall summarize pertinent findings  
18 of fact and conclusions of law and make a recommendation to the  
19 Director of the Department on Aging as to whether the verified  
20 and substantiated finding warrants reporting the name of the  
21 caregiver to the registry. The Director shall render and adopt  
22 the final decision. The parties may jointly request that the  
23 administrative law judge consider a stipulated disposition of  
24 these proceedings.

25 (f) Caregiver's rights to collateral action. The  
26 Department on Aging shall not make any report to the registry

1 if a caregiver notifies the Department in writing, including  
2 any supporting documentation, that he or she is formally  
3 challenging an adverse employment action resulting from a  
4 verified and substantiated finding of abuse, neglect, or  
5 financial exploitation by complaint filed with the Illinois  
6 Civil Service Commission, or which otherwise seeks to enforce  
7 the caregiver's rights pursuant to any applicable collective  
8 bargaining agreement. If an action taken by an employer against  
9 a caregiver as a result of a finding of abuse, neglect, or  
10 financial exploitation is overturned through an action filed  
11 with the Illinois Civil Service Commission or under any  
12 applicable collective bargaining agreement and if that  
13 caregiver's name has already been sent to the registry, the  
14 caregiver's name shall be removed from the registry.

15 (g) Removal from registry. At any time after a report to  
16 the registry, but no more than once in each successive 3-year  
17 period thereafter, for a maximum of 3 such requests, a  
18 caregiver may write to the Director of the Department on Aging  
19 to request removal of his or her name from the registry. The  
20 caregiver shall bear the burden of showing cause that  
21 establishes, by a preponderance of the evidence, that removal  
22 of his or her name from the registry is in the public interest.  
23 Upon receiving such a request, the Department on Aging shall  
24 conduct an investigation and consider any evidentiary material  
25 provided. The Department shall issue a decision either granting  
26 or denying removal within 60 calendar days, and shall issue

1 such decision to the caregiver and the registry. The waiver  
2 process at the Department of Public Health does not apply to  
3 registry reports from the Department on Aging.

4 (h) Referral of registry reports to health care facilities.  
5 In the event an eligible adult receiving services from a  
6 provider agency changes his or her residence from a domestic  
7 living situation to that of a health care facility, the  
8 provider agency shall use reasonable efforts to promptly inform  
9 the health care facility and the State Long Term Care Ombudsman  
10 about any registry reports relating to the eligible adult. For  
11 purposes of this Section, a health care facility includes, but  
12 is not limited to, a long-term care facility, a hospital, a  
13 hospice, a shared housing or assisted living establishment, a  
14 community living facility, or other government-operated  
15 facility.

16 (320 ILCS 20/8) (from Ch. 23, par. 6608)

17 Sec. 8. Access to records. All records concerning reports  
18 of ~~elder~~ abuse, neglect, financial exploitation, or  
19 self-neglect and all records generated as a result of such  
20 reports shall be confidential and shall not be disclosed except  
21 as specifically authorized by this Act or other applicable law.  
22 In accord with established law and Department protocols,  
23 procedures, and policies, access to such records, but not  
24 access to the identity of the person or persons making a report  
25 of alleged abuse, neglect, financial exploitation, or

1 self-neglect as contained in such records, shall be provided,  
2 upon request, to the following persons and for the following  
3 persons:

4 (1) Department staff, provider agency staff, other  
5 aging network staff, and regional administrative agency  
6 staff, including staff of the Chicago Department on Aging  
7 while that agency is designated as a regional  
8 administrative agency, in the furtherance of their  
9 responsibilities under this Act;

10 (2) A law enforcement agency investigating known or  
11 suspected ~~elder~~ abuse, neglect, financial exploitation, or  
12 self-neglect. Where a provider agency has reason to believe  
13 that the death of an eligible adult may be the result of  
14 abuse or neglect, the agency shall immediately provide the  
15 appropriate law enforcement agency with all records  
16 pertaining to the eligible adult;

17 (2.5) A law enforcement agency, fire department  
18 agency, or fire protection district having proper  
19 jurisdiction pursuant to a written agreement between a  
20 provider agency and the law enforcement agency, fire  
21 department agency, or fire protection district under which  
22 the provider agency may furnish to the law enforcement  
23 agency, fire department agency, or fire protection  
24 district a list of all eligible adults who may be at  
25 imminent risk of ~~elder~~ abuse, neglect, financial  
26 exploitation, or self-neglect;

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

7           (4) An eligible adult reported to be abused, neglected,  
8 financially exploited, or self-neglected, or such adult's  
9 authorized guardian or agent, unless such guardian or agent  
10 is the abuser or the alleged abuser;

11           (4.5) An executor or administrator of the estate of an  
12 eligible adult who is deceased;

13           (5) In cases regarding ~~elder~~ abuse, neglect, or  
14 financial exploitation, a court or a guardian ad litem,  
15 upon its or his or her finding that access to such records  
16 may be necessary for the determination of an issue before  
17 the court. However, such access shall be limited to an in  
18 camera inspection of the records, unless the court  
19 determines that disclosure of the information contained  
20 therein is necessary for the resolution of an issue then  
21 pending before it;

22           (5.5) In cases regarding self-neglect, a guardian ad  
23 litem;

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

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

3 (8) A coroner or medical examiner who has reason to  
4 believe that an eligible adult has died as the result of  
5 abuse, neglect, financial exploitation, or self-neglect.  
6 The provider agency shall immediately provide the coroner  
7 or medical examiner with all records pertaining to the  
8 eligible adult;

9 (8.5) A coroner or medical examiner having proper  
10 jurisdiction, pursuant to a written agreement between a  
11 provider agency and the coroner or medical examiner, under  
12 which the provider agency may furnish to the office of the  
13 coroner or medical examiner a list of all eligible adults  
14 who may be at imminent risk of death as a result of abuse,  
15 neglect, financial exploitation, or self-neglect; ~~and~~

16 (9) Department of Financial and Professional  
17 Regulation staff and members of the Illinois Medical  
18 Disciplinary Board or the Social Work Examining and  
19 Disciplinary Board in the course of investigating alleged  
20 violations of the Clinical Social Work and Social Work  
21 Practice Act by provider agency staff or other licensing  
22 bodies at the discretion of the Director of the Department  
23 on Aging; and

24 (10) Department staff in the course of conducting an  
25 administrative hearing to determine whether a verified and  
26 substantiated finding of significant abuse, neglect, or

1           financial exploitation of an eligible adult by a caregiver  
2           warrants reporting to the health care worker registry.

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

4           (320 ILCS 20/9) (from Ch. 23, par. 6609)

5           Sec. 9. Authority to consent to services.

6           (a) If an eligible adult consents to services being  
7 provided according to the case plan, such services shall be  
8 arranged to meet the adult's needs, based upon the availability  
9 of resources to provide such services. If an adult withdraws  
10 his or her consent or refuses to accept such services, the  
11 services shall not be provided.

12           (b) If it reasonably appears to the Department or other  
13 agency designated under this Act that a person is an eligible  
14 adult and lacks the capacity to consent to necessary services,  
15 including an assessment, the Department or other agency may  
16 seek the appointment of a guardian as provided in Article XIa  
17 of the Probate Act of 1975 for the purpose of consenting to  
18 such services, together with an order for an evaluation of the  
19 eligible adult's physical, psychological, and medical  
20 condition and decisional capacity.

21           (c) A guardian of the person of an eligible adult may  
22 consent to services being provided according to the case plan.  
23 If an eligible adult lacks capacity to consent to services, an  
24 agent having authority under a power of attorney may consent to  
25 services. If the guardian or agent is the alleged abuser and he

1 or she withdraws ~~his or her~~ consent, or refuses to allow  
2 services to be provided to the eligible adult, the Department,  
3 an agency designated under this Act, or the office of the  
4 Attorney General may request a court order seeking appropriate  
5 remedies, and may in addition request removal of the guardian  
6 and appointment of a successor guardian or request removal of  
7 the agent and appointment of a guardian.

8 (d) If an emergency exists and the Department or other  
9 agency designated under this Act reasonably believes that a  
10 person is an eligible adult and lacks the capacity to consent  
11 to necessary services, the Department or other agency may  
12 request an ex parte order from the circuit court of the county  
13 in which the petitioner or respondent resides or in which the  
14 alleged abuse, neglect, financial exploitation, or  
15 self-neglect occurred, authorizing an assessment of a report of  
16 alleged or suspected abuse, neglect, financial exploitation,  
17 or self-neglect or the provision of necessary services, or  
18 both, including relief available under the Illinois Domestic  
19 Violence Act of 1986 in accord with established law and  
20 Department protocols, procedures, and policies. Petitions  
21 filed under this subsection shall be treated as expedited  
22 proceedings.

23 (d-5) For purposes of this Section, an eligible adult  
24 "lacks the capacity to consent" if he or she reasonably appears  
25 either (i) unable to receive and evaluate information related  
26 to the assessment or services or (ii) unable to communicate



1 decisions related to the assessment or services.

2 (e) Within 15 days after the entry of the ex parte  
3 emergency order, the order shall expire, or, if the need for  
4 assessment or services continues, the provider agency shall  
5 petition for the appointment of a guardian as provided in  
6 Article XIa of the Probate Act of 1975 for the purpose of  
7 consenting to such assessment or services or to protect the  
8 eligible adult from further harm.

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

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

22 (320 ILCS 20/15)

23 Sec. 15. Abuse ~~Elder abuse~~ fatality review teams.

24 (a) In this Section, "review team" means a regional  
25 interagency ~~elder~~ abuse fatality review team established under

1 this Section.

2 (a-5) The Department shall establish, lead, and direct a  
3 Statewide Fatality Review Team. The Team shall have authority  
4 to consider suspicious deaths of victims of alleged, suspected,  
5 or substantiated abuse or neglect in domestic living situations  
6 in areas in which there is no regional interagency abuse team.

7 (b) The Department, or any other State or county agency  
8 with Department approval, may establish, lead, and direct  
9 regional interagency ~~elder~~ abuse fatality review teams (i) to  
10 assist local agencies in identifying and reviewing suspicious  
11 deaths of ~~elderly~~ victims of alleged, suspected, or  
12 substantiated abuse or neglect in domestic living situations  
13 and (ii) to facilitate communications between officials  
14 responsible for autopsies and inquests and persons involved in  
15 reporting or investigating alleged or suspected cases of abuse,  
16 neglect, or financial exploitation of eligible adults under  
17 this Act ~~persons 60 years of age or older.~~

18 (b-5) The Statewide Fatality Review Team and each regional  
19 ~~Each such~~ team shall be composed of representatives of entities  
20 and individuals including, but not limited to, the Department  
21 on Aging, coroners or medical examiners (or both), State's  
22 Attorneys, local police departments, forensic units, and  
23 service providers ~~of services for persons 60 years of age or~~  
24 ~~elder~~ in domestic living situations.

25 (c) The Statewide Fatality Review Team and each regional ~~A~~  
26 review team shall review cases of deaths of eligible adults

1 ~~persons 60 years of age or older in domestic living situations~~  
2 (i) involving blunt force trauma or an undetermined manner or  
3 suspicious cause of death, (ii) if requested by the deceased's  
4 attending physician, (iii) upon referral by a health care  
5 provider, or (iv) constituting an open or closed case from a  
6 senior protective services agency, law enforcement agency, or  
7 State's Attorney's office that involves alleged or suspected  
8 abuse, neglect, or financial exploitation. A team may also  
9 review other cases of deaths of eligible adults ~~persons 60~~  
10 ~~years of age or older~~ if the alleged abuse or neglect occurred  
11 while the person was residing in a domestic living situation.

12 A review team shall meet not less than 6 times a year to  
13 discuss cases for its possible review. Each review team, with  
14 the advice and consent of the Department, shall establish  
15 criteria to be used by review teams in discussing cases of  
16 alleged, suspected, or substantiated abuse or neglect for  
17 review and shall conduct its activities in accordance with any  
18 applicable policies and procedures established by the  
19 Department.

20 (d) Any document or oral or written communication shared  
21 within or produced by a review team relating to a case  
22 discussed or reviewed by the review team is confidential and is  
23 not subject to disclosure to or discoverable by another party  
24 except for use by a local State's Attorney's office in  
25 investigating and pursuing a criminal prosecution against a  
26 caregiver.

1 Any document or oral or written communication provided to a  
2 review team by an individual or entity, and created by that  
3 individual or entity solely for the use of the review team, is  
4 confidential and is not subject to disclosure to or  
5 discoverable by another party except for use by a local State's  
6 Attorney's office in investigating and pursuing a criminal  
7 prosecution against a caregiver.

8 Each entity or individual represented on 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 a team  
16 is confidential. The intent of this paragraph is to permit the  
17 disclosure to members of a team of any information deemed  
18 confidential or privileged or prohibited from disclosure by any  
19 other provision of law. Release of confidential communication  
20 between domestic violence advocates and a domestic violence  
21 victim shall follow subsection (d) of Section 227 of the  
22 Illinois Domestic Violence Act of 1986 which allows for the  
23 waiver of privilege afforded to guardians, executors, or  
24 administrators of the estate of the domestic violence victim.  
25 This provision relating to the release of confidential  
26 communication between domestic violence advocates and a

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

3 A coroner's or medical examiner's office may share with a  
4 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 (e) The Statewide Fatality Review Team or the regional  
8 review team's ~~A review team's~~ recommendation in relation to a  
9 case ~~discussed or reviewed by the review team,~~ including, but  
10 not limited to, a recommendation concerning a resulting an  
11 investigation or prosecution ~~in relation to such a case,~~ may be  
12 disclosed by such a ~~the review~~ team upon the completion of its  
13 review and at the discretion of a majority of its members  
14 considering such matters ~~who reviewed the case.~~

15 (f) The Department, in consultation with coroners, medical  
16 examiners, and law enforcement agencies, shall use aggregate  
17 data gathered by review teams and review teams' recommendations  
18 to create an annual report and may use those data and  
19 recommendations to develop education, prevention, prosecution,  
20 or other strategies designed to improve the coordination of  
21 services for persons 60 years of age or older and their  
22 families. The Department or other State or county agency, in  
23 consultation with coroners, medical examiners, and law  
24 enforcement agencies, also may use aggregate data gathered by  
25 review teams to create a database of at-risk individuals.

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

1 Section 25. The Code of Criminal Procedure of 1963 is  
2 amended by changing Sections 114-13.5 and 115-10.3 as follows:

3 (725 ILCS 5/114-13.5)

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

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

11 (725 ILCS 5/115-10.3)

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

13 (a) In a prosecution for a physical act, abuse, neglect, or  
14 financial exploitation perpetrated upon or against an eligible  
15 adult, as defined in the Adult Protective Services Act ~~Elder~~  
16 ~~Abuse and Neglect Act~~, who has been diagnosed by a physician to  
17 suffer from (i) any form of dementia, developmental disability,  
18 or other form of mental incapacity or (ii) any physical  
19 infirmity, including but not limited to prosecutions for  
20 violations of Sections 10-1, 10-2, 10-3, 10-3.1, 10-4, 11-1.20,  
21 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-11, 12-1, 12-2, 12-3,  
22 12-3.05, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.5, 12-4.6,  
23 12-4.7, 12-5, 12-6, 12-7.3, 12-7.4, 12-11, 12-11.1, 12-13,

1 12-14, 12-15, 12-16, 12-21, 16-1, 16-1.3, 17-1, 17-3, 17-56,  
2 18-1, 18-2, 18-3, 18-4, 18-5, 18-6, 19-6, 20-1.1, 24-1.2, and  
3 33A-2, or subsection (b) of Section 12-4.4a, of the Criminal  
4 Code of 1961, the following evidence shall be admitted as an  
5 exception to the hearsay rule:

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

9 (2) testimony of an out of court statement made by the  
10 eligible adult, describing any complaint of such act or  
11 matter or detail pertaining to any act which is an element  
12 of an offense which is the subject of a prosecution for a  
13 physical act, abuse, neglect, or financial exploitation  
14 perpetrated upon or against the eligible adult.

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

16 (1) The court finds in a hearing conducted outside the  
17 presence of the jury that the time, content, and  
18 circumstances of the statement provide sufficient  
19 safeguards of reliability; and

20 (2) The eligible adult either:

21 (A) testifies at the proceeding; or

22 (B) is unavailable as a witness and there is  
23 corroborative evidence of the act which is the subject  
24 of the statement.

25 (c) If a statement is admitted pursuant to this Section,  
26 the court shall instruct the jury that it is for the jury to

1 determine the weight and credibility to be given the statement  
2 and that, in making the determination, it shall consider the  
3 condition of the eligible adult, the nature of the statement,  
4 the circumstances under which the statement was made, and any  
5 other relevant factor.

6 (d) The proponent of the statement shall give the adverse  
7 party reasonable notice of his or her intention to offer the  
8 statement and the particulars of the statement.

9 (Source: P.A. 96-1551, Article 1, Section 965, eff. 7-1-11;  
10 96-1551, Article 2, Section 1040, eff. 7-1-11; 96-1551, Article  
11 10, Section 10-145, eff. 7-1-11; 97-1108, eff. 1-1-13; 97-1109,  
12 eff. 1-1-13.)

13 Section 30. The Code of Civil Procedure is amended by  
14 changing Section 8-2701 as follows:

15 (735 ILCS 5/8-2701)

16 Sec. 8-2701. Admissibility of evidence; out of court  
17 statements; elder abuse.

18 (a) An out of court statement made by an eligible adult, as  
19 defined in the Adult Protective Services Act ~~Elder Abuse and~~  
20 ~~Neglect Act~~, who has been diagnosed by a physician to suffer  
21 from (i) any form of dementia, developmental disability, or  
22 other form of mental incapacity or (ii) any physical infirmity  
23 which prevents the eligible adult's appearance in court,  
24 describing any act of elder abuse, neglect, or financial



1 exploitation, or testimony by an eligible adult of an out of  
2 court statement made by the eligible adult that he or she  
3 complained of such acts to another, is admissible in any civil  
4 proceeding, if:

5 (1) the court conducts a hearing outside the presence  
6 of the jury and finds that the time, content, and  
7 circumstances of the statement provide sufficient  
8 safeguards of reliability; and

9 (2) the eligible adult either:

10 (A) testifies at the proceeding; or

11 (B) is unavailable as a witness and there is  
12 corroborative evidence of the act which is the subject  
13 of the statement.

14 (b) If a statement is admitted pursuant to this Section,  
15 the court shall instruct the jury that it is for the jury to  
16 determine the weight and credibility to be given to the  
17 statement and that, in making its determination, it shall  
18 consider the condition of the eligible adult, the nature of the  
19 statement, the circumstances under which the statement was  
20 made, and any other relevant factors.

21 (c) The proponent of the statement shall give the adverse  
22 party reasonable notice of an intention to offer the statement  
23 and the particulars of the statement.

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

25 Section 35. The Probate Act of 1975 is amended by changing

1 Section 11a-10 as follows:

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

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

4 (a) Upon the filing of a petition pursuant to Section  
5 11a-8, the court shall set a date and place for hearing to take  
6 place within 30 days. The court shall appoint a guardian ad  
7 litem to report to the court concerning the respondent's best  
8 interests consistent with the provisions of this Section,  
9 except that the appointment of a guardian ad litem shall not be  
10 required when the court determines that such appointment is not  
11 necessary for the protection of the respondent or a reasonably  
12 informed decision on the petition. If the guardian ad litem is  
13 not a licensed attorney, he or she shall be qualified, by  
14 training or experience, to work with or advocate for the  
15 developmentally disabled, mentally ill, physically disabled,  
16 the elderly, or persons disabled because of mental  
17 deterioration, depending on the type of disability that is  
18 alleged in the petition. The court may allow the guardian ad  
19 litem reasonable compensation. The guardian ad litem may  
20 consult with a person who by training or experience is  
21 qualified to work with persons with a developmental disability,  
22 persons with mental illness, or physically disabled persons, or  
23 persons disabled because of mental deterioration, depending on  
24 the type of disability that is alleged. The guardian ad litem  
25 shall personally observe the respondent prior to the hearing

1 and shall inform him orally and in writing of the contents of  
2 the petition and of his rights under Section 11a-11. The  
3 guardian ad litem shall also attempt to elicit the respondent's  
4 position concerning the adjudication of disability, the  
5 proposed guardian, a proposed change in residential placement,  
6 changes in care that might result from the guardianship, and  
7 other areas of inquiry deemed appropriate by the court.  
8 Notwithstanding any provision in the Mental Health and  
9 Developmental Disabilities Confidentiality Act or any other  
10 law, a guardian ad litem shall have the right to inspect and  
11 copy any medical or mental health record of the respondent  
12 which the guardian ad litem deems necessary, provided that the  
13 information so disclosed shall not be utilized for any other  
14 purpose nor be redisclosed except in connection with the  
15 proceedings. At or before the hearing, the guardian ad litem  
16 shall file a written report detailing his or her observations  
17 of the respondent, the responses of the respondent to any of  
18 the inquires detailed in this Section, the opinion of the  
19 guardian ad litem or other professionals with whom the guardian  
20 ad litem consulted concerning the appropriateness of  
21 guardianship, and any other material issue discovered by the  
22 guardian ad litem. The guardian ad litem shall appear at the  
23 hearing and testify as to any issues presented in his or her  
24 report.

25 (b) The court (1) may appoint counsel for the respondent,  
26 if the court finds that the interests of the respondent will be

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

9 (c) If the respondent is unable to pay the fee of the  
10 guardian ad litem or appointed counsel, or both, the court may  
11 enter an order for the petitioner to pay all such fees or such  
12 amounts as the respondent or the respondent's estate may be  
13 unable to pay. However, in cases where the Office of State  
14 Guardian is the petitioner, consistent with Section 30 of the  
15 Guardianship and Advocacy Act, where the public guardian is the  
16 petitioner, consistent with Section 13-5 of the Probate Act of  
17 1975, where an elder abuse provider agency is the petitioner,  
18 pursuant to Section 9 of the Adult Protective Services Act  
19 ~~Elder Abuse and Neglect Act~~, or where the Department of Human  
20 Services Office of Inspector General is the petitioner,  
21 consistent with Section 45 of the Abuse of Adults with  
22 Disabilities Intervention Act, no guardian ad litem or legal  
23 fees shall be assessed against the Office of State Guardian,  
24 the public guardian, the elder abuse provider agency, or the  
25 Department of Human Services Office of Inspector General.

26 (d) The hearing may be held at such convenient place as the

1 court directs, including at a facility in which the respondent  
2 resides.

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

8 NOTICE OF RIGHTS OF RESPONDENT

9 You have been named as a respondent in a guardianship  
10 petition asking that you be declared a disabled person. If the  
11 court grants the petition, a guardian will be appointed for  
12 you. A copy of the guardianship petition is attached for your  
13 convenience.

14 The date and time of the hearing are:

15 The place where the hearing will occur is:

16 The Judge's name and phone number is:

17 If a guardian is appointed for you, the guardian may be  
18 given the right to make all important personal decisions for  
19 you, such as where you may live, what medical treatment you may  
20 receive, what places you may visit, and who may visit you. A  
21 guardian may also be given the right to control and manage your  
22 money and other property, including your home, if you own one.  
23 You may lose the right to make these decisions for yourself.

24 You have the following legal rights:

25 (1) You have the right to be present at the court  
26 hearing.

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

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

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

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

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

12          (7) You have the right to tell the court whom you  
13          prefer to have for your guardian.

14          You do not have to attend the court hearing if you do not  
15          want to be there. If you do not attend, the Judge may appoint a  
16          guardian if the Judge finds that a guardian would be of benefit  
17          to you. The hearing will not be postponed or canceled if you do  
18          not attend.

19          IT IS VERY IMPORTANT THAT YOU ATTEND THE HEARING IF YOU DO  
20          NOT WANT A GUARDIAN OR IF YOU WANT SOMEONE OTHER THAN THE  
21          PERSON NAMED IN THE GUARDIANSHIP PETITION TO BE YOUR GUARDIAN.  
22          IF YOU DO NOT WANT A GUARDIAN OR IF YOU HAVE ANY OTHER  
23          PROBLEMS, YOU SHOULD CONTACT AN ATTORNEY OR COME TO COURT AND  
24          TELL THE JUDGE.

25          Service of summons and the petition may be made by a  
26          private person 18 years of age or over who is not a party to the

1 action.

2 (f) Notice of the time and place of the hearing shall be  
3 given by the petitioner by mail or in person to those persons,  
4 including the proposed guardian, whose names and addresses  
5 appear in the petition and who do not waive notice, not less  
6 than 14 days before the hearing.

7 (Source: P.A. 96-1052, eff. 7-14-10; 97-375, eff. 8-15-11;  
8 97-1095, eff. 8-24-12.)

9 Section 40. The Illinois Power of Attorney Act is amended  
10 by changing Sections 2-7 and 2-10 as follows:

11 (755 ILCS 45/2-7) (from Ch. 110 1/2, par. 802-7)

12 Sec. 2-7. Duty - standard of care - record-keeping -  
13 exoneration.

14 (a) The agent shall be under no duty to exercise the powers  
15 granted by the agency or to assume control of or responsibility  
16 for any of the principal's property, care or affairs,  
17 regardless of the principal's physical or mental condition.  
18 Whenever a power is exercised, the agent shall act in good  
19 faith for the benefit of the principal using due care,  
20 competence, and diligence in accordance with the terms of the  
21 agency and shall be liable for negligent exercise. An agent who  
22 acts with due care for the benefit of the principal shall not  
23 be liable or limited merely because the agent also benefits  
24 from the act, has individual or conflicting interests in

1 relation to the property, care or affairs of the principal or  
2 acts in a different manner with respect to the agency and the  
3 agent's individual interests. The agent shall not be affected  
4 by any amendment or termination of the agency until the agent  
5 has actual knowledge thereof. The agent shall not be liable for  
6 any loss due to error of judgment nor for the act or default of  
7 any other person.

8 (b) An agent that has accepted appointment must act in  
9 accordance with the principal's expectations to the extent  
10 actually known to the agent and otherwise in the principal's  
11 best interests.

12 (c) An agent shall keep a record of all receipts,  
13 disbursements, and significant actions taken under the  
14 authority of the agency and shall provide a copy of this record  
15 when requested to do so by:

16 (1) the principal, a guardian, another fiduciary  
17 acting on behalf of the principal, and, after the death of  
18 the principal, the personal representative or successors  
19 in interest of the principal's estate;

20 (2) a representative of a provider agency, as defined  
21 in Section 2 of the Adult Protective Services Act ~~Elder~~  
22 ~~Abuse and Neglect Act~~, acting in the course of an  
23 assessment of a complaint of elder abuse or neglect under  
24 that Act;

25 (3) a representative of the Office of the State Long  
26 Term Care Ombudsman, acting in the course of an



1 investigation of a complaint of financial exploitation of a  
2 nursing home resident under Section 4.04 of the Illinois  
3 Act on the Aging;

4 (4) a representative of the Office of Inspector General  
5 for the Department of Human Services, acting in the course  
6 of an assessment of a complaint of financial exploitation  
7 of an adult with disabilities pursuant to Section 35 of the  
8 Abuse of Adults with Disabilities Intervention Act; or

9 (5) a court under Section 2-10 of this Act.

10 (d) If the agent fails to provide his or her record of all  
11 receipts, disbursements, and significant actions within 21  
12 days after a request under subsection (c), the elder abuse  
13 provider agency or the State Long Term Care Ombudsman may  
14 petition the court for an order requiring the agent to produce  
15 his or her record of receipts, disbursements, and significant  
16 actions. If the court finds that the agent's failure to provide  
17 his or her record in a timely manner to the elder abuse  
18 provider agency or the State Long Term Care Ombudsman was  
19 without good cause, the court may assess reasonable costs and  
20 attorney's fees against the agent, and order such other relief  
21 as is appropriate.

22 (e) An agent is not required to disclose receipts,  
23 disbursements, or other significant actions conducted on  
24 behalf of the principal except as otherwise provided in the  
25 power of attorney or as required under subsection (c).

26 (f) An agent that violates this Act is liable to the

1 principal or the principal's successors in interest for the  
2 amount required (i) to restore the value of the principal's  
3 property to what it would have been had the violation not  
4 occurred, and (ii) to reimburse the principal or the  
5 principal's successors in interest for the attorney's fees and  
6 costs paid on the agent's behalf. This subsection does not  
7 limit any other applicable legal or equitable remedies.

8 (Source: P.A. 96-1195, eff. 7-1-11.)

9 (755 ILCS 45/2-10) (from Ch. 110 1/2, par. 802-10)

10 Sec. 2-10. Agency-court relationship.

11 (a) Upon petition by any interested person (including the  
12 agent), with such notice to interested persons as the court  
13 directs and a finding by the court that the principal lacks  
14 either the capacity to control or the capacity to revoke the  
15 agency, the court may construe a power of attorney, review the  
16 agent's conduct, and grant appropriate relief including  
17 compensatory damages.

18 (b) If the court finds that the agent is not acting for the  
19 benefit of the principal in accordance with the terms of the  
20 agency or that the agent's action or inaction has caused or  
21 threatens substantial harm to the principal's person or  
22 property in a manner not authorized or intended by the  
23 principal, the court may order a guardian of the principal's  
24 person or estate to exercise any powers of the principal under  
25 the agency, including the power to revoke the agency, or may

1 enter such other orders without appointment of a guardian as  
2 the court deems necessary to provide for the best interests of  
3 the principal.

4 (c) If the court finds that the agency requires  
5 interpretation, the court may construe the agency and instruct  
6 the agent, but the court may not amend the agency.

7 (d) If the court finds that the agent has not acted for the  
8 benefit of the principal in accordance with the terms of the  
9 agency and the Illinois Power of Attorney Act, or that the  
10 agent's action caused or threatened substantial harm to the  
11 principal's person or property in a manner not authorized or  
12 intended by the principal, then the agent shall not be  
13 authorized to pay or be reimbursed from the estate of the  
14 principal the attorneys' fees and costs of the agent in  
15 defending a proceeding brought pursuant to this Section.

16 (e) Upon a finding that the agent's action has caused  
17 substantial harm to the principal's person or property, the  
18 court may assess against the agent reasonable costs and  
19 attorney's fees to a prevailing party who is a provider agency  
20 as defined in Section 2 of the Adult Protective Services Act  
21 ~~Elder Abuse and Neglect Act~~, a representative of the Office of  
22 the State Long Term Care Ombudsman, or a governmental agency  
23 having regulatory authority to protect the welfare of the  
24 principal.

25 (f) As used in this Section, the term "interested person"  
26 includes (1) the principal or the agent; (2) a guardian of the

1 person, guardian of the estate, or other fiduciary charged with  
2 management of the principal's property; (3) the principal's  
3 spouse, parent, or descendant; (4) a person who would be a  
4 presumptive heir-at-law of the principal; (5) a person named as  
5 a beneficiary to receive any property, benefit, or contractual  
6 right upon the principal's death, or as a beneficiary of a  
7 trust created by or for the principal; (6) a provider agency as  
8 defined in Section 2 of the Adult Protective Services Act ~~Elder~~  
9 ~~Abuse and Neglect Act~~, a representative of the Office of the  
10 State Long Term Care Ombudsman, or a governmental agency having  
11 regulatory authority to protect the welfare of the principal;  
12 and (7) the principal's caregiver or another person who  
13 demonstrates sufficient interest in the principal's welfare.

14 (g) Absent court order directing a guardian to exercise  
15 powers of the principal under the agency, a guardian will have  
16 no power, duty or liability with respect to any property  
17 subject to the agency or any personal or health care matters  
18 covered by the agency.

19 (h) Proceedings under this Section shall be commenced in  
20 the county where the guardian was appointed or, if no Illinois  
21 guardian is acting, then in the county where the agent or  
22 principal resides or where the principal owns real property.

23 (i) This Section shall not be construed to limit any other  
24 remedies available.

25 (Source: P.A. 96-1195, eff. 7-1-11.)

26 Section 99. Effective date. This Act takes effect July 1,

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3	5 ILCS 120/2	from Ch. 102, par. 42
4	5 ILCS 350/1	from Ch. 127, par. 1301
5	20 ILCS 105/4.01	from Ch. 23, par. 6104.01
6	20 ILCS 1305/1-17	
7	20 ILCS 2435/Act rep.	
8	50 ILCS 705/7	from Ch. 85, par. 507
9	205 ILCS 5/48.1	from Ch. 17, par. 360
10	205 ILCS 105/3-8	from Ch. 17, par. 3303-8
11	205 ILCS 205/4013	from Ch. 17, par. 7304-13
12	205 ILCS 305/10	from Ch. 17, par. 4411
13	210 ILCS 55/6.3	
14	210 ILCS 55/6.7	
15	225 ILCS 20/16	from Ch. 111, par. 6366
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20	320 ILCS 20/1	from Ch. 23, par. 6601
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- 1 320 ILCS 20/5 from Ch. 23, par. 6605
- 2 320 ILCS 20/7.5 new
- 3 320 ILCS 20/8 from Ch. 23, par. 6608
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- 5 320 ILCS 20/15
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- 8 735 ILCS 5/8-2701
- 9 755 ILCS 5/11a-10 from Ch. 110 1/2, par. 11a-10
- 10 755 ILCS 45/2-7 from Ch. 110 1/2, par. 802-7
- 11 755 ILCS 45/2-10 from Ch. 110 1/2, par. 802-10