

AN ACT in relation to aging.

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

Section 5. The Elder Abuse and Neglect Act is amended by changing Sections 2, 3, 3.5, 4, 5, 8, 9, and 13 as follows:

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

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

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

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

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

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

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

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

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

(d) "Domestic living situation" means a residence where the

eligible adult lives alone or with his or her family or a caregiver, or others, or a board and care home or other community-based unlicensed facility, but is not:

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

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

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

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

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

(6) A "community residential alternative" as defined in the Community Residential Alternatives Licensing Act;
~~and~~

(7) A "community-integrated living arrangement" as defined in the Community-Integrated Living Arrangements Licensure and Certification Act;~~;~~

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

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

(e) "Eligible adult" means a person 60 years of age or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual or who neglects himself or herself.

(f) "Emergency" means a situation in which an eligible adult is living in conditions presenting a risk of death or physical, mental or sexual injury and the provider agency has

reason to believe the eligible adult is unable to consent to services which would alleviate that risk.

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

(1) a professional or professional's delegate while engaged in: (i) social services, (ii) law enforcement, (iii) education, (iv) the care of an eligible adult or eligible adults, or (v) any of the occupations required to be licensed under the Clinical Psychologist Licensing Act, the Clinical Social Work and Social Work Practice Act, the Illinois Dental Practice Act, the Dietetic and Nutrition Services Practice Act, the Marriage and Family Therapy Licensing Act, the Medical Practice Act of 1987, the Naprapathic Practice Act, the Nursing and Advanced Practice Nursing Act, the Nursing Home Administrators Licensing and Disciplinary Act, the Illinois Occupational Therapy Practice Act, the Illinois Optometric Practice Act of 1987, the Pharmacy Practice Act of 1987, the Illinois Physical Therapy Act, the Physician Assistant Practice Act of 1987, the Podiatric Medical Practice Act of 1987, the Respiratory Care Practice Act, the Professional Counselor and Clinical Professional Counselor Licensing Act, the Illinois Speech-Language Pathology and Audiology Practice Act, the Veterinary Medicine and Surgery Practice Act of 2004, and the Illinois Public Accounting Act;

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

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

(4) any religious practitioner who provides treatment by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination, except as to information received in any

confession or sacred communication enjoined by the discipline of the religious denomination to be held confidential ~~a Christian Science Practitioner;~~

(5) field personnel of the Department of Healthcare and Family Services ~~Public Aid~~, Department of Public Health, and Department of Human Services, and any county or municipal health department;

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

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

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

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

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

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

(i) "Regional administrative agency" means any public or

nonprofit agency in a planning and service area so designated by the Department, provided that the designated Area Agency on Aging shall be designated the regional administrative agency if it so requests. The Department shall assume the functions of the regional administrative agency for any planning and service area where another agency is not so designated.

(i-5) "Self-neglect" means a condition that is the result of an eligible adult's inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including: providing essential food, clothing, shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety.

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

(Source: P.A. 92-16, eff. 6-28-01; 93-281 eff. 12-31-03; 93-300, eff. 1-1-04; revised 12-15-05.)

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

Sec. 3. Responsibilities.

(a) The Department shall establish, design and manage a program of response and services for persons 60 years of age and older who have been, or are alleged to be, victims of abuse, neglect, ~~or~~ financial exploitation, or self-neglect. The Department shall contract with or fund or, contract with and fund, regional administrative agencies, provider agencies, or both, for the provision of those functions, and, contingent on adequate funding, with attorneys or legal services provider agencies for the provision of legal assistance pursuant to this Act.

(b) Each regional administrative agency shall designate provider agencies within its planning and service area with

prior approval by the Department on Aging, monitor the use of services, provide technical assistance to the provider agencies and be involved in program development activities.

(c) Provider agencies shall assist, to the extent possible, eligible adults who need agency services to allow them to continue to function independently. Such assistance shall include but not be limited to receiving reports of alleged or suspected abuse, neglect, ~~or~~ financial exploitation, or self-neglect, conducting face-to-face assessments of such reported cases, determination of substantiated cases, referral of substantiated cases for necessary support services, referral of criminal conduct to law enforcement in accordance with Department guidelines, and provision of case work and follow-up services on substantiated cases.

(d) By January 1, 2008, the Department on Aging, in cooperation with an Elder Self-Neglect Steering Committee, shall by rule develop protocols, procedures, and policies for (i) responding to reports of possible self-neglect, (ii) protecting the autonomy, rights, privacy, and privileges of adults during investigations of possible self-neglect and consequential judicial proceedings regarding competency, (iii) collecting and sharing relevant information and data among the Department, provider agencies, regional administrative agencies, and relevant seniors, (iv) developing working agreements between provider agencies and law enforcement, where practicable, and (v) developing procedures for collecting data regarding incidents of self-neglect. The Elder Self-Neglect Steering Committee shall be comprised of one person selected by the Elder Abuse Advisory Committee of the Department on Aging; 3 persons selected, on the request of the Director of Aging, by State or regional organizations that advocate for the rights of seniors, at least one of whom shall be a legal assistance attorney who represents seniors in competency proceedings; 2 persons selected, on the request of the Director of Aging, by statewide organizations that represent social workers and other persons who provide direct

intervention and care to housebound seniors who are likely to neglect themselves; an expert on geropsychiatry, appointed by the Secretary of Human Services; an expert on issues of physical health associated with seniors, appointed by the Director of Public Health; one representative of a law enforcement agency; one representative of the Chicago Department on Aging; and 3 other persons selected by the Director of Aging, including an expert from an institution of higher education who is familiar with the relevant areas of data collection and study.

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

(320 ILCS 20/3.5)

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

(a) promotion of a wide range of endeavors for the purpose of preventing elder abuse, neglect, ~~and~~ financial exploitation, and self-neglect in both domestic and institutional settings, including, but not limited to, promotion of public and professional education to increase awareness of elder abuse, neglect, ~~and~~ financial exploitation, and self-neglect, to increase reports, and to improve response by various legal, financial, social, and health systems;

(b) coordination of efforts with other agencies, councils, and like entities, to include but not be limited to, the Office of the Attorney General, the State Police, the Illinois Law Enforcement Training Standards Board, the State Triad, the Illinois Criminal Justice Information Authority, the Departments of Public Health, Public Aid, and Human Services, the Family Violence Coordinating Council, the Illinois Violence Prevention Authority, and other entities which may impact awareness of, and response to, elder abuse, neglect, ~~and~~ financial exploitation, and self-neglect;

(c) collection and analysis of data;

(d) monitoring of the performance of regional

administrative agencies and elder abuse provider agencies;

(e) promotion of prevention activities;

(f) establishing and coordinating ~~establishment and coordination of a~~ an aggressive training program on ~~about~~ the unique nature of elder abuse cases with other agencies, councils, and like entities, to include ~~including~~ but not be limited to the Office of the Attorney General, the State Police, the Illinois Law Enforcement Training Standards Board, the State Triad, the Illinois Criminal Justice Information Authority, the State Departments of Public Health, Public Aid, and Human Services, the Family Violence Coordinating Council, the Illinois Violence Prevention Authority, and other entities that may impact awareness of ~~r~~ and response to ~~r~~ elder abuse, neglect, ~~and~~ financial exploitation, and self-neglect;

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

(h) coordinating ~~coordination of~~ efforts with utility and electric companies to send notices in utility bills to ~~which~~ explain to persons 60 years of age or older their ~~elder~~ rights regarding telemarketing and home repair fraud ~~frauds~~.

(Source: P.A. 92-16, eff. 6-28-01; 93-300, eff. 1-1-04; 93-301, eff. 1-1-04; revised 1-23-04.)

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

Sec. 4. Reports of abuse or neglect.

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

(a-5) If any mandated reporter has reason to believe that an eligible adult, who because of dysfunction is unable to seek assistance for himself or herself, has, within the previous 12 months, been subjected to abuse, neglect, or financial exploitation, the mandated reporter shall, within 24 hours after developing such belief, report this suspicion to an agency designated to receive such reports under this Act or to the Department. Whenever a mandated reporter is required to report under this Act in his or her capacity as a member of the staff of a medical or other public or private institution, facility, board and care home, or agency, he or she shall make a report to an agency designated to receive such reports under this Act or to the Department in accordance with the provisions of this Act and may also notify the person in charge of the institution, facility, board and care home, or agency or his or her designated agent that the report has been made. Under no circumstances shall any person in charge of such institution, facility, board and care home, or agency, or his or her designated agent to whom the notification has been made, exercise any control, restraint, modification, or other change in the report or the forwarding of the report to an agency designated to receive such reports under this Act or to the Department. The privileged quality of communication between any professional person required to report and his or her patient or client shall not apply to situations involving abused, neglected, or financially exploited eligible adults and shall not constitute grounds for failure to report as required by this Act.

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

(a-9) Law enforcement officers shall continue to report

incidents of alleged abuse pursuant to the Illinois Domestic Violence Act of 1986, notwithstanding any requirements under this Act.

(b) Any person, institution or agency participating in the making of a report, providing information or records related to a report, assessment, or services, or participating in the investigation of a report under this Act in good faith, or taking photographs or x-rays as a result of an authorized assessment, shall have immunity from any civil, criminal or other liability in any civil, criminal or other proceeding brought in consequence of making such report or assessment or on account of submitting or otherwise disclosing such photographs or x-rays to any agency designated to receive reports of alleged or suspected abuse or neglect. Any person, institution or agency authorized by the Department to provide assessment, intervention, or administrative services under this Act shall, in the good faith performance of those services, have immunity from any civil, criminal or other liability in any civil, criminal, or other proceeding brought as a consequence of the performance of those services. For the purposes of any civil, criminal, or other proceeding, the good faith of any person required to report, permitted to report, or participating in an investigation of a report of alleged or suspected abuse, neglect, or financial exploitation shall be presumed.

(c) The identity of a person making a report of alleged or suspected abuse or neglect under this Act may be disclosed by the Department or other agency provided for in this Act only with such person's written consent or by court order.

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

(e) Any physician who willfully fails to report as required by this Act shall be referred to the Illinois State Medical Disciplinary Board for action in accordance with subdivision (A)(22) of Section 22 of the Medical Practice Act of 1987. Any dentist or dental hygienist who willfully fails to report as

required by this Act shall be referred to the Department of Professional Regulation for action in accordance with paragraph 19 of Section 23 of the Illinois Dental Practice Act. Any other mandated reporter required by this Act to report suspected abuse, neglect, or financial exploitation who willfully fails to report the same is guilty of a Class A misdemeanor.

(Source: P.A. 93-300, eff. 1-1-04; 93-301, eff. 1-1-04.)

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

Sec. 5. Procedure.

(a) A provider agency designated to receive reports of alleged or suspected abuse, neglect, ~~or~~ financial exploitation, or self-neglect under this Act shall, upon receiving such a report, conduct a face-to-face assessment with respect to such report, in accord with established law and Department protocols, procedures, and policies. Face-to-face assessments, casework, and follow-up of reports of self-neglect by the provider agencies designated to receive reports of self-neglect shall be subject to sufficient appropriation for statewide implementation of assessments, casework, and follow-up of reports of self-neglect. In the absence of sufficient appropriation for statewide implementation of assessments, casework, and follow-up of reports of self-neglect, the designated elder abuse provider agency shall refer all reports of self-neglect to the appropriate agency or agencies as designated by the Department for any follow-up. The assessment shall include, but not be limited to, a visit to the residence of the eligible adult who is the subject of the report and may include interviews or consultations with service agencies or individuals who may have knowledge of the eligible adult's circumstances. If, after the assessment, the provider agency determines that the case is substantiated it shall develop a service care plan for the eligible adult and may report its findings to the appropriate law enforcement agency in accord with established law and

Department protocols, procedures, and policies. In developing the plan, the provider agency may consult with any other appropriate provider of services, and such providers shall be immune from civil or criminal liability on account of such acts. The plan shall include alternative suggested or recommended services which are appropriate to the needs of the eligible adult and which involve the least restriction of the eligible adult's activities commensurate with his or her needs. Only those services to which consent is provided in accordance with Section 9 of this Act shall be provided, contingent upon the availability of such services.

(b) A provider agency shall refer evidence of crimes against an eligible adult to the appropriate law enforcement agency according to Department policies. A referral to law enforcement may be made at intake or any time during the case. Where a provider agency has reason to believe the death of an eligible adult may be the result of abuse or neglect, the agency shall immediately report the matter to the coroner or medical examiner and shall cooperate fully with any subsequent investigation.

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

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

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

Sec. 8. Access to records. All records concerning reports of elder abuse, neglect, ~~and~~ financial exploitation, or self-neglect and all records generated as a result of such reports shall be confidential and shall not be disclosed except as specifically authorized by this Act or other applicable law. In accord with established law and Department protocols, procedures, and policies, access ~~Access~~ to such records, but

not access to the identity of the person or persons making a report of alleged abuse, neglect, ~~or~~ financial exploitation, or self-neglect as contained in such records, shall be provided, upon request, ~~allowed~~ to the following persons and for the following persons:

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

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

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

(4) An eligible adult reported to be abused, neglected, ~~or~~ financially exploited, or self-neglected, or such adult's guardian unless such guardian is the abuser or the alleged abuser;

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

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

(6) A grand jury, upon its determination that access to

such records is necessary in the conduct of its official business;

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

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

(9) Department of Professional Regulation staff and members of the Social Work Examining and Disciplinary Board in the course of investigating alleged violations of the Clinical Social Work and Social Work Practice Act by provider agency staff.

(Source: P.A. 89-387, eff. 8-20-95; 90-628, eff. 1-1-99.)

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

Sec. 9. Authority to consent to services.

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

(b) If it reasonably appears to the Department or other agency designated under this Act that a person is an eligible adult and lacks the capacity to consent to necessary services, including an assessment, the Department or other agency may seek the appointment of a guardian as provided in Article XIa of the Probate Act of 1975 for the purpose of consenting to such services.

(c) A guardian of the person of an eligible adult may consent to services being provided according to the service care plan. If a guardian withdraws his or her consent or refuses to allow services to be provided to the eligible adult,

the Department, an agency designated under this Act, or the office of the Attorney General may request a court order seeking appropriate remedies, and may in addition request removal of the guardian and appointment of a successor guardian.

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

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

(f) If the court enters an ex parte order under subsection (d) for an assessment of a report of alleged or suspected self-neglect, or for the provision of necessary services in connection with alleged or suspected self-neglect, or for both, the court, as soon as is practicable thereafter, shall appoint a guardian ad litem for the eligible adult who is the subject of the order, for the purpose of reviewing the reasonableness of the order. The guardian ad litem shall review the order and, if the guardian ad litem reasonably believes that the order is

unreasonable, the guardian ad litem shall file a petition with the court stating the guardian ad litem's belief and requesting that the order be vacated.

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

(320 ILCS 20/13)

Sec. 13. Access.

(a) In accord with established law and Department protocols, procedures, and policies, the ~~The~~ designated provider agencies shall have access to eligible adults who have been reported or found to be victims of abuse, neglect, ~~or~~ financial exploitation, or self-neglect in order to assess the validity of the report, assess other needs of the eligible adult, and provide services in accordance with this Act.

(b) Where access to an eligible adult is denied, the Office of the Attorney General, the Department, or the provider agency may petition the court for an order to require appropriate access where:

(1) a caregiver or third party has interfered with the assessment or service plan, or

(2) the agency has reason to believe that the eligible adult is denying access because of coercion, extortion, or justifiable fear of future abuse, neglect, or financial exploitation.

(c) The petition for an order requiring appropriate access shall be afforded an expedited hearing in the circuit court.

(d) If the elder abuse provider agency has substantiated financial exploitation against an eligible adult, and has documented a reasonable belief that the eligible adult will be irreparably harmed as a result of the financial exploitation, the Office of the Attorney General, the Department, or the provider agency may petition for an order freezing the assets of the eligible adult. The petition shall be filed in the county or counties in which the assets are located. The court's order shall prohibit the sale, gifting, transfer, or wasting of the assets of the eligible adult, both real and personal, owned

by, or vested in, the eligible adult, without the express permission of the court. The petition to freeze the assets of the eligible adult shall be afforded an expedited hearing in the circuit court.

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

Section 99. Effective date. This Act takes effect January 1, 2007.