

AN ACT concerning aging.

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

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

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

Sec. 2. Open meetings.

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

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

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

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

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

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

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

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

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

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

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

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

(9) Student disciplinary cases.

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

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

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

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

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

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

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

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

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

(18) Deliberations for decisions of the Prisoner

Review Board.

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

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

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

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

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

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

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

(26) Meetings of a mortality review team appointed

under the Department of Juvenile Justice Mortality Review Team Act.

(27) (Blank).

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

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

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

(31) ~~(30)~~ Meetings and deliberations for decisions of the Concealed Carry Licensing Review Board under the Firearm Concealed Carry Act.

(d) Definitions. For purposes of this Section:

"Employee" means a person employed by a public body whose

relationship with the public body constitutes an employer-employee relationship under the usual common law rules, and who is not an independent contractor.

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

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

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

(Source: P.A. 97-318, eff. 1-1-12; 97-333, eff. 8-12-11; 97-452, eff. 8-19-11; 97-813, eff. 7-13-12; 97-876, eff. 8-1-12; 98-49, eff. 7-1-13; 98-63, eff. 7-9-13; revised 7-23-13.)

Section 10. The Freedom of Information Act is amended by changing Section 7.5 as follows:

(5 ILCS 140/7.5)

Sec. 7.5. Statutory Exemptions. To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:

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

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

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

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

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

(f) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications

Based Selection Act.

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

(h) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act, and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.

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

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

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

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

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

Article.

(n) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act. This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

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

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

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

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

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

(t) All identified or deidentified health information in the form of health data or medical records contained in, stored in, submitted to, transferred by, or released from the Illinois

Health Information Exchange, and identified or deidentified health information in the form of health data and medical records of the Illinois Health Information Exchange in the possession of the Illinois Health Information Exchange Authority due to its administration of the Illinois Health Information Exchange. The terms "identified" and "deidentified" shall be given the same meaning as in the Health Insurance Accountability and Portability Act of 1996, Public Law 104-191, or any subsequent amendments thereto, and any regulations promulgated thereunder.

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

(v) Names and information of people who have applied for or received Firearm Owner's Identification Cards under the Firearm Owners Identification Card Act or applied for or received a concealed carry license under the Firearm Concealed Carry Act, unless otherwise authorized by the Firearm Concealed Carry Act; and databases under the Firearm Concealed Carry Act, records of the Concealed Carry Licensing Review Board under the Firearm Concealed Carry Act, and law enforcement agency objections under the Firearm Concealed Carry Act.

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

(x) Information which is exempted from disclosure under Section 5-1014.3 of the Counties Code or Section 8-11-21 of the

Illinois Municipal Code.

(y) Confidential information under the Adult Protective Services Act and its predecessor enabling statute, the Elder Abuse and Neglect Act, including information about 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 maintained in the ~~Department of Public Health's Health Care Worker~~ Registry established under Section 7.5.

(z) Records and information provided to ~~a~~ ~~an at risk adult~~ fatality review team or the Illinois ~~At-Risk Adult~~ Fatality Review Team Advisory Council under Section 15 of the Adult Protective Services Act.

(Source: P.A. 97-80, eff. 7-5-11; 97-333, eff. 8-12-11; 97-342, eff. 8-12-11; 97-813, eff. 7-13-12; 97-976, eff. 1-1-13; 98-49, eff. 7-1-13; 98-63, eff. 7-9-13; revised 7-23-13.)

Section 15. The Adult Protective Services Act is amended by changing Sections 2, 3, 3.5, 4, 5, 7.5, 8, 9, 13, and 15 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, 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-6) "Adult with disabilities" means a person aged 18 through 59 who resides in a domestic living situation and whose disability as defined in subsection (c-5) impairs his or her ability to seek or obtain protection from abuse, neglect, or exploitation.

(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 or instrumental activities of daily living.

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

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

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

(d) "Domestic living situation" means a residence where the eligible adult at the time of the report lives alone or with his or her family or a caregiver, or others, 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;

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

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

(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) (Blank);

(7) A "community-integrated living arrangement" as defined in the Community-Integrated Living Arrangements Licensure and Certification Act or a "community residential alternative" as licensed under that 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 either an adult with disabilities aged 18 through 59 or a person aged 60 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-1) "Financial exploitation" means the use of an eligible adult's resources by another to the disadvantage of that adult or the profit or advantage of a person other than that adult.

(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 Dietitian Nutritionist Practice Act, the Marriage and Family Therapy Licensing Act, the Medical Practice Act of 1987, the Naprapathic Practice Act, the Nurse Practice 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, 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 and Practice 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;

(1.5) an employee of an entity providing developmental disabilities services or service coordination funded by

the Department of Human Services;

(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;

(5) field personnel of the Department of Healthcare and Family Services, 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 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 that is selected by the Department or 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. A provider agency is also referenced as a "designated agency" in this Act.

(i) "Regional administrative agency" means any public or nonprofit agency in a planning and service area that provides regional oversight and performs functions as set forth in subsection (b) of Section 3 of this Act. The Department shall

designate an Area Agency on Aging as the regional administrative agency or, in the event the Area Agency on Aging in that planning and service area is deemed by the Department to be unwilling or unable to provide those functions, the Department may serve as the regional administrative agency or designate another qualified entity to serve as the regional administrative agency; any such designation shall be subject to terms set forth by the Department. ~~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. The term includes compulsive hoarding, which is characterized by the acquisition and retention of large quantities of items and materials that produce an extensively cluttered living space, which significantly impairs the performance of essential self-care tasks or otherwise substantially threatens life or safety.

(j) "Substantiated case" means a reported case of alleged or suspected abuse, neglect, 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.

(k) "Verified" means a determination that there is "clear and convincing evidence" that the specific injury or harm alleged was the result of abuse, neglect, or financial exploitation.

(Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-300, eff. 8-11-11; 97-706, eff. 6-25-12; 97-813, eff. 7-13-12; 97-1141, eff. 12-28-12; 98-49, eff. 7-1-13; 98-104, eff. 7-22-13; revised 9-19-13.)

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

Sec. 3. Responsibilities.

(a) The Department shall establish, design, and manage a protective services program for eligible adults who have been, or are alleged to be, victims of abuse, neglect, 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. For self-neglect, the program shall include the following services

for eligible adults who have been removed from their residences for the purpose of cleanup or repairs: temporary housing; counseling; and caseworker services to try to ensure that the conditions necessitating the removal do not reoccur.

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

(a-5) A provider agency shall, in accordance with rules promulgated by the Department, establish a multi-disciplinary team to act in an advisory role for the purpose of providing professional knowledge and expertise in the handling of complex abuse cases involving eligible adults. Each multi-disciplinary team shall consist of one volunteer representative from the following professions: banking or finance; disability care; health care; law; law enforcement; mental health care; and clergy. A provider agency may also choose to add representatives from the fields of substance abuse, domestic violence, sexual assault, or other related fields. To support multi-disciplinary teams in this role, law enforcement agencies and coroners or medical examiners shall supply records as may be requested in particular cases.

(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, 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. In the case of a report of alleged or suspected abuse or neglect that places an eligible adult at risk of injury or death, a provider agency shall respond to the report on an emergency basis in accordance with guidelines established by the Department by administrative rule and shall ensure that it is capable of responding to such a report 24 hours per day, 7 days per week. A provider agency may use an on-call system to respond to reports of alleged or suspected abuse or neglect after hours and on weekends.

(c-5) Where a provider agency has reason to believe that the death of an eligible adult may be the result of abuse or neglect, including any reports made after death, the agency

shall immediately report the matter to both the appropriate law enforcement agency and the coroner or medical examiner. Between 30 and 45 days after making such a report, the provider agency again shall contact the law enforcement agency and coroner or medical examiner to determine whether any further action was taken. Upon request by a provider agency, a law enforcement agency and coroner or medical examiner shall supply a summary of its action in response to a reported death of an eligible adult. A copy of the report shall be maintained and all subsequent follow-up with the law enforcement agency and coroner or medical examiner shall be documented in the case record of the eligible adult. If the law enforcement agency, coroner, or medical examiner determines the reported death was caused by abuse or neglect by a caregiver, the law enforcement agency, coroner, or medical examiner shall inform the Department, and the Department shall report the caregiver's identity on the Registry as described in Section 7.5 of this Act.

(d) Upon sufficient appropriations to implement a statewide program, the Department shall implement a program, based on the recommendations of the Self-Neglect Steering Committee, 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.

(Source: P.A. 98-49, eff. 7-1-13.)

(320 ILCS 20/3.5)

Sec. 3.5. Other Responsibilities. The Department shall also be responsible for the following activities, contingent upon adequate funding; implementation shall be expanded to adults with disabilities upon the effective date of this amendatory Act of the 98th General Assembly, except those responsibilities under subsection (a), which shall be undertaken as soon as practicable:

(a) promotion of a wide range of endeavors for the purpose of preventing abuse, neglect, financial exploitation, and self-neglect, including, but not limited to, promotion of public and professional education to increase awareness of abuse, neglect, financial exploitation, and self-neglect; to increase reports; to establish access to and use of the ~~Health Care Worker~~ Registry established under Section 7.5; 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 Administrative Office of the Illinois Courts, 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, Healthcare and Family Services, and Human Services, the Illinois Guardianship and Advocacy Commission, the Family Violence Coordinating Council, the Illinois Violence Prevention Authority, and other entities which may impact awareness of, and response to, abuse, neglect, financial exploitation, and self-neglect;

(c) collection and analysis of data;

(d) monitoring of the performance of regional administrative agencies and adult protective services agencies;

(e) promotion of prevention activities;

(f) establishing and coordinating an aggressive training program on the unique nature of adult abuse cases 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 State Departments of Public Health, Healthcare and Family Services, and Human Services, the Family Violence

Coordinating Council, the Illinois Violence Prevention Authority, the agency designated by the Governor under Section 1 of the Protection and Advocacy for Developmentally Disabled Persons Act, and other entities that may impact awareness of and response to abuse, neglect, 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 adults 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;

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

under this subsection (g-1); and

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

(Source: P.A. 98-49, eff. 7-1-13.)

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

Sec. 4. Reports of abuse or neglect.

(a) Any person who suspects the abuse, neglect, 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 a disability or other condition or impairment 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. The agency designated to receive such reports under this Act or the Department may establish a manner in which a mandated reporter can make the required report through an Internet reporting tool. Information sent and received through the Internet reporting tool is subject to the same rules in this Act as

other types of confidential reporting established by the designated agency or 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, 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, financial exploitation, or self-neglect shall be presumed.

(c) The identity of a person making a report of alleged or suspected abuse, neglect, financial exploitation, or self-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, but is otherwise confidential.

(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 optometrist who willfully fails to report as required by this Act shall be referred to the Department of Financial and Professional Regulation for action in accordance with paragraph (15) of subsection (a) of Section 24 of the Illinois Optometric Practice Act of 1987. 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. 97-860, eff. 7-30-12; 98-49, eff. 7-1-13.)

(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, 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 adult protective services 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 at any time during the case to the appropriate law enforcement agency in accord with established law and Department protocols, procedures, and policies. In developing a case 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. 98-49, eff. 7-1-13.)

(320 ILCS 20/7.5)

Sec. 7.5. ~~Health Care Worker~~ Registry.

(a) To protect individuals receiving in-home and community-based services, the Department on Aging shall establish an Adult Protective Service Registry that will be hosted by the Department of Public Health on its website effective January 1, 2015, and, if practicable, shall propose rules for the Registry by January 1, 2015.

(a-5) The Registry shall identify caregivers against whom a verified and substantiated finding was made under this Act of abuse, neglect, or financial exploitation.

The information in the Registry shall be confidential except as specifically authorized in this Act and shall not be deemed a public record.

(a-10) ~~(a)~~ Reporting to the Registry. The Department on Aging shall report to the ~~to the Department of Public Health's Health Care Worker~~ Registry the identity of the caregiver when a ~~and administrative finding of a~~ verified and substantiated ~~finding decision~~ of abuse, neglect, or financial exploitation of an eligible adult under this Act ~~that~~ is made against a

caregiver, and all appeals, challenges, and reviews, if any, have been completed and a finding for placement on the Registry has been sustained or upheld. ~~any caregiver, including consultants and volunteers, employed by a provider licensed, certified, or regulated by, or paid with public funds from, the Department of Public Health, Healthcare and Family Services, or Human Services, or the Department on Aging. For uncompensated or privately paid caregivers, the Department on Aging shall report only a verified and substantiated decision of significant abuse, neglect, or financial exploitation of an eligible adult under this Act.~~

A ~~An administrative finding against a caregiver that is placed in the Registry shall preclude that any caregiver from providing direct care, as defined in this Section access or other services, including consulting and volunteering, in a position with or that is regulated by or paid with public funds from the Department on Aging, the Department of Healthcare and Family Services, the Department of Human Services, or the Department of Public Health or with an entity or provider licensed, certified, or regulated by or paid with public funds from any of these State agencies a provider that is licensed, certified, or regulated by, or paid with public funds from or on behalf of, the State of Illinois or any Department thereof, that permits the caregiver direct access to an adult aged 60 or older or an adult, over 18, with a disability or to that individual's living quarters or personal, financial, or~~

~~medical records.~~

(b) Definitions. As used in this Section:

"Direct care" includes, but is not limited to, direct access to a person aged 60 or older or to an adult with disabilities aged 18 through 59 ~~to an individual~~, his or her living quarters, or his or her personal, financial, or medical records for the purpose of providing nursing care or assistance with feeding, dressing, movement, bathing, toileting, other personal needs and activities of daily living or instrumental activities of daily living, or assistance with financial transactions.

"Participant" means an individual who uses the services of an in-home care program funded through the Department on Aging, the Department of Healthcare and Family Services, the Department of Human Services, or the Department of Public Health.

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

~~"Significant" means a finding of abuse, neglect, or financial exploitation as determined by the Department that (i) represents a meaningful failure to adequately provide for, or a~~

~~material indifference to, the financial, health, safety, or medical needs of an eligible adult or (ii) results in an eligible adult's death or other serious deterioration of an eligible adult's financial resources, physical condition, or mental condition.~~

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

(c) Access to and use of the Registry. Access to the Registry shall be limited to the Department on Aging, the Department of Healthcare and Family Services, the Department of Human Services, and the Department of Public Health and providers of direct care as described in subsection (a-10) of this Section. ~~These State agencies and providers licensed, certified, or regulated providers by the Department of Public Health, Healthcare and Family Service, or Human Services, or the Department on Aging. The State of Illinois, any Department thereof, or a provider licensed, certified, or regulated, or paid with public funds by, from, or on behalf of the Department of Public Health, Healthcare and Family Services, or Human Services, or the Department on Aging, shall not hire, or compensate either directly or on behalf of a participant, or utilize the services of any person seeking employment, retain~~

~~any contractors, or accept any volunteers~~ to provide direct care without first conducting an online check of whether the person has been placed on the Registry ~~the person through the Department of Public Health's Health Care Worker Registry.~~ These State agencies and providers ~~The provider~~ shall maintain a copy of the results of the online check to demonstrate compliance with this requirement. These State agencies and providers are ~~The provider is~~ prohibited from retaining, hiring, compensating either directly or on behalf of a participant, or utilizing the services of ~~accepting~~ a person to provide direct care if, including as a consultant or volunteer, for whom the online check of the person reveals a verified and substantiated finding ~~claim~~ of abuse, neglect, or financial exploitation that has been placed on the Registry or when the State agencies or providers otherwise gain knowledge of such placement on the Registry, ~~to provide direct access to any adult aged 60 or older or any adult, over 18, with a disability. Additionally, a provider is prohibited from retaining a person for whom they gain knowledge of a verified and substantiated claim of abuse, neglect, or financial exploitation in a position that permits the caregiver direct access to provide direct care to any adult aged 60 or older or any adult, over 18, with a disability or direct access to that individual's living quarters or personal, financial, or medical records.~~ Failure to comply with this requirement may subject such a provider to corrective action by the appropriate

regulatory agency or other lawful remedies provided under the applicable licensure, certification, or regulatory laws and rules.

(d) Notice to caregiver. The Department on Aging shall establish rules concerning notice to the caregiver in cases of a verified and substantiated finding of abuse, neglect, or financial exploitation against him or her that may make him or her eligible for placement on the Registry.

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

(f) Notification to employer. The Department on Aging shall notify the appropriate State agency or provider of direct care, as described in subsection (a-10), when there is ~~A provider licensed, certified, or regulated by the Department of Public Health, Healthcare and Family Services, or Human Services, or the Department on Aging shall be notified of an administrative finding against any caregiver who is an employee, consultant, or volunteer of~~ a verified and substantiated finding ~~decision~~ of abuse, neglect, or financial exploitation in a case ~~of an eligible adult~~ under this Act that is reported on the Registry and that involves one of its caregivers. That State agency or provider is prohibited from retaining or compensating that

individual in a position that involves direct care, and if. ~~If~~
there is an imminent risk of danger to the victim eligible
~~adult~~ or an imminent risk of misuse of personal, medical, or
financial information, that ~~the~~ caregiver shall immediately be
barred from providing direct care ~~access~~ to the victim eligible
~~adult, his or her living quarters, or his or her personal,~~
~~financial, or medical records,~~ pending the outcome of any
challenge, appeal, criminal prosecution, or other type of
collateral action.

(g) Challenges and appeals ~~Caregiver challenges~~. The
Department on Aging shall establish, by rule, procedures
concerning ~~caregiver~~ challenges and appeals to placement on the
Registry pursuant to legislative intent. The Department shall
not make any report to the Registry pending challenges or
appeals.

(h) Caregiver's rights to collateral action. The
Department on Aging shall not make any report to the Registry
if a caregiver notifies the Department in writing, ~~including~~
~~any supporting documentation,~~ that he or she is formally
challenging an adverse employment action resulting from a
verified and substantiated finding of abuse, neglect, or
financial exploitation by complaint filed with the Illinois
Civil Service Commission, or by another means which seeks to
enforce the caregiver's rights pursuant to any applicable
collective bargaining agreement. If an action taken by an
employer against a caregiver as a result of ~~a~~ such a finding ~~of~~

~~abuse, neglect, or financial exploitation~~ is overturned through an action filed with the Illinois Civil Service Commission or under any applicable collective bargaining agreement after that caregiver's name has already been sent to the Registry, the caregiver's name shall be removed from the Registry.

(i) Removal from Registry. At any time after a report to the Registry, but no more than once in each successive 3-year period thereafter, for a maximum of 3 such requests, a caregiver may ~~write to the Director of the Department on Aging to~~ request removal of his or her name from the Registry in relationship to a single incident. The caregiver shall bear the burden of establishing ~~showing cause that establishes~~, by a preponderance of the evidence, that removal of his or her name from the Registry is in the public interest. Upon receiving such a request, the Department on Aging shall conduct an investigation and consider any evidentiary material provided. The Department shall issue a decision either granting or denying removal ~~within 60 calendar days, and shall issue such decision~~ to the caregiver and report it to the Registry. ~~The waiver process at the Department of Public Health does not apply to Registry reports from the Department on Aging.~~ The Department ~~on Aging~~ shall, by rule, establish standards and a process for requesting the removal of a name from the Registry ~~by rule~~.

(j) Referral of Registry reports to health care facilities.

In the event an eligible adult receiving services from a provider agency changes his or her residence from a domestic living situation to that of a health care or long term care facility, the provider agency shall use reasonable efforts to promptly inform the ~~health care~~ facility and the appropriate Regional Long Term Care Ombudsman about any Registry reports relating to the eligible adult. For purposes of this Section, a health care or long term care facility includes, but is not limited to, any residential facility licensed, certified, or regulated by the Department of Public Health, Healthcare and Family Services, or Human Services.

(k) The Department on Aging and its employees and agents shall have immunity, except for intentional willful and wanton misconduct, from any liability, civil, criminal, or otherwise, for reporting information to and maintaining the Registry.

(Source: P.A. 98-49, eff. 1-1-14; revised 11-12-13.)

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

Sec. 8. Access to records. All records concerning reports of abuse, neglect, 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 to such records, but not access to the identity of the person or persons making a report of alleged

abuse, neglect, financial exploitation, or self-neglect as contained in such records, shall be provided, upon request, 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 abuse, neglect, 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, including any reports made after death, the agency shall immediately provide the appropriate law enforcement agency with all records pertaining to the eligible adult;

(2.5) A law enforcement agency, fire department agency, or fire protection district having proper jurisdiction pursuant to a written agreement between a provider agency and the law enforcement agency, fire department agency, or fire protection district under which the provider agency may furnish to the law enforcement agency, fire department agency, or fire protection district a list of all eligible adults who may be at imminent risk of abuse, neglect, financial exploitation,

or self-neglect;

(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, financially exploited, or self-neglected or who has been referred to the Adult Protective Services Program;

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

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

(5) In cases regarding 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, financial exploitation, or self-neglect. The provider agency shall immediately provide the coroner or medical examiner with all records pertaining to the eligible adult;

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

(9) Department of Financial and Professional Regulation staff and members of the Illinois Medical Disciplinary Board or 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 or other licensing bodies at the discretion of the Director of the Department on Aging;

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

eligible adult;

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

(10) Hearing officers in the course of conducting an administrative hearing under this Act; parties to such hearing shall be entitled to discovery as established by rule; ~~to determine whether a verified and substantiated finding of significant abuse, neglect, or financial exploitation of an eligible adult by a caregiver warrants reporting to the Health Care Worker Registry; and~~

(11) A caregiver who challenges placement on the Registry shall be given the statement of allegations in the abuse report and the substantiation decision in the final investigative report; and

(12) ~~(11)~~ The Illinois Guardianship and Advocacy Commission and the agency designated by the Governor under Section 1 of the Protection and Advocacy for Developmentally Disabled Persons Act shall have access, through the Department, to records, including the findings, pertaining to a completed or closed investigation of a report of suspected abuse, neglect, financial exploitation, or self-neglect of an eligible adult.

(Source: P.A. 97-864, eff. 1-1-13; 98-49, eff. 7-1-13.)

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

Sec. 9. Authority to consent to services.

(a) If an eligible adult consents to an assessment of a reported incident of suspected abuse, neglect, financial exploitation, or self-neglect and, following the assessment of such report, consents to services being provided according to the case 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 for an assessment of the reported incident or withdraws his or her consent for services and 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 an assessment of a reported incident of suspected abuse, neglect, financial exploitation, or self-neglect or to necessary services, the Department or other agency shall take appropriate action necessary to ameliorate risk to the eligible adult if there is a threat of ongoing harm or another emergency exists. The Department or other agency shall be authorized to seek the ~~notify the Illinois Guardianship and Advocacy Commission, the Office of State Guardian, or any other appropriate agency, of the potential need for~~ appointment of a temporary guardian as

provided in Article XIa of the Probate Act of 1975 for the purpose of consenting to an assessment of the reported incident and such services, together with an order for an evaluation of the eligible adult's physical, psychological, and medical condition and decisional capacity.

(c) A guardian of the person of an eligible adult may consent to an assessment of the reported incident and to services being provided according to the case plan. If an eligible adult lacks capacity to consent, an agent having authority under a power of attorney may consent to an assessment of the reported incident and to services. If the guardian or agent is the suspected abuser and he or she withdraws consent for the assessment of the reported incident, 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 or request removal of the agent and appointment of a 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, financial exploitation, or

self-neglect occurred, authorizing an assessment of a report of alleged or suspected abuse, neglect, 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. When an eligible adult is at risk of serious injury or death and it reasonably appears that the eligible adult lacks capacity to consent to necessary services, the Department or other agency designated under this Act may take action necessary to ameliorate the risk in accordance with administrative rules promulgated by the Department.

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

(e) Within 15 days after the entry of the ex parte emergency order, the order shall expire, or, if the need for assessment of the reported incident 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 reported incident of alleged or suspected abuse, neglect, financial exploitation, or 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.

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

(Source: P.A. 98-49, eff. 7-1-13.)

(320 ILCS 20/13)

Sec. 13. Access.

(a) In accord with established law and Department protocols, procedures, and policies, the designated provider agencies shall have access to eligible adults who have been

reported or found to be victims of abuse, neglect, 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.

(a-5) A representative of the Department or a designated provider agency that is actively involved in an abuse, neglect, financial exploitation, or self-neglect investigation under this Act shall be allowed access to the financial records, mental and physical health records, and other relevant evaluative records of the eligible adult which are in the possession of any individual, financial institution, health care provider, mental health provider, educational facility, or other facility if necessary to complete the investigation mandated by this Act. The provider or facility shall provide such records to the representative upon receipt of a written request and certification from the Department or designated provider agency that an investigation is being conducted under this Act and the records are pertinent to the investigation.

Any records received by such representative, the confidentiality of which is protected by another law or rule, shall be maintained as confidential, except for such use as may be necessary for any administrative or other legal proceeding.

(b) Where access to an eligible adult is denied, including the refusal to provide requested records, 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 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. 96-526, eff. 1-1-10.)

(320 ILCS 20/15)

Sec. 15. ~~Abuse~~ Fatality Review Teams.

(a) State policy.

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

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

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

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

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

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

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

(b) The Director, in consultation with the Advisory Council, law enforcement, and other professionals who work in the fields of investigating, treating, or preventing abuse or neglect of at-risk adults, shall appoint members to a minimum of one review team in each of the Department's planning and service areas. Each member of a review team shall be appointed for a 2-year term and shall be eligible for reappointment upon the expiration of the term. A review team's purpose in conducting review of at-risk adult deaths is: (i) to assist local agencies in identifying and reviewing suspicious deaths of adult victims of alleged, suspected, or substantiated abuse or neglect in domestic living situations; (ii) to facilitate communications between officials responsible for autopsies and inquests and persons involved in reporting or investigating alleged or suspected cases of abuse, neglect, or financial exploitation of at-risk adults and persons involved in providing services to at-risk adults; (iii) to evaluate means by which the death might have been prevented; and (iv) to report its findings to the appropriate agencies and the Advisory Council and make recommendations that may help to reduce the number of at-risk adult deaths caused by abuse and neglect and that may help to improve the investigations of deaths of at-risk adults and increase prosecutions, if appropriate.

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

- (1) the Department on Aging;
- (2) coroners or medical examiners (or both);
- (3) State's Attorneys;
- (4) local police departments;
- (5) forensic units;
- (6) local health departments;
- (7) a social service or health care agency that provides services to persons with mental illness, in a program whose accreditation to provide such services is recognized by the Division of Mental Health within the Department of Human Services;
- (8) a social service or health care agency that provides services to persons with developmental disabilities, in a program whose accreditation to provide such services is recognized by the Division of Developmental Disabilities within the Department of Human Services;
- (9) a local hospital, trauma center, or provider of emergency medicine;
- (10) providers of services for eligible adults in domestic living situations; and
- (11) a physician, psychiatrist, or other health care provider knowledgeable about abuse and neglect of at-risk adults.

(c) A review team shall review cases of deaths of at-risk adults occurring in its planning and service area (i) involving

blunt force trauma or an undetermined manner or suspicious cause of death, (ii) if requested by the deceased's attending physician or an emergency room physician, (iii) upon referral by a health care provider, (iv) upon referral by a coroner or medical examiner, (v) constituting an open or closed case from an adult protective services agency, law enforcement agency, State's Attorney's office, or the Department of Human Services' Office of the Inspector General that involves alleged or suspected abuse, neglect, or financial exploitation; or (vi) upon referral by a law enforcement agency or State's Attorney's office. If such a death occurs in a planning and service area where a review team has not yet been established, the Director shall request that the Advisory Council or another review team review that death. A team may also review deaths of at-risk adults if the alleged abuse or neglect occurred while the person was residing in a domestic living situation.

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

(c-5) The Illinois ~~At-Risk Adult~~ Fatality Review Team ~~Teams~~ Advisory Council, consisting of one member from each review team in Illinois, shall be the coordinating and oversight body

for review teams and activities in Illinois. The Director may appoint to the Advisory Council any ex-officio members deemed necessary. Persons with expertise needed by the Advisory Council may be invited to meetings. The Advisory Council must select from its members a chairperson and a vice-chairperson, each to serve a 2-year term. The chairperson or vice-chairperson may be selected to serve additional, subsequent terms. The Advisory Council must meet at least 4 times during each calendar year.

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

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

- (1) To serve as the voice of review teams in Illinois.
- (2) To oversee the review teams in order to ensure that the review teams' work is coordinated and in compliance with State statutes and the operating protocol.
- (3) To ensure that the data, results, findings, and recommendations of the review teams are adequately used in a timely manner to make any necessary changes to the policies, procedures, and State statutes in order to protect at-risk adults.
- (4) To collaborate with the Department in order to

develop any legislation needed to prevent unnecessary deaths of at-risk adults.

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

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

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

(8) To perform any other functions necessary to enhance the capability of the review teams to reduce and prevent at-risk adult fatalities.

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

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

(d) Any document or oral or written communication shared

within or produced by the review team relating to a case discussed or reviewed by the review team is confidential and is not admissible as evidence in any civil or criminal proceeding, except for use by a State's Attorney's office in prosecuting a criminal case against a caregiver. Those records and information are, however, subject to discovery or subpoena, and are admissible as evidence, to the extent they are otherwise available to the public.

Any document or oral or written communication provided to a review team by an individual or entity, and created by that individual or entity solely for the use of the review team, is confidential, is not subject to disclosure to or discoverable by another party, and is not admissible as evidence in any civil or criminal proceeding, except for use by a State's Attorney's office in prosecuting a criminal case against a caregiver. Those records and information are, however, subject to discovery or subpoena, and are admissible as evidence, to the extent they are otherwise available to the public.

Each entity or individual represented on the ~~abuse~~ fatality review team may share with other members of the team information in the entity's or individual's possession concerning the decedent who is the subject of the review or concerning any person who was in contact with the decedent, as well as any other information deemed by the entity or individual to be pertinent to the review. Any such information shared by an entity or individual with other members of the

review team is confidential. The intent of this paragraph is to permit the disclosure to members of the review team of any information deemed confidential or privileged or prohibited from disclosure by any other provision of law. Release of confidential communication between domestic violence advocates and a domestic violence victim shall follow subsection (d) of Section 227 of the Illinois Domestic Violence Act of 1986 which allows for the waiver of privilege afforded to guardians, executors, or administrators of the estate of the domestic violence victim. This provision relating to the release of confidential communication between domestic violence advocates and a domestic violence victim shall exclude adult protective service providers.

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

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

(d-5) Meetings of the review teams and the Advisory Council may be closed to the public under the Open Meetings Act.

Records and information provided to a review team and the Advisory Council, and records maintained by a team or the Advisory Council, are exempt from release under the Freedom of Information Act.

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

(e-5) The State shall indemnify and hold harmless members of a review team and the Advisory Council for all their acts, omissions, decisions, or other conduct arising out of the scope of their service on the review team or Advisory Council, except those involving willful or wanton misconduct. The method of providing indemnification shall be as provided in the State Employee Indemnification Act.

(f) The Department, in consultation with coroners, medical examiners, and law enforcement agencies, shall use aggregate data gathered by and recommendations from the Advisory Council and the review teams to create an annual report and may use those data and recommendations to develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for at-risk adults and their families. The Department or other State or county agency, in consultation with coroners, medical examiners, and law

enforcement agencies, also may use aggregate data gathered by the review teams to create a database of at-risk individuals.

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

(Source: P.A. 98-49, eff. 7-1-13.)

Section 99. Effective date. This Act takes effect upon becoming law.