



State of Illinois
Illinois Department on Aging



Adult Protective Services Program
**Regional Inter-Agency
Fatality Review
Team Manual**
Revised January, 2019

Manual is based on Adopted Rules amending
Adult Protection and Advocacy Services
(89 Illinois Administrative Code 270, Sections 270.221,
270.500 and 270.505) published in Volume 42, Issue 15 of
the Illinois Register, dated April 13, 2018.
APS Act and Standards and Procedures

INTRODUCTION

Response to abuse of older adults and those with disabilities by social, health and legal systems lag behind responses to child abuse or domestic violence. Research indicates elder abuse hastens mortality and may directly cause death.

If we understand these parallels, what can be done? This question is being put to a wide variety of caring professionals throughout Illinois providing their time and expertise to Fatality Review Teams (FRT). FRTs foster examination of and improvement in responses of adult protective services, law enforcement, prosecutors, victim assistance providers, health care providers, and others to growing numbers of abuse.

The fruits of these labors are being seen. FRTs have raised awareness among professionals and, ultimately, the community about the seriousness and potential lethality of abuse against adults. The work encourages policymakers, program administrators and workers, and the public to question whether a death was caused by or related to abuse, and decide how to set protections and reforms in place to prevent similar deaths.

Another benefit of participation is that many FRT members bring high levels of knowledge and expertise to discussions. Team members, thus, have an opportunity to educate each other on complex issues.

Data generated by FRTs may also prove invaluable. It can be used to educate the public about deathly outcome of abuse and help identify patterns known as lethality factors – of both perpetrators and victims.

Working together, professionals have a better window into “big picture” issues that affect service delivery. As they identify gaps or breakdowns in systems, they may use their collective wisdom and professional credibility to advocate for improvements in state statutes; agency structures, procedures and/or leadership; funding; and heightened community awareness. The opportunity to act as effective change agents can be energizing for all team members.

HISTORY

The Fatality Review Team concept was developed by the medical profession or the automobile industry, depending on the history one reads. Regardless of origin, the concept involves bringing together a group of professionals to improve the system that caused, contributed to, or failed to prevent deaths and thus, prevent similar deaths in the future.

According to a recent survey by the National Adult Protective Services Association and the National Center for Fatality Review and Prevention, there are seven state teams and 12 local teams throughout the country examining fatalities involving older adults and adults with disabilities.

In Illinois, the Kane County Elder Abuse Fatality Review Team began operating in 2005 and helped to pass Public Act 95-402 (effective 6-1-08) authorizing the statewide establishment of Elder Abuse Fatality Review Teams throughout Illinois.

Another significant event occurred July 1, 2013, when legislation by the Illinois General Assembly expanded the Elder Abuse and Neglect Program to encompass adults with disabilities aged 18-59 living in a domestic setting. Therefore, the program in Illinois was officially renamed the Adult Protective Services Program.

Regional Interagency Fatality Review Teams (FRTs) were subsequently formed in each of the Department's Planning and Service Areas (PSA). PSAs 01, 02, 05, 06 and 07 formed in 2014. PSAs 03, 04, and 10 formed teams in 2015. In 2016, FRTs were established in PSA 12, covering the city of Chicago and PSA 13, covering Cook County outside Chicago. In addition, a Regional FRT was formed in PSA 05. In FY 2017, FRTs were formed in 08 and 09.

MISSION

FRTs purpose in reviewing a death is 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;

Facilitate communication 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;

Evaluate means by which the death might have been prevented; and

Report findings to the appropriate agencies and the FRT 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.

COMPOSITION

The IDoA Director, in consultation with the FRT Advisory Council, law enforcement, and other professionals who work in the fields of investigating, treating or preventing abuse or neglect of at-risk adults appoint members to a minimum of one FRT in each of the Department's PSAs.

The FRT is composed of representatives of entities and individuals including, but not limited to:

IDoA;

coroners/medical examiners;

State's Attorneys;

local police departments;

forensic units;

local health departments;

social service or health care agency that provides services to persons with mental illness;

social service or health care agency that provides services to persons with developmental disabilities;

local hospital, trauma center, or provider of emergency medicine;

providers of services for eligible adults in domestic living situations;

physician, psychiatrist, or other health care provider knowledgeable about abuse and neglect of at-risk adults.

TERMS

Each member of the FRT is appointed for a two-year term and is automatically reappointed unless the Director and the member are notified at least 30 days before the term ends that the member is resigning or the Advisory Council will recommend another person. No member will be reappointed if his or her appointment would cause any conflict of interest. The IDoA Director may terminate the appointment of any member prior to the end of a term based on the recommendation of the Chairperson for good cause, which includes unjustified absences, failure to meet responsibilities, or failure to maintain professionalism. Members serve at his or her own expense. Licensed professionals must be in good standing within their profession.

CHAIRPERSON AND VICE-CHAIRPERSON

FRTs select from its members a Chairperson and Vice-chairperson. These positions are for two-year terms, and they may be selected to serve subsequent terms. The Chairperson will preside at all meetings of the FRT and make reports as required. In the event of the Chairperson's inability to act, the Vice-chairperson will act in his or her stead.

DESIGNATED COORDINATOR

Responsibilities:

Serve as the recorder and keeper of meeting minutes;

Collect and disseminate relevant case review materials to members;

Oversee the collection and disposition of case review materials upon completion of the review;

Collect and submit information from case reviews to the statewide database using the data collection form;

Keep records of all correspondence, findings and recommendations of the FRT; and

Delegate various responsibilities to available staff members designated by participating agencies;

MEMBERS

Each FRT member is responsible for providing insight, advice and information about resources based on their professional expertise.

FRT members may bring trainees to a meeting with prior approval of the Chairperson and FRT.

Law enforcement, coroners or medical examiners will be responsible for providing records associated with the cases discussed within their jurisdiction.

Each team members shall attend, at minimum, 50 percent of the meetings in a year to maintain membership.

VACANCIES

Appointments to fill unexpired vacancies will be made in the same manner as original appointments. The FRT may declare a vacancy for a member when a member resigns, no longer resides in the State of Illinois, fails to maintain a professional position or has become incapacitated and rendered incapable. A vacancy will be filled as soon as practicable.

MEETINGS

The FRT meets no less than four times a year to discuss cases for review. An agenda is developed in coordination with IDoA and the Chairperson. Meetings take place at locations, dates and times determined by the Chairperson after consultation with members.

It is the responsibility of the Chairperson to give notices of the locations, dates and time of meetings to each member and to the Director at least 30 days prior to each meeting.

A majority of the currently appointed and serving Team members constitute a quorum. A vacancy does not impair the right of the quorum to perform its duties. FRTs follow Robert's Rules of Order.

A majority of the FRT may allow a member to attend meetings by video or audio in accordance with the Open Meetings Act, provided adequate equipment can reasonably be made available and is audible to all other members.

Meetings of the FRTs may be closed to the public under the Open Meetings Act.

FRT members need to complete the Office of the Attorney General's Open Meetings Act on-line training. A copy of the certificate of completion should be provided to the FRT Designated Coordinator and kept on file.

CASES

Cases are reviewed that occur while the deceased was residing in a domestic living situation within the FRT's PSA that:

involve blunt force trauma or an undetermined manner or suspicious cause of death;

are requested by the deceased's physician or emergency room physician;

are referred by a health care provider, coroner or medical examiner, State's Attorney's office or law enforcement agency;

constitute an open or closed case from an APS agency, a law enforcement agency, a State's Attorney's office, or the Department of Human Services' Office of Inspector General relating to alleged or suspected abuse, neglect or financial exploitation, or

occurs while the deceased was residing in a domestic living situation.

CONFIDENTIALITY

Members of the FRT are not subject to examination, in any civil or criminal proceeding, concerning information presented to members or opinions formed by members based on that information. Records maintained by the FRT are exempt from release under the Freedom of Information Act. Any document shared within the FRT relating to a case is not admissible as evidence in any proceeding, except for use by a State's Attorney's office in prosecuting a criminal case and those would only be subject to discovery or subpoena.

Release of confidential communication between domestic violence advocates and domestic violence victim will follow 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 victim.

A coroner's or medical examiner's office may share with the FRT medical records made available to the office in connection with a death investigation.

Members have no individual liability in an action based upon a disciplinary proceeding or other activity performed in good faith as a member of the FRT.

RECOMMENDATIONS

An FRT's recommendation in relation to a case discussed or reviewed, including a recommendation concerning an investigation or prosecution, may be disclosed upon the completion of its review and at the discretion of a majority of members who reviewed the case.

DATA COLLECTION AND ANALYSIS

Data on actual cases collected by the FRT is forwarded to IDoA for aggregation and analysis, including but not limited to, victim demographics; perpetrator demographics; descriptions of the victim's relationship with the perpetrators; cause of death; aggravating and other contributing risk factors for abuse, neglect or financial exploitation; the outcome of investigations; referral recommendations; and the final dispositions in criminal prosecutions. This information will be used to create an annual report, develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for at-risk adults and their families.

FATALITY REVIEW TEAM ADVISORY COUNCIL

The Fatality Review Team Advisory Council is the coordinating and oversight body for the activities of Regional Interagency Fatality Review Teams in Illinois.

The IDoA Director solicits information about individuals interested in being named as a member to serve on the Council from each of the FRTs.

COUNCIL TERMS

Each member will be appointed for a three-year term and are eligible for reappointment upon the expiration of the term. Members will be automatically reappointed unless the IDoA Director and the member are notified at least 30 days before the term ends that the respective FRT will recommend another person or a resignation is received from the member. All successive appointments are for a term of three years. No member will be reappointed if his or her reappointment would cause any conflict of interest. Members serve at their own expense. All licensed professionals are to be in good standing within their professions.

CHAIRPERSON AND VICE-CHAIRPERSON

The Council selects from its members a Chairperson and a Vice-chairperson. Each position is for a two-year term, and they may be selected to serve additional terms. They will preside at all meetings of the Council, and make reports on behalf of the Council. In the event of the Chairperson's inability to act, the Vice-chairperson will act in his or her stead.

VACANCIES

Appointments to fill unexpired vacancies will be made in the same manner as original appointments. The Council may declare a vacancy for a member when it determines that a member has resigned, no longer resides within the state of Illinois, failed to maintain a professional position or has become incapacitated and incapable of serving or performing duties as a member. A vacancy will be filled as soon as is practicable.

EX-OFFICIO MEMBERS

The IDoA Director may also appoint ex-officio members deemed necessary to the Council, including an IDoA staff member, to maintain records, prepare notices and agendas for each meeting, provide technical assistance, and otherwise assist in carrying out the administrative functions of the Council.

MEETINGS

The Council shall meet at least four times during the calendar year. An agenda is developed in coordination with IDoA and the Chairperson.

Meetings take place at locations, dates and times determined by the Chairperson and the Council after consultation with members of the Council and the IDoA Director or designated Department staff member.

It is the responsibility of the IDoA staff member, at the direction of the Chairperson, to give notices of the locations, dates and time of meetings to each member of the Council and to the IDoA Director at least 30 days prior to each meeting.

A majority of the currently appointed and serving Council members will constitute a quorum. A vacancy will not impair the right of a quorum to perform all duties of the Council. Deliberations of the Council and its subcommittees will be governed by Robert's Rules of Order.

A majority of the Council may allow a member to attend any meeting by video or audio conference in accordance with the Open Meetings Act provided adequate equipment can reasonably be made available and that participation is audible to all other members.

Meetings of the Council may be closed to the public under the Open Meetings Act.

DUTIES

Duties of the Council include:

- serve as the voice of FRTs in Illinois;
- oversee FRTs to ensure that work is coordinated and in compliance with State statutes and operating protocols;
- ensure data, results, findings and recommendations of the FRT are adequately used in a timely manner to make necessary changes to policies, procedures and State statutes to protect at-risk adults;
- collaborate with IDoA to develop any legislation needed to prevent unnecessary deaths of at-risk adults;
- ensure that Teams use standardized processes to convey data, findings and recommendations in a usable format;
- serve as a link with the Teams throughout the country and participate in national fatality review team activities;
- provide Teams with the most current information and practices concerning at-risk adult death review and related topics;
- perform any other functions necessary to enhance the capability of the Teams to reduce and prevent at-risk adult fatalities;
- all papers, issues, recommendations, reports and meeting memoranda are advisory only. The IDoA Director, or designee, will make a written response/report, as requested, regarding issues before the Council.

CONFIDENTIALITY

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

Records and information provided to the Council, and records maintained by the Council, are except from release under the Freedom of Information Act.

Members of the Council have no individual liability in an action based upon a disciplinary proceeding or other activity performed in good faith as a member of the Council.

The State, through the State Employee Indemnification Act, holds harmless members of the Council for all their acts arising from their service, except those involving willful or wanton misconduct.

DATA

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

IDoA, in consultation with coroners, medical examiners and law enforcement agencies, shall use aggregate data gathered by, and recommendations from, the Council to create an annual report, as well as develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for at-risk adults and their families.

Council members need to complete the Office of the Attorney General's Open Meetings Act on-line training. A copy of the certificate of completion should be provided to the designated Department staff member and kept on file.

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES**

SUBPART F: FATALITY REVIEW TEAMS

Section 270.500 Fatality Review Team Advisory Council

Section 270.505 Regional Interagency Fatality Review Teams

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.500 FATALITY REVIEW TEAM ADVISORY COUNCIL**

Section 270.500 Fatality Review Team Advisory Council

- a) *The Fatality Review Team Advisory Council (Council) is the coordinating and oversight body for the activities of Regional Interagency Fatality Review Teams (Teams) in Illinois. [320 ILCS 20/15(c-5)]*
- b) Composition
 - 1) The Director of the Department on Aging will solicit information about individuals interested in being named as a member to serve on the Council from each of the Teams.
 - A) Each member will be appointed for a 3-year term and will be eligible for reappointment upon the expiration of the term.
 - B) Appointments to fill unexpired vacancies will be made in the same manner as original appointments. The Council may declare a vacancy for a member when it determines that a member has resigned, no longer resides within the State of Illinois, failed to maintain the professional position outlined in subsection (b)(1), or has become incapacitated and rendered incapable of serving or performing duties as a member. A vacancy will be filled as soon as practicable.
 - C) Members of the Council will be automatically reappointed unless the Director and the member are notified at least 30 days before the term ends that the respective Team will recommend another person or a resignation is received from the member. All successive appointments will be for a term of 3 years. No member will be reappointed if his or her reappointment would cause any conflict of interest.
 - D) The Director may terminate the appointment of any member prior to the end of a term based on the recommendation of the Chairperson for good cause, which includes, but is not limited to, unjustified absences, failure to meet Council responsibilities, or failure to maintain the professional position outlined in subsection (b)(1).

- 2) *The Council shall select from its members a Chairperson and a Vice-chairperson.*
 - A) Each position will be for a 2-year term.
 - B) *The Chairperson and Vice-chairperson may be selected to serve additional, subsequent terms.*
 - C) The Chairperson of the Council will perform the duties ordinarily ascribed to this position, preside at all meetings of the Council, and make reports on behalf of the Council as may be required.
 - D) In the event of the Chairperson's inability to act, the Vice-chairperson will act in his or her stead.
- 3) *The Director may also appoint any ex-officio members deemed necessary to this Council, including a staff member of the Department to maintain records, prepare notices and agendas for each meeting, provide technical assistance, and otherwise assist in carrying out the administrative functions of the Council. [320 ILCS 20/15(c-5)]*
- 4) A member will serve at his or her own expense and is to abide by all applicable ethics laws. All licensed professionals are to be in good standing within their profession.

c) Meetings

- 1) *The Council shall meet at least 4 times during each calendar year. [320 ILCS 20/15(c-5)]*
- 2) An agenda of scheduled business for deliberation will be developed in coordination with the Department and the Chairperson.
- 3) The meetings will take place at locations, dates and times determined by the Chairperson of the Council after consultation with members of the Council and the Director or the designated Department staff member.
- 4) It will be the responsibility of the designated Department staff member, at the direction of the Chairperson, to give notices of the locations, dates and time of meetings to each member of the Council and to the Director at least 30 days prior to each meeting.
- 5) A majority of the currently appointed and serving Council members will constitute a quorum. A vacancy in the membership of the Council will not impair the right of a quorum to perform all of the duties of the Council. All deliberations of the Council and its subcommittees will be governed by Robert's Rules of Order.
- 6) A majority of the Council may allow a member to attend any meeting by video or audio conference in accordance with the Open Meetings Act [5 ILCS 120], provided adequate equipment can reasonably be made available and that participation is audible to all other members.
- 7) *Meetings of the Council may be closed to the public under the Open Meetings Act. [320 ILCS 20/15(d-5)]*

d) Duties

- 1) *The Council has, but is not limited to, the following duties:*
 - A) *serve as the voice of the Teams in Illinois.*
 - B) *oversee the Teams in order to ensure that work is coordinated and in compliance with State statutes and operating protocols.*
 - C) *ensure that the data, results, findings and recommendations of the 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.*
 - D) *collaborate with the Department in order to develop any legislation needed to prevent unnecessary deaths of at-risk adults.*
 - E) *ensure that the Teams use standardized processes in order to convey data, findings and recommendations in a usable format.*
 - F) *serve as a link with the Teams throughout the country and to participate in national fatality review team activities.*
 - G) *provide the Teams with the most current information and practices concerning at-risk adult death review and related topics.*
 - H) *perform any other functions necessary to enhance the capability of the Teams to reduce and prevent at-risk adult fatalities. [320 ILCS 20/15(c-5)(1) through (8)]*
- 2) *Upon request by the Director, review the death of an at-risk adult that occurs in a planning and service area where a Team has not yet been established. [320 ILCS 20/15(c)]*
- 3) *All papers, issues, recommendations, reports and meeting memoranda will be advisory only. The Director, or designee, will make a written response/report, as requested, regarding issues before the Council.*
- 4) *The Director retains full decision making authority for the Adult Protective Services Program regarding any recommendations presented by the Council.*

e) Confidentiality

- 1) *Members of the Council are not subject to examination, in any civil or criminal proceeding, concerning information presented to members of the Council or opinions formed by members of the Council based on that information. A person may, however, be examined concerning information provided to the Council. [320 ILCS 20/15(d)]*
- 2) *Records and information provided to the Council, and records maintained by the Council, are exempt from release under the Freedom of Information Act [5 ILCS 140]. [320 ILCS 20/15(d-5)]*

f) Use of Aggregate Data

- 1) *The Council may prepare an annual report, in consultation with the Department, using aggregate data gathered by and recommendations from the Teams to develop education, prevention, prosecution or other strategies designed to improve the coordination of services for at-risk adults and their families. [320 ILCS 20/15(c-5)]*
- 2) *The Department, in consultation with coroners, medical examiners and law enforcement agencies, shall use aggregate data gathered by, and recommendations from, the Council to create an annual report.*
- 3) *The Department, in consultation with coroners, medical examiners and law enforcement agencies, may use aggregate data gathered by, and recommendations from, the Council to develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for at-risk adults and their families. [320 ILCS 20/15(f)]*

g) Indemnification

- 1) Members of the Council will have no individual liability in an action based upon a disciplinary proceeding or other activity performed in good faith as a member of the Council.
- 2) *The State shall indemnify and hold harmless members of the Council for all their acts, omissions, decisions, or other conduct arising out of the scope of their service, except those involving willful or wanton misconduct.*
- 3) *The method of providing indemnification shall be as provided in the State Employee Indemnification Act [5 ILCS 350]. [320 ILCS 20/15(e-5)]*

(Source: Added at 42 Ill. Reg. 6659, effective April 12, 2018)

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.505 REGIONAL INTERAGENCY FATALITY REVIEW TEAMS

Section 270.505 Regional Interagency Fatality Review Teams

a) Establishment

The Director, in consultation with the 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 Team in each of the Department's planning and service areas. [320 ILCS 20/15(b)]

b) Composition

- 1) A Team *shall be composed of representatives of entities and individuals including, but not limited to:*
 - A) *the Department on Aging;*
 - B) *coroners or medical examiners (or both);*
 - C) *State's Attorneys;*
 - D) *local police departments;*
 - E) *forensic units;*
 - F) *local health departments;*
 - G) *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;*
 - H) *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;*
 - I) *a local hospital, trauma center, or provider of emergency medicine;*
 - J) *providers of services for eligible adults in domestic living situations; and*
 - K) *a physician, psychiatrist, or other health care provider knowledgeable about abuse and neglect of at-risk adults. [320 ILCS 20/15(b-5)]*
- 2) *Each member of a Team shall be appointed for a 2-year term and shall be eligible for reappointment upon the expiration of the term. [320 ILCS 20/15(b)]*
- 3) Appointments to fill unexpired vacancies will be made in the same manner as original appointments. A Team may declare a vacancy for a member when it determines that a member has resigned, no longer resides within the State of Illinois, failed to maintain the professional position outlined in subsection (b)(1), or has become incapacitated and rendered incapable of serving or performing duties as a member. A vacancy will be filled as soon as practicable.
- 4) Members of the Team will be automatically reappointed unless the Director and the member are notified at least 30 days before the term ends that the Council will recommend another person or a resignation is received from the member. All successive appointments will be for a term of 2 years. No member will be reappointed if his or her reappointment would cause any conflict of interest.
- 5) The Director may terminate the appointment of any member prior to the end of a term based on the recommendation of the Chairperson for good cause, which includes, but is not limited to, unjustified absences, failure to meet Team responsibilities, or failure to maintain the professional position outlined in subsection (b)(1).

- 6) The Team will select from its members a Chairperson and a Vice-chairperson.
 - A) Each position will be for a 2-year term.
 - B) The Chairperson and Vice-chairperson may be selected to serve additional, subsequent terms.
 - C) The Chairperson of the Team will perform the duties ordinarily ascribed to this position, preside at all meetings of the Team, and make reports on behalf of the Team as may be required.
 - D) In the event of the Chairperson's inability to act, the Vice-chairperson will act in his or her stead.
- 7) A member will serve at his or her own expense and is to abide by all applicable ethics laws. All licensed professionals are to be in good standing within their profession.

c) Meetings

- 1) *A Team shall meet not less than 4 times a year to discuss cases for its possible review. [320 ILCS 20/15(c)]*
- 2) An agenda of scheduled business for deliberation will be developed in coordination with the Department and the Chairperson.
- 3) The meetings will take place at locations, dates and times determined by the Chairperson of the Team after consultation with members of the Team.
- 4) It will be the responsibility of the Chairperson to give notices of the locations, dates and time of meetings to each member of the Team and to the Director at least 30 days prior to each meeting.
- 5) A majority of the currently appointed and serving Team members will constitute a quorum. A vacancy in the membership of the Team will not impair the right of a quorum to perform all of the duties of the Team. All deliberations of the Team and its subcommittees will be governed by Robert's Rules of Order.
- 6) A majority of the Team may allow a member to attend any meeting by video or audio conference in accordance with the Open Meetings Act, provided adequate equipment can reasonably be made available and that participation is audible to all other members.
- 7) *Meetings of the Teams may be closed to the public under the Open Meetings Act. [320 ILCS 20/15(d-5)]*

d) Review of Cases

- 1) *Each 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 for the allocation of time and resources of the Team for investigating*

cases; recordkeeping relating to the outcome of investigations and referral recommendations; maintaining confidential communications and records; sharing information about cases with other offices for adult protective services, criminal investigation and prosecution, or court-ordered discovery; and data aggregation, collection and analysis. [320 ILCS 20/15(c)]

- 2) *A Team's purpose in conducting review of at-risk adult deaths is:*
 - A) *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;*
 - B) *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;*
 - C) *to evaluate means by which the death might have been prevented; and*
 - D) *to report its findings to the appropriate agencies and the 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. [320 ILCS 20/15(b)]*

- 3) *A Team shall review cases of deaths of at-risk adults occurring in its planning and service area:*
 - A) *involving blunt force trauma or an undetermined manner or suspicious cause of death;*
 - B) *if requested by the deceased's attending physician or an emergency room physician;*
 - C) *upon referral by a health care provider;*
 - D) *upon referral by a coroner or medical examiner;*
 - E) *constituting an open or closed case from an adult protective services agency, law enforcement agency, or State's Attorney's office, or the Department of Human Services' Office of Inspector General that involves alleged or suspected abuse, neglect or financial exploitation; or*
 - F) *upon referral by a law enforcement agency or State's Attorney's office.*

- 4) *If such a death occurs in a planning and service area where a Team has not yet been established, the Director shall request that the Council or another Team review that death.*

- 5) *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. [320 ILCS 20/15(c)]*

- 6) *In any instance in which a Team does not operate in accordance with established protocol, the Director, in consultation and cooperation with the Council, must take any necessary actions to bring the Team into compliance with the protocol. [320 ILCS 20/15(c-5)]*

e) Confidentiality

- 1) *Members of a Team are not subject to examination, in any civil or criminal proceeding, concerning information presented to members of the Team or opinions formed by members of the Team based on that information. A person may, however, be examined concerning information provided to a Team.*
- 2) *Records and information provided to the Team, and records maintained by the Team, are exempt from release under the Freedom of Information Act. [320 ILCS 20/15(d-5)]*
- 3) *Any document or oral or written communication shared within or produced by the Team relating to a case discussed or reviewed by the 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.*
- 4) *Any document or oral or written communication provided to a Team by an individual or entity, and created by that individual or entity solely for the use of the 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.*
- 5) *Each entity represented or individual represented on the 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 Team is confidential. The intent of this subsection (e)(5) is to permit the disclosure to members of the Team of any information deemed confidential or privileged or prohibited from disclosure by any other provision of law.*
- 6) *Release of confidential communication between domestic violence advocates and a domestic violence victim shall follow Section 227(d) of the Illinois Domestic Violence Act of 1986 [750 ILCS 60], 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.*
- 7) *A coroner's or medical examiner's office may share with the 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. [320 ILCS 20/15(d)]*

f) Recommendations and Referrals

A Team's recommendation in relation to a case discussed or reviewed by the Team, including, but not limited to, a recommendation concerning an investigation or prosecution in relation to such a case, may be disclosed by the Team upon the completion of its review and at the discretion of a majority of its members who reviewed the case. [320 ILCS 20/15(e)]

g) Indemnification

- 1) Members of the Team will have no individual liability in an action based upon a disciplinary proceeding or other activity performed in good faith as a member of the Team.
- 2) *The State shall indemnify and hold harmless members of a Team for all their acts, omissions, decision or other conduct arising out of the scope of their service, except those involving willful or wanton misconduct.*
- 3) *The method of providing indemnification shall be as provided in the State Employee Indemnification Act [5 ILCS 350]. [320 ILCS 20/15(e-5)]*

h) Data Collection and Analysis

- 1) Data on actual cases collected by the Teams will be forwarded to the Department for aggregation and analysis, including, but not limited to, victim demographics; perpetrator demographics; descriptions of the victim's relationship with the perpetrators; cause of death; aggravating and other contributing risk factors for abuse, neglect or financial exploitation; the outcome of investigations; referral recommendations; and the final dispositions in criminal prosecutions.
- 2) *The Department, in consultation with coroners, medical examiners, and law enforcement agencies, shall use aggregate data gathered by and recommendations from the Teams to create an annual report.*
- 3) *The Department, in consultation with coroners, medical examiners, and law enforcement agencies, may use aggregate data gathered by and recommendations from the Teams to develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for at-risk adults and their families.*
- 4) *The Department or other State or county agency, in consultation with coroners, medical examiners, and law enforcement agencies, may use aggregated data gathered by the Teams to create a database of at-risk individuals. [320 ILCS 20/15(f)]*

(Source: Added at 42 Ill. Reg. 6659, effective April 12, 2018)

Information maintained by the Legislative Reference Bureau

Updating the database of the Illinois Compiled Statutes (ILCS) is an ongoing process. Recent laws may not yet be included in the ILCS database, but they are found on this site as Public Acts soon after they become law. For information concerning the relationship between statutes and Public Acts, refer to the Guide. Because the statute database is maintained primarily for legislative drafting purposes, statutory changes are sometimes included in the statute database before they take effect. If the source note at the end of a Section of the statutes includes a Public Act that has not yet taken effect, the version of the law that is currently in effect may have already been removed from the database and you should refer to that Public Act to see the changes made to the current law.

AGING

(320 ILCS 20/) Adult Protective Services Act.

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

Sec. 1. Short title. This Act shall be known and may be cited as the Adult Protective Services Act. (Source: P.A. 98-49, eff. 7-1-13.)

(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;

(1.6) A facility licensed under the MC/DD 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.

(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. 98-49, eff. 7-1-13; 98-104, eff. 7-22-13; 98-756, eff. 7-16-14; 98-1039, eff. 8-25-14; 99-180, eff. 7-29-15.)

(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 selfneglect. 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 selfneglect 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 multidisciplinary 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; 98-1039, eff. 8-25-14.)

(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 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 Persons with Developmental Disabilities 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 biannual 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; 98-1039, eff. 8-25-14; 99-143, eff. 7-27-15.)

(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, 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, 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; 98-1039, eff. 8-25-14.)

(320 ILCS 20/4.1)

Sec. 4.1. Employer discrimination. No employer shall discharge, demote or suspend, or threaten to discharge, demote or suspend, or in any manner discriminate against any employee who makes any good faith oral or written report of suspected abuse, neglect, or financial exploitation or who is or will be a witness or testify in any investigation or proceeding concerning a report of suspected abuse, neglect, or financial exploitation. (Source: P.A. 98-49, eff. 7-1-13.)

(320 ILCS 20/4.2)

Sec. 4.2. Testimony by mandated reporter and investigator. Any mandated reporter who makes a report or any person who investigates a report under this Act shall testify fully in any judicial proceeding resulting from such report, as to any evidence of abuse, neglect, or financial exploitation or the cause thereof. Any mandated reporter who is required to report a suspected case of abuse, neglect, or financial exploitation under Section 4 of this Act shall testify fully in any administrative hearing resulting from such report, as to any evidence of

abuse, neglect, or financial exploitation or the cause thereof. No evidence shall be excluded by reason of any common law or statutory privilege relating to communications between the alleged abuser or the eligible adult subject of the report under this Act and the person making or investigating the report. (Source: P.A. 90-628, eff. 1-1-99.)

(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 followup of reports of self-neglect. In the absence of sufficient appropriation for statewide implementation of assessments, casework, and followup 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; 98-1039, eff. 8-25-14.)

(320 ILCS 20/6) (from Ch. 23, par. 6606)

Sec. 6. Time. The Department shall by rule establish the period of time within which an assessment shall begin and within which a service care plan shall be implemented. Such rules shall provide for an expedited response to emergency situations. (Source: P.A. 85-1184.)

(320 ILCS 20/7) (from Ch. 23, par. 6607)

Sec. 7. Review. All services provided to an eligible adult shall be reviewed by the provider agency on at least a quarterly basis for up to one year to determine whether the service care plan should be continued or modified, except that, upon review, the Department on Aging may grant a waiver to extend the service care plan for up to one additional year. (Source: P.A. 95-331, eff. 8-21-07.)

(320 ILCS 20/7.1)

Sec. 7.1. Final investigative report. A provider agency shall prepare a final investigative report, upon the completion or closure of an investigation, in all cases of reported abuse, neglect, financial exploitation, or self-neglect of an eligible adult, whether or not there is a substantiated finding. (Source: P.A. 98-49, eff. 7-1-13.)

(320 ILCS 20/7.5)

Sec. 7.5. 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) Reporting to the Registry. The Department on Aging shall report to the Registry the identity of the caregiver when a verified and substantiated finding of abuse, neglect, or financial exploitation of an eligible adult under this Act 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.

A finding against a caregiver that is placed in the Registry shall preclude that caregiver from providing direct care, as defined in this Section, 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.

(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, 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.

(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 shall not hire, compensate either directly or on behalf of a participant, or utilize the services of any person seeking to provide direct care without first conducting an online check of whether the

person has been placed on the Registry. These State agencies and providers shall maintain a copy of the results of the online check to demonstrate compliance with this requirement. These State agencies and providers are prohibited from retaining, hiring, compensating either directly or on behalf of a participant, or utilizing the services of a person to provide direct care if the online check of the person reveals a verified and substantiated finding 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. 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 caregiver's name may be placed on the Registry based on a finding as described in subsection (a-10) 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 verified and substantiated finding of abuse, neglect, or financial exploitation in a case 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 there is an imminent risk of danger to the victim or an imminent risk of misuse of personal, medical, or financial information, that caregiver shall immediately be barred from providing direct care to the victim pending the outcome of any challenge, appeal, criminal prosecution, or other type of collateral action.

(g) Challenges and appeals. The Department on Aging shall establish, by rule, procedures concerning 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 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 such a finding 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 request removal of his or her name from the Registry in relationship to a single incident. The caregiver shall bear the burden of establishing, 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 to

the caregiver and report it to the Registry. The Department shall, by rule, establish standards and a process for requesting the removal of a name from the Registry.

(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 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; 98-756, eff. 7-16-14; 98-1039, eff. 8-25-14; 99-78, eff. 7-20-15.)

(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; (1.5) A representative of the public guardian acting in the course of investigating the appropriateness of guardianship for the eligible adult or while pursuing a petition for guardianship of the eligible adult pursuant to the Probate Act of 1975;

(2) A law enforcement agency or State's Attorney's office investigating known or suspected abuse, neglect, financial exploitation, or selfneglect. 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 selfneglect;

(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 and provider agency 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 and provider agency 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;

(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) The Illinois Guardianship and Advocacy Commission and the agency designated by the Governor under Section 1 of the Protection and Advocacy for Persons with Developmental Disabilities 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. 98-49, eff. 7-1-13; 98-1039, eff. 8-25-14; 99-143, eff. 7-27-15; 99-287, eff. 1-1-16; 99-547, eff. 7-15-16; 99-642, eff. 7-28-16.)

(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 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; 98-1039, eff. 8-25-14.)

(320 ILCS 20/9.5)

Sec. 9.5. Commencement of action for ex parte authorization orders; filing fees; process.

(a) Actions for ex parte authorization orders are commenced:

- (1) independently, by filing a petition for an ex parte authorization order in the circuit court;
- (2) in conjunction with other civil proceedings, by filing a petition for an ex parte authorization order under the same case number as a guardianship proceeding under the Probate Act of 1975 where the eligible adult is the alleged adult with a disability.

(b) No fee shall be charged by the clerk for filing petitions or certifying orders. No fee shall be charged by a sheriff for service by the sheriff of a petition, rule, motion, or order in an action commenced under this Section.

(c) Any action for an ex parte authorization order commenced independently is a distinct cause of action and requires that a separate summons be issued and served. Service of summons is not required prior to entry of emergency ex parte authorization orders.

(d) Summons may be served by a private person over 18 years of age and not a party to the action. The return by that private person shall be by affidavit. The summons may be served by a sheriff or other law enforcement officer, and if summons is placed for service by the sheriff, it shall be made at the earliest time practicable and shall take precedence over other summonses except those of a similar emergency nature. (Source: P.A. 99-143, eff. 7-27-15.)

(320 ILCS 20/10) (from Ch. 23, par. 6610)

Sec. 10. Rules. The Department shall adopt such rules and regulations as it deems necessary to implement this Act. (Source: P.A. 85-1184.)

(320 ILCS 20/11) (from Ch. 23, par. 6611)

Sec. 11. Annual Reports. The Department shall file with the Governor and the General Assembly, within 270 days after the end of each fiscal year, a report concerning its implementation of this Act during such fiscal year, together with any recommendations for future implementation. (Source: P.A. 90-628, eff. 1-1-99.)

(320 ILCS 20/12) (from Ch. 23, par. 6612)

Sec. 12. (Repealed). (Source: P.A. 85-1184. Repealed by 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 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. 98-1039, eff. 8-25-14.)

(320 ILCS 20/13.5)

Sec. 13.5. Commencement of action for access; filing fees; process; notice; duration of orders.

(a) Actions for orders seeking access to an eligible adult or freezing assets of an eligible adult are commenced:

(1) independently, by filing a petition for access to an eligible adult or freezing the assets of an eligible adult in the circuit court;

(2) in conjunction with other civil proceedings, by filing a petition for access to an eligible adult or freezing the assets of an eligible adult under the same case number as another civil proceeding involving the parties, including, but not limited to:

(i) a guardianship proceeding under the Probate Act of 1975;

(ii) a proceeding for involuntary commitment under the Mental Health and Developmental Disabilities Code;

(iii) any other proceeding, provided that the eligible adult or the respondent is a party to or the subject of that proceeding.

(b) No fee shall be charged by the clerk for filing petitions or certifying orders. No fee shall be charged by a sheriff for service by the sheriff of such a petition, rule, motion, or order in an action commenced under this Section.

(c) Any action for an order for access to an eligible adult or freezing assets of an eligible adult, whether commenced independently or in conjunction with another proceeding, is a distinct cause of action and requires that a separate summons be issued and served, except that in pending cases the following methods may be used:

(1) Delivery of the summons to respondent personally in open court in pending civil or criminal cases.

(2) Mailing to the defendant, or, if represented, to the defendant's attorney of record in the civil cases in which the defendant has filed a general appearance. The summons shall be in the form prescribed by subsection

(d) of Supreme Court Rule 101, except that it shall require the respondent to answer or appear within 7 days. Attachments to the summons or notice shall include the petition for access to an eligible adult or freezing assets of an eligible adult and supporting affidavits, if any, and any emergency order for access to an eligible adult or freezing assets of an eligible adult that has been issued.

(d) Summons may be served by a private person over 18 years of age and not a party to the action. The return by that private person shall be by affidavit. The summons may be served by a sheriff or other law enforcement officer, and if summons is placed for service by the sheriff, it shall be made at the earliest time practicable and shall take precedence over other summonses except those of a similar emergency nature.

(e) Except as otherwise provided in this Section, notice of hearings on petitions or motions shall be served in accordance with Supreme Court Rules 11 and 12 unless notice is excused by the Code of Civil Procedure, Supreme Court Rules, or local rules, as now or hereafter amended.

(f) Original notice of a hearing on a petition for access to an eligible adult or freezing assets of an eligible adult may be given, and the documents served, in accordance with Supreme Court Rules 11 and 12. When, however, an emergency order is sought in such a case on an ex parte application, the notice rules set forth in Section 11-101 of the Code of Civil Procedure shall apply.

(g) An order entered in accordance with Sections 13 and 13.5 shall be valid for a fixed period of time, not to exceed 2 years. (Source: P.A. 91-731, eff. 6-2-00.)

(320 ILCS 20/14)

Sec. 14. Volunteer corps. Qualified volunteers may be used for the purposes of increasing public awareness and providing companion-type services, as prescribed by rule, to eligible adults. A qualified volunteer must undergo training as prescribed by the Department by rule and must adhere to all confidentiality requirements as required by law. (Source: P.A. 94-431, eff. 8-2-05.)

(320 ILCS 20/15)

Sec. 15. 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 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 Fatality Review Team Advisory Council. "Review Team" means a regional interagency 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 4 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 Fatality Review Team 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 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; 98-1039, eff. 8-25-14; 99-78, eff. 7-20-15; 99-530, eff. 1-1-17.)

(320 ILCS 20/15.5)

Sec. 15.5. Independent monitor. Subject to appropriation, to ensure the effectiveness and accountability of the adult protective services system, the agency designated by the Governor under Section 1 of the Protection and Advocacy for Persons with Developmental Disabilities Act shall monitor the system and provide to the Department review and evaluation of the system in accordance with administrative rules promulgated by the Department. (Source: P.A. 98-49, eff. 7-1-13; 99-143, eff. 7-27-15.)



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