

# **ABUSE AGAINST THE ELDERLY**

**POTENTIAL LEGAL  
REMEDIES IN  
ILLINOIS**



**2008**

Elder abuse and neglect is a growing problem in the United States, including in our local area. This booklet was written by the Elder Abuse Training for Law Enforcement Project as one part of an effort to provide tools to law enforcement officers to effectively address elder abuse and neglect in our area.

The booklet includes basic information on elder abuse, some of the laws and definitions that may apply in elder abuse cases, and local resources. It does not include all of the remedies that may be available, nor does this booklet constitute legal advice.

In writing this booklet, we used information from various sources, including the following: Abuse Against the Elderly and Vulnerable Adults: Potential Legal Remedies (Wisconsin Coalition Against Domestic Violence/National Clearinghouse on Abuse in Later Life), Reporting Elder Abuse: What Professionals Need to Know (Illinois Department on Aging), and Protecting Victims of Domestic Violence: A Law Enforcement Officer's Guide to Enforcing Orders of Protection Nationwide (International Association of Police Chiefs).

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# DEFINITIONS

Following are definitions of terms which often apply to elder abuse cases, along with their Illinois Compiled Statutes citation(s). These definitions do not necessarily apply to all criminal charges.

For the purposes of this publication, unless otherwise noted, an elderly person is defined as a person 60 years of age or older.

**Abuse** means to cause any physical, mental, or sexual injury to an elderly person, including exploitation of such adult's financial resources. The Illinois Domestic Violence Act of 1986 defines abuse as "physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation." 750 ILCS 60/103.

**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. 320 ILCS 20/2(a-7). This includes but is not limited to food and nutrition, shelter, hygiene, prescribed medication and medical care and treatment. 720 ILCS 5/12-21.

**Confinement** means restraining or isolating an older adult, other than for medical reasons.

**Consent** is defined by the Illinois Criminal Sexual Assault Act as "freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent." Further, "[a] person who initially consents to sexual penetration or sexual conduct is not deemed to have consented to any sexual penetration or sexual conduct that occurs after he or she withdraws consent during the course of that sexual penetration or sexual conduct." 720 ILCS 5/12-17(a), (c).

**Domestic Violence** means attempting to cause or causing abuse of a family or household member or high-risk adult with disabilities, or attempting to cause or causing neglect or exploitation of a high-risk adult with disabilities which threatens the adult's health and safety, as defined in Section 103 of the Illinois Domestic Violence Act of 1986, as amended. 725 ILCS 5/112A-3; 750 ILCS 60/103. NOTE:

Officers cannot arrest for domestic violence. An arrest must be for specific offenses such as domestic battery, stalking, abuse of the elderly, and so on.

**Elder Abuse or Neglect** includes physical abuse, sexual abuse, emotional abuse, confinement, passive neglect, willful deprivation, or financial exploitation against a person who is 60 years of age or older. Self-neglect is included under the Elder Abuse and Neglect Act.

**Emotional Abuse** means verbal assaults, threats of abuse, harassment or intimidation. Emotional abuse is often coupled with other forms of abuse.

**Family or Household Member** includes spouses, former spouses, parents, children, stepchildren, and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants. For purposes of this paragraph, neither a casual acquaintanceship nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute a dating relationship. 725 ILCS 5/112A-3(3); 750 ILCS 60/103.

**Financial Exploitation** means the misuse or withholding of an older adult's resources by another, to the disadvantage of the older adult and the profit or advantage of someone else.

**Harassment** means knowing conduct which is not necessary to accomplish a purpose which is reasonable under the circumstances, would cause a reasonable person emotional distress and does cause emotional distress to the petitioner. Unless the presumption is rebutted by a preponderance of the evidence, the following types of conduct shall be presumed to cause emotional distress:

1. creating a disturbance at the petitioner's place of employment or school;
2. repeatedly telephoning petitioner's place of employment, home, or residence;
3. repeatedly following petitioner about in a public place or places;
4. repeatedly keeping petitioner under surveillance by remaining present outside his or her home, school, place of employment, vehicle, or other place occupied by the petition or peering in petitioner's windows;

5. improperly concealing a minor child from petitioner, repeatedly threatening to improperly remove a minor child of petitioner's from the jurisdiction or from the physical care of petitioner, repeatedly threatening to conceal a minor child from petitioner, or making a single such threat following an actual or attempted improper removal or concealment, unless respondent was fleeing from an incident or pattern of domestic violence; or
6. threatening physical force, confinement, or restraint on one or more occasions.

725 ILCS 5/112A-3(4); 750 ILCS 60/103.

**High Risk Adult with Disabilities** means a person aged 18 or over whose physical or mental disability impairs his or her ability to seek or obtain protection from abuse, neglect, or exploitation. 750 ILCS 60/103.

**Interference with Personal Liberty** means committing or threatening physical abuse, harassment, intimidation, or willful deprivation so as to compel another to engage in conduct from which she or he has a right to abstain or to refrain from conduct in which he or she has a right to engage. 725 ILCS 5/112A-3(5); 750 ILCS 60/103.

**Intimidation of a Dependent** means subjecting a person who is dependent because of age, health, or disability to participation in or the witnessing of: physical force against another or physical confinement or restraint of another which constitutes physical abuse regardless of whether the abused person is a family or household member. 725 ILCS 5/112A-3(6); 750 ILCS 60/103.

**Order of Protection** means any emergency order, interim order, or plenary order granted pursuant to the Illinois Domestic Violence Act of 1986, which includes any or all of the remedies authorized by Section 214 the Act. 725 ILCS 5/112A-3(7); 750 ILCS 60/103.

**Passive Neglect** means the caregiver's failure to provide an older adult with life's necessities, including, but not limited to, food, clothing, shelter or medical care. No new affirmative duty of care is created.

**Physical Abuse** means inflicting physical pain or injury upon an older adult. It is defined by the Illinois Domestic Violence Act of 1986 as follows: includes sexual abuse and means any of the following:

1. knowing or reckless use of physical force, confinement, or restraint;

2. knowing, repeated and unnecessary sleep deprivation; or
3. knowing or reckless conduct which creates an immediate risk of physical harm.

725 ILCS 5/112A-3(9); 750 ILCS 60/103.

**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.

**Sexual Abuse** means touching, fondling, or any other sexual activity with an older adult, when the person is unable to understand, unwilling to consent, threatened or physically forced. See Appendix A for the elements of Criminal Sexual Abuse, Aggravated Criminal Sexual Abuse, Criminal Sexual Assault, and Aggravated Criminal Sexual Assault.

**Willful Deprivation** means willfully denying a person who, because of age, health, or disability, requires medication, medical care, shelter, accessible shelter or services, food, therapeutic device, or other physical assistance, and thereby exposing that person to the risk of physical, mental, or emotional harm, except with regard to medical care and treatment when such dependent person has expressed the intent to forgo such medical care or treatment. 725 ILCS 5/112A-3(10); 750 ILCS 60/103.

# CONFINEMENT

Restraining or isolating an older adult, other than for medical reasons. This may include such actions as confining the older adult to a bed or chair, locking the older adult in a room, removing mobility devices or causing them to no longer function, removing access to telephones or other communication devices.

**Potential Criminal Justice Actions:** (Statutes under which law enforcement may arrest and/or prosecutors may charge. This list may not be complete.)

1. Unlawful restraint 720 ILCS 5/10-3
2. Aggravated unlawful restraint 720 ILCS 5/10-3.1
3. Aggravated stalking 720 ILCS 5/12-7.4
4. Domestic battery 720 ILCS 5/12-3.2
5. Interference with the reporting of domestic violence 720 ILCS 5/12-6.3
6. Criminal abuse or neglect of an elderly person 720 ILCS 5/12-21
7. Kidnapping 720 ILCS 5/10-1
8. Intimidation 720 ILCS 5/12-6
9. Abuse and criminal neglect of a long term care facility resident 720 ILCS 5/12-19
10. Disorderly conduct 720 ILCS 5/26-1
11. Reckless conduct 720 ILCS 5/12-5
12. Violation of an order of protection 720 ILCS 5/12-30

**Potential Civil Actions:** (Actions which may be brought by an individual, a private attorney, adult protective services. This list may not be complete.)

1. Domestic violence order of protection 750 ILCS 60/1, et. seq.
2. Tort for damages
3. Petition for access 320 ILCS 20/13
4. Emergency petition for assessment 320 ILCS 20/9(d)

If an officer has reason to suspect that a family or household member aged 60 or older is abused, neglected, or exploited, the officer shall make a report to the Elder Abuse Hotline at 1-866-800-1409 (1-888-206-1327 TTY), or a designated Elder Abuse Provider Agency.

# DENIAL OF ACCESS

An elder abuse investigator, adult protective services worker, and/or law enforcement is denied entry to see an alleged victim of elder abuse or neglect. The denial of access can be by any person, including the older adult.

**Potential Criminal Justice Actions:** (Statutes under which law enforcement may arrest and/or prosecutors may charge. This list may not be complete.)

1. Resisting or obstructing a peace officer 720 ILCS 5/31-1
2. Obstructing justice 720 ILCS 5/31-4
3. Concealing or aiding a fugitive 720 ILCS 5/31-5
4. Refusing to aid an officer 720 ILCS 5/31-8

**Potential Civil Actions:** (Actions which may be brought by an individual, a private attorney, adult protective services. This list may not be complete.)

1. Domestic Violence Order of Protection 750 ILCS 60/1, et. seq.
2. Guardianship, if competency is questioned 755 ILCS 5/11a-1, et. seq.
3. Petition for Access 320 ILCS 20/13
4. Emergency petition for assessment 320 ILCS 20/9(d)

# EMOTIONAL ABUSE

Verbal assaults, threats of abuse, harassment or intimidation. This may include name calling, put downs, making person feel bad about self, frightening person, humiliating person, causing person to feel guilty, making threats, using intimidation, and treating person like a servant, or in a manner that is not a part of an authorized treatment plan. Emotional abuse is often coupled with other forms of abuse.

**Potential Criminal Justice Actions:** (Statutes under which law enforcement may arrest and/or prosecutors may charge. This list may not be complete.)

- |   |                   |
|---|-------------------|
| 1. Intimidation   | 720 ILCS 5/12-6   |
| 2. Transmission of obscene communications                           | 720 ILCS 135/1    |
| 3. Harassment by telephone  | 720 ILCS 135/1-1  |
| 4. Harassment through electronic means                              | 720 ILCS 135/1-2  |
| 5. Violation of an order of protection                              | 720 ILCS 5/12-30  |
| 6. Aggravated stalking  | 720 ILCS 5/12-7.4 |
| 7. Interference with the reporting of domestic violence             | 720 ILCS 5/12-6.3 |
| 8. Criminal abuse or neglect of an elderly person                   | 720 ILCS 5/12-21  |
| 9. Abuse and criminal neglect of a long term care facility resident | 720 ILCS 5/12-19  |
| 10. Disorderly conduct  | 720 ILCS 5/26-1   |
| 11. Criminal damage to property                                     | 720 ILCS 5/21-1   |
| 12. Communicating with jurors and witnesses                         | 720 ILCS 5/32-4   |
| 13. Cruel treatment of animals                                      | 510 ILCS 70/3.01  |
| 14. Aggravated cruelty to animals                                   | 510 ILCS 70/3.02  |

**Potential Civil Actions:** (Actions which may be brought by an individual, a private attorney, adult protective services. This list may not be complete.)

1. Domestic violence order of protection 750 ILCS 60/1, et. seq.
2. Emergency petition for assessment 320 ILCS 20/9(d)
3. Tort for damages
4. Damages for animal cruelty 510 ILCS 70/16.3

If an officer has reason to suspect that a family or household member aged 60 or older is abused, neglected, or exploited, the officer shall make a report to the Elder Abuse Hotline at 1-866-800-1409 (1-888-206-1327 TTY), or a designated Elder Abuse Provider Agency.

# FINANCIAL EXPLOITATION

Victim exhibits disparity between income/assets and lifestyles; unexplained or sudden inability to pay bills, purchase food or personal care items; fear or anxiety when discussing finances; unprecedented transfer of assets from victim to others; extraordinary interest by family members in victim's assets; forced or unpaid labor.

**Potential Criminal Justice Actions:** (Statutes under which law enforcement may arrest and/or prosecutors may charge. This list may not be complete.)

- |  |                   |
|--|-------------------|
| 1. Theft   | 720 ILCS 5/16-1   |
| 2. Financial exploitation of an elderly or disabled person | 720 ILCS 5/16-1.3 |
| 3. Computer fraud  | 720 ILCS 5/16D-5  |
| 4. Aggravated identify theft                               | 720 ILCS 5/16G-20 |
| 5. Loan fraud  | 720 ILCS 5/16H-30 |
| 6. Online sale of stolen property                          | 720 ILCS 5/16J-10 |
| 7. Electronic fencing                                      | 720 ILCS 5/16J-20 |
| 8. Deceptive practices                                     | 720 ILCS 5/17-1   |
| 9. Forgery   | 720 ILCS 5/17-3   |
| 10. Robbery  | 720 ILCS 5/18-1   |
| 11. Burglary   | 720 ILCS 5/19-1   |
| 12. Residential burglary                                   | 720 ILCS 5/19-3   |
| 13. Credit card fraud                                      | 720 ILCS 250/3    |
| 14. Aggravated home repair fraud                           | 815 ILCS 515/5    |

**Potential Civil Actions:** (Actions which may be brought by an individual, a private attorney, adult protective services. This list may not be complete.)

1. Domestic violence order of protection 750 ILCS 60/1, et. seq.
2. Tort for damages
3. Civil liability for financial exploitation 720 ILCS 5/16-1.3
4. Civil liability for identify theft 720 ILCS 5/16G-2I
5. Civil liability for deceptive practices 720 ILCS 5/17-1a
6. Revocation of Durable Power of Attorney 755 ILCS 45/2-5; 2-10
7. Remove perpetrator's name from accounts
8. Action for an accounting
9. Guardianship, if competency is questioned 755 ILCS 5/11a-1, et. seq.

If an officer has reason to suspect that a family or household member aged 60 or older is abused, neglected, or exploited, the officer shall make a report to the Elder Abuse Hotline at 1-866-800-1409 (1-888-206-1327 TTY), or a designated Elder Abuse Provider Agency.

# NEGLECT

Abuser withholds, misuses, or delays needed support(s) (eyeglasses, hearing aids, communication devices, mobility equipment, etc.) or otherwise misuses medical treatment or fails to assist with mobility. Victim exhibits dehydration, malnutrition, hypo/hyperthermia; excessive dirt or odor; inadequate or inappropriate clothing; unexpected or unexplained weight loss or deterioration of health; bedsores; or signs of excess drugging.

**Potential Criminal Justice Actions:** (Statutes under which law enforcement may arrest and/or prosecutors may charge. This list may not be complete.)

1. Criminal abuse or neglect of an elderly person 720 ILCS 5/12-21
2. Abuse and criminal neglect of a long term care facility resident 720 ILCS 5/12-19
3. Reckless conduct 720 ILCS 5/12-5
4. Violation of an order of protection 720 ILCS 5/12-30

**Potential Civil Actions:** (Actions which may be brought by an individual, a private attorney, adult protective services. This list may not be complete.)

1. Domestic violence order of protection 750 ILCS 60/1, et. seq.
2. Tort for damages
3. Revocation of Durable Power of Attorney 755 ILCS 45/2-5; 2-10
4. Guardianship, if competency is questioned 755 ILCS 5/11a-1, et. seq.

If an officer has reason to suspect that a family or household member aged 60 or older is abused, neglected, or exploited, the officer shall make a report to the Elder Abuse Hotline at 1-866-800-1409 (1-888-206-1327 TTY), or a designated Elder Abuse Provider Agency.

# PHYSICAL ABUSE

Abuser inflicts a bruise, welt, laceration, puncture, fracture, burn, swelling, scratch, or physical pain and/or other injury.

**Potential Criminal Justice Actions:** (Statutes under which law enforcement may arrest and/or prosecutors may charge. This list may not be complete.)

1. Assault 720 ILCS 5/12-1
2. Aggravated assault 720 ILCS 5/12-2
3. Battery 720 ILCS 5/12-3
4. Domestic battery 720 ILCS 5/12-3.2
5. Aggravated battery 720 ILCS 5/12-4
6. Aggravated battery of a senior citizen 720 ILCS 5/12-4.6
7. Intimidation 720 ILCS 5/12-6
8. Stalking 720 ILCS 5/12-7.3
9. Aggravated stalking 720 ILCS 5/12-7.4
10. Criminal abuse or neglect of an elderly person 720 ILCS 5/12-21
11. Abuse and criminal neglect of a long term care facility resident 720 ILCS 5/12-19
12. Disorderly conduct 720 ILCS 5/26-1
13. Violation of an order of protection 720 ILCS 5/12-30
14. Reckless conduct 720 ILCS 5/12-5
15. Drug induced infliction of great bodily harm 720 ILCS 5/12-4.7

**Potential Civil Actions:** (Actions which may be brought by an individual, a private attorney, adult protective services. This list may not be complete.)

1. Domestic violence order of protection 750 ILCS 60/1, et. seq.
2. Tort for damages
3. Guardianship, if competency is questioned 755 ILCS 5/11a-1, et. seq.
4. Petition for Access 320 ILCS 20/13
5. Emergency petition for assessment 320 ILCS 20/9(d)

If an officer has reason to suspect that a family or household member aged 60 or older is abused, neglected, or exploited, the officer shall make a report to the Elder Abuse Hotline at 1-866-800-1409 (1-888-206-1327 TTY), or a designated Elder Abuse Provider Agency.

# SEXUAL ABUSE

Abuser engages in unwanted sexual contact which might result in torn, stained, or bloody underclothing; difficulty in walking or sitting; pain, itching, bruising, or bleeding in genital area, unexplained venereal disease or genital infections. Abuser engages in public sexual gratification with another person. Abuser directs another person to prostitute him/herself. Abuser engages in exhibitionism, voyeuristic activity, and/or sexual harassment. Abuser causes unwarranted, intrusive, and/or painful procedures in caring for the victim's genital or rectal area, including application or insertion of creams, ointments, thermometers, enemas, catheters, fingers, soap, washcloths, or other objects when not medically prescribed and unnecessary for the health and well-being of the individual.

**Potential Criminal Justice Actions:** (Statutes under which law enforcement may arrest and/or prosecutors may charge. This list may not be complete.)

- |  |                   |
|--|-------------------|
| 1. Sexual relations within families                                  | 720 ILCS 5/11-11  |
| 2. Criminal sexual assault   | 720 ILCS 5/12-13  |
| 3. Aggravated criminal sexual assault                                | 720 ILCS 12-14    |
| 4. Criminal sexual abuse   | 720 ILCS 12-15    |
| 5. Aggravated criminal sexual abuse                                  | 720 ILCS 12-16    |
| 6. Sexual misconduct with a person with a disability                 | 720 ILCS 5/11-9.5 |
| 7. Unauthorized video recording & live video transmission            | 720 ILCS 5/26-4   |
| 8. Domestic battery  | 720 ILCS 5/12-3.2 |
| 9. Aggravated battery of a senior citizen                            | 720 ILCS 5/12-4.6 |
| 10. Stalking   | 720 ILCS 5/12-7.3 |
| 11. Aggravated stalking  | 720 ILCS 5/12-7.4 |
| 12. Criminal abuse or neglect of an elderly person                   | 720 ILCS 5/12-21  |
| 13. Abuse and criminal neglect of a long term care facility resident | 720 ILCS 5/12-19  |
| 14. Violation of an order of protection                              | 720 ILCS 5/12-30  |

**Potential Civil Actions:** (Actions which may be brought by an individual, a private attorney, adult protective services. This list may not be complete.)

1. Domestic violence order of protection 750 ILCS 60/1, et. seq.
2. Civil No Contact Order 740 ILCS 22/201, et. seq.
3. Tort for damages
4. Guardianship, if competency is questioned 755 ILCS 5/11a-1, et. seq.
5. Petition for Access 320 ILCS 20/13
6. Emergency petition for assessment 320 ILCS 20/9(d)

If an officer has reason to suspect that a family or household member aged 60 or older is abused, neglected, or exploited, the officer shall make a report to the Elder Abuse Hotline at 1-866-800-1409 (1-888-206-1327 TTY), or a designated Elder Abuse Provider Agency.

# STALKING

A person knowingly and without lawful justification, on at least two separate occasions, follows another person or places that person under surveillance (or a combination of the two) and (1) at any time, transmits a threat of immediate or future bodily harm, sexual assault, confinement, or restraint and the threat is directed against that person or his/her family member or (2) places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint against him/herself or a family member.

**Potential Criminal Justice Actions:** (Statutes under which law enforcement may arrest and/or prosecutors may charge. This list may not be complete.)

- |   |                   |
|---|-------------------|
| 1. Stalking                               | 720 ILCS 5/12-7.3 |
| 2. Aggravated stalking                    | 720 ILCS 5/12-7.4 |
| 3. Intimidation                           | 720 ILCS 5/12-6   |
| 4. Transmission of obscene communications | 720 ILCS 135/1    |
| 5. Harassment by telephone                | 720 ILCS 135/1-1  |
| 6. Harassment through electronic means    | 720 ILCS 135/1-2  |
| 7. Violation of an order of protection    | 720 ILCS 5/12-30  |
| 8. Disorderly conduct                     | 720 ILCS 5/26-1   |
| 9. Reckless conduct                       | 720 ILCS 5/12-5   |

**Potential Civil Actions:** (Actions which may be brought by an individual, a private attorney, adult protective services. This list may not be complete.)

- |  |                         |
|--|-------------------------|
| 1. Domestic violence order of protection | 750 ILCS 60/1, et. seq. |
| 2. Tort for damages                      |                         |

If an officer has reason to suspect that a family or household member aged 60 or older is abused, neglected, or exploited, the officer shall make a report to the Elder Abuse Hotline at 1-866-800-1409 (1-888-206-1327 TTY), or a designated Elder Abuse Provider Agency.

## **Appendix A: RELATED LAWS**

### **Abuse and Criminal Neglect of a Long Term Care Facility**

**Resident** occurs when any person or any owner or licensee of a long term care facility abuses or criminally neglects a long term care resident. Abuse is a Class 3 felony; neglect is a Class 4 felony; neglect resulting in death is a Class 3 felony. 720 ILCS 5/12-19.

**Assault** occurs when, without legal authority, a person engages in conduct which places another in reasonable apprehension of receiving a battery. 720 ILCS 5/12-1.

**Aggravated Assault** includes, but is not limited to, a situation in which a person, in committing an assault, uses a deadly weapon or any device manufactured and designed to be substantially similar in appearance to a firearm, other than by discharging a firearm in the direction of another person. 720 ILCS 5/12-2.

**Aggravated Battery of a Senior Citizen** occurs when a person, in committing a battery, intentionally or knowingly causes great bodily harm or permanent disability or disfigurement to an individual of 60 years of age or older. It is a Class 2 felony. 720 ILCS 5/12-4.6.

**Criminal Abuse or Neglect of an Elderly Person or Person with a Disability** occurs when a caregiver knowingly (1) performs acts that cause the elderly person or person with a disability's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate; or (2) fails to perform acts that he or she knows or reasonably should know are necessary to maintain or preserve the life or health of the elderly or disabled person and such failure causes the elderly or disabled person's life to be endangered, health to be injured or pre-existing physical or mental condition to deteriorate; or (3) abandons the person; or (4) physically abuses, harasses, intimidates, or interferes with the personal liberty of the elderly or disabled person or exposes the elderly or disabled person to willful deprivation. It is a Class 3 felony – a Class 2 felony if neglect results in the death of the person neglected. 720 ILCS 5/12-21.

**Domestic Battery** occurs when a person intentionally or knowingly and without legal justification causes bodily harm to any family or household member or makes physical contact of an insulting or provoking nature with any family or household member. 720 ILCS 5/12-3.2.

**Aggravated Domestic Battery** occurs when a person who, in committing domestic battery, intentionally or knowingly causes great bodily harm, permanent disability, or disfigurement. 720 ILCS 5/12-4.

**Financial Exploitation of an Elderly Person or Person with a Disability** requires that (1) a person standing in a position of trust or confidence with the elderly person (2) by deception or intimidation (3) obtains control over the property of the elderly person or illegally uses the assets or resources of an elder person. The penalty is based upon the value of property. Class 4 felony if property value is \$300 or less; Class 3 felony if the property value is at least \$300 but less than \$5,000; Class 2 felony if the property value is \$5,000 or more but less than \$100,000; Class 1 felony if the property value is \$100,000 or more. It is also a Class 1 felony if the victim is over 70 years of age and the property is valued at \$15,000 or more or if the victim is over 80 years of age and the property is valued to \$5,000 or more. 720 ILCS 5/16-1.3

**Interfering with the Reporting of Domestic Violence** occurs when a person, after having committed an act of domestic violence, prevents or attempts to prevent the victim of, or witness to, the act from calling 911 emergency telephone system, obtaining medical assistance, or making a report to any law enforcement officer. 720 ILCS 5/12-6.3.

**Criminal Sexual Abuse** occurs when a person:

1. commits an act of sexual conduct by the use of force or threat of force; or
2. commits an act of sexual conduct and the accused knew the victim was unable to understand the nature of the act and was unable to give knowing consent.

720 ILCS 5/12-15.

**Aggravated Criminal Sexual Abuse** occurs when a person commits criminal sexual abuse and any of the following aggravating circumstances existed during the commission of the offense:

1. the accused displayed, threatened to use, or used a dangerous weapon or any object fashioned or utilized in such a manner as to lead the victim under the circumstances reasonably to believe it to be a dangerous weapon;
2. the accused caused great bodily harm to the victim;

3. the victim was 60 years of age or over when the offense was committed;
4. the victim was a physically handicapped person;
5. the accused acted in such a manner as to threaten or endanger the life of the victim or any other person; or
6. the criminal sexual abuse was perpetrated during the course or commission or attempted commission of any other felony by the accused.

720 ILCS 5/12-16.

**Criminal Sexual Assault** occurs when a person:

1. commits an act of sexual penetration by the use of force or threat of force; or
2. commits an act of sexual penetration and the accused knew the victim was unable to understand the nature of the act and was unable to give knowing consent.

720 ILCS 5/12-13.

**Aggravated Criminal Sexual Assault** occurs when a person commits criminal sexual assault and any of the following aggravating circumstances existed during the commission of the offense:

1. the accused displayed, threatened to use, or used a dangerous weapon or any object fashioned or utilized in such a manner as to lead the victim under the circumstances reasonably to believe it to be a dangerous weapon;
2. the accused caused great bodily harm to the victim;
3. the victim was 60 years of age or over when the offense was committed;
4. the victim was a physically handicapped person;
5. the accused acted in such a manner as to threaten or endanger the life of the victim or any other person; or
6. the criminal sexual abuse was perpetrated during the course or commission or attempted commission of any other felony by the accused.

720 ILCS 5/12-14.

**Stalking** is when a person knowingly and without lawful justification, on at least two separate occasions, follows another person or places that person under surveillance (or a combination of the two) and (1) at any time, transmits a threat of immediate or future bodily harm, sexual assault, confinement, or restraint and the threat is directed against that person or his/her family member or (2) places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint against him/herself or a family member. 720 ILCS 5/12-7.3.

**Aggravated Stalking** is when a person, in conjunction with committing the offense of stalking, does any of the following: (1) causes bodily harm to the victim, (2) confines or restrains the victim, or (3) violates a temporary restraining order, an order of protection, or an injunction prohibiting behavior described in Section (b)(1) of the Illinois Domestic Violence Act of 1986 (prohibition of abuse, neglect, or exploitation). 720 ILCS 5/12-7.4.

**Violation of an Order of Protection** occurs when there is a valid court order and the order of protection respondent commits an act which is prohibited by a court or fails to commit an act which is ordered by a court pursuant to a remedy authorized under paragraphs (1) (abuse, neglect, or exploitation prohibition), (2) (exclusive possession of residence), (3) (stay away provisions), or (14) (prohibition of entry while under the influence of alcohol or drugs), (14.5) (possession of firearms prohibition) or any other remedy when the act constitutes a crime against the protected parties. The defendant must have been served notice of the contents of the order or otherwise have acquired actual knowledge of the contents of the order. 720 ILCS 5/12-30.

# **Appendix B: DOMESTIC VIOLENCE – LAW ENFORCEMENT RESPONSIBILITIES**

1. All law enforcement departments must have written policies relative to the handling of domestic violence cases.
2. It is the duty of a law enforcement officer to take all reasonable steps to prevent further abuse. Action shall include, but not be limited to, advising the victim of the availability of an Order of Protection or enforcement of a valid Order of Protection.
3. Any law enforcement officer may arrest an offender when appropriate (when there is probable cause).
4. Officers should seize weapons when appropriate.
5. Officers shall advise the victim of the importance of preserving evidence.
6. Officers shall advise the victim to seek medical help.
7. Officers must provide victims with information about their rights under the Illinois Domestic Violence Act.
8. Officers shall provide the victim with one referral to an accessible service agency.
9. Officers must accompany victims to their residences for a stand by.
10. Officers must transport or arrange for transportation to medical help or a shelter, if necessary.
11. Officer must prepare a written report of all incidents of domestic violence, whether or not an arrest is made.

Protocols recommend that the following be included:

- a. the victim's statement as to the frequency and severity of prior abuse, whether or not there were police calls, the number of prior calls for assistance, and the disposition of the case;
- b. injuries, or lack of injuries;
- c. whether children were present during the incident;
- d. signs of struggle or lack of struggle;
- e. efforts to locate and seize weapons;

- f. that you advised the victim of seek medical assistance;
- g. that you advised the victim about his/her legal options;
- h. that you offered to take the victim to a place of safety and the result;
- i. that you provided the victim with a referral to a service agency; and
- j. all witness statements and witness demeanor.

12. If an arrest is not made, advise the victim about his/her right to request criminal action.

# Appendix C: DOMESTIC VIOLENCE ORDERS OF PROTECTION

An Order of Protection is a court order provided for by Illinois law which is designed to give “family or household members” specific relief.

**Who qualifies:** Persons who have been abused by a “family or household member.” Under Illinois law, this includes spouses, former spouses, parents, children, stepchildren, and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants.

**Where to get an Order of Protection:** Orders of Protection are available through both the criminal and the civil court systems. A victim does not have to hire an attorney to request an Order of Protection. In certain cases, the State’s Attorney’s office will assist a victim in seeking an Order of Protection. The victim can also seek services from the local domestic violence program. Alternatively, the victim can seek an Order of Protection without any assistance.

**Is there any cost:** There is no cost to filing a Petition for Order of Protection. Nor is there a cost for the Sheriff’s Department to serve the Order. However, there may be other costs associated with an Order such as those costs incurred with retaining a private attorney, subpoenaing witnesses, or service by private process servers.

**How long does an Order of Protection last:** In certain cases, a person can obtain an Emergency Order of Protection. The abuser does not have to have any notice prior to the issuance of an Emergency Order of Protection. An Emergency Order of Protection can last for 14 – 21 days. At that time, there will be another court hearing to extend the Order.

An Interim Order of Protection can be effective for up to 30 days.

A Plenary Order of Protection is effective for up to two years. Generally, to obtain a Plenary Order of Protection, the abuser must have been given notice of the court hearing.

## **Relief available through an Order of Protection:**

1. Prohibition of abuse, neglect, or exploitation\*\*.
2. Grant of exclusive possession of residence\*\*.
3. Ordering the abuser to stay away from the victim or prohibiting the abuser from entering or remaining present at the victim's/ children's school, place of employment, or other specified place at times when petitioner is present\*\*.
4. Counseling\*.
5. Physical care and possession of the minor child(ren).
6. Temporary legal custody\*.
7. Determination of visitation with a minor child\*.
8. Prohibiting the abuser from removing a minor child from the State or concealing the child within the State.
9. Ordering the abuser to appear in court to prevent abuse, neglect, removal, or concealment of a minor child, to return the child to the petitioner, or to permit any court-ordered interview or examination.
10. Granting the victim exclusive possession of personal property.
11. Forbidding the abuser from taking, transferring, encumbering, damaging, concealing, or otherwise disposing of real or personal property.
- 11.5 Possession and protection of animals owned, possessed, leased, kept, or held by either petitioner or respondent or a minor child residing in the residence or household of either. (effective 1.1.2008)
12. Ordering the abuser to pay support for the victim and/or any child in the victim's custody\*.
13. Ordering the abuser to pay the victim for losses suffered as a direct result of the abuse, neglect, or exploitation\*.
14. Prohibiting the abuser from entering or remaining in the residence or household while the abuser is under the influence of alcohol or drugs and constitutes a threat to the safety and wellbeing of the victim or the victim's children\* \*\*.
- Prohibiting the abuser from possession of firearms in certain cases\* \*\*.
15. Under certain circumstances, denying the abuser access to, and prohibiting the abuser from inspecting, obtaining, or attempting to inspect or obtain, school or any other records of the minor child who is in the care of the victim.
16. Ordering the abuser to pay for shelter services\*.
17. Entering such other injunctive relief as may be necessary or appropriate to prevent further abuse.

\* Not available as part of an Emergency Order of Protection

\*\* Arrest criteria: It is not necessary that the respondent be formally served with an Order of Protection. The respondent need only have actual knowledge of its contents and knowingly violated remedies 1, 2, 3, 14, 14.5, or any other remedy when the violation constitutes a crime against a protected person.

## **Appendix D: CIVIL NO CONTACT ORDER**

A Civil No Contact Order (CNCO) is a court order provided for by Illinois law which is designed to give victims of sexual assault specific relief.

**Who qualifies:** Victims of non-consensual sexual conduct or non-consensual sexual penetration. There does not have to be a family or household relationship.

A petition for a CNCO can be filed by any victim of non-consensual sexual conduct or penetration or a person on behalf of a minor child or an adult who is a victim of non-consensual sexual conduct or penetration but who, due to age, health, or inaccessibility, cannot file a petition.

**Where to get a Civil No Contact Order:** Civil No Contact Orders are available through both the criminal and the civil court systems. A victim does not have to hire an attorney to request a CNCO. In certain cases, the State's Attorney's office will assist a victim in seeking a CNCO. The victim can also seek services from the local domestic violence and sexual assault program. Alternatively, the victim can seek a CNCO without any assistance.

**Is there any cost:** There is no cost to filing a Petition for Civil No Contact Order. Nor is there a cost for the Sheriff's Department to serve the Order. However, there may be other costs associated with an Order such as those costs incurred with retaining a private attorney, subpoenaing witnesses, or service by private process servers.

**How long does an Order of Protection last:** In certain cases, a person can obtain an Emergency Civil No Contact Order. The abuser does not have to have any notice prior to the issuance of an Emergency CNCO, which can last for 14 – 21 days. At that time, there will be another court hearing to extend the Order.

A Plenary CNCO can be effective for up to two years. To obtain a Plenary CNCO, the abuser must have been served notice of the court hearing.

### **Relief available through a Civil No Contact Order:**

The Court can order that the respondent stay away from the petitioner and grant such other injunctive relief as may be necessary or appropriate.

## Appendix E: FULL FAITH & CREDIT

Enacted in 1994, the Violence Against Women Act (VAWA) is a federal law that requires jurisdictions to give full faith and credit to valid orders of protection issued by other jurisdictions. Basically, VAWA requires that all valid orders of protection, regardless of where they were issued, be enforced whenever they are violated. In other words, even if an Order of Protection was issued in another county or even in another State, if it meets VAWA's criteria as a valid order, it must be enforced in your jurisdiction.

What is a "valid" order of protection? Under VAWA, a protection order is defined as "any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with, or physical proximity to, another person."

According to *Protecting Victims of Domestic Violence: A Law Enforcement Officer's Guide to Enforcing Orders of Protection Nationwide*, an order of protection should be presumed to be valid if all of the following are found: (1) the order gives the names of the parties; (2) the order contains the date it was issued and that date is prior to the date when enforcement is sought; (3) if the order has an expiration date, the order had not expired prior to the alleged violation; (4) the order specifies the terms and conditions against the abuser; (5) the order contains the name of the issuing court; and (6) the order was signed by, or on behalf of, a judicial officer.

The full faith and credit provisions of VAWA apply to both civil and criminal orders.

Mutual Orders should only be enforced against the respondent, and not the petitioner, unless the respondent also filed a written pleading for an order of protection.

If there is a valid Order, the laws of the State where the Order of Protection was issued determines who is protected, the terms and conditions of the Order, and how long the Order is in effect. For example, some States have lifetime protection orders. Therefore, if that Order is enforced in Illinois, it would be valid for the victim's lifetime, even though our law only provides for a two year Order.

The laws of the State where the Order of Protection is to be enforced determines how the Order is to be enforced, officers arresting authority, detention and notification procedures, and penalties. Therefore, for example, if an out-of-State Order is enforced here, you may charge for Violation of an Order of Protection, even if the issuing State does not have a similar statute.

# Appendix F: INDICATORS OF ELDER ABUSE

## Physical Indicators

- ✓ Injuries that have not been properly cared for
- ✓ Injuries incompatible with history
- ✓ Cuts, lacerations or puncture wounds
- ✓ Bruises, welts, discoloration, especially bilateral/multiple in various stages of healing
- ✓ Dehydration, malnourishment or weight loss without medical explanation
- ✓ Pallor or poor skin hygiene
- ✓ Sunken eyes or cheeks
- ✓ Evidence of inadequate care, such as improperly cared for bedsores
- ✓ Eye problems, retinal detachment
- ✓ Pulled out hair
- ✓ Soiled clothing or bed; left in own waste
- ✓ Burns such as cigarettes, acids, or ropes
- ✓ Locked in room; tied to furniture or toilet
- ✓ Broken bones

## Family/Caregiver Indicators

- ✓ Indifference or hostility to client
- ✓ Excessive blaming of client
- ✓ Problems with alcohol or drugs
- ✓ Previous history of violence
- ✓ Failure to comply with the care plan
- ✓ Social isolation of the victim/withholding of affection
- ✓ Conflicting accounts of incidents
- ✓ Threats and intimidation of client

## Financial Indicators

- ✓ Unpaid bills when income is adequate
- ✓ Food, clothing, & care needs not being met
- ✓ Overcharged for rent or services
- ✓ Personal loans not repaid
- ✓ Complaints of thefts of property or money
- ✓ Missing checks, jewelry or other valuables
- ✓ Power of Attorney signed by confused person
- ✓ Suspicious changes in title to property
- ✓ Caregiver overly concerned with person's money
- ✓ Promises of lifelong care in exchange for assets
- ✓ ATM transactions by home-bound elder
- ✓ Utility shut-offs or threats
- ✓ Large telephone bills run up by caregiver
- ✓ Checks for food, etc., written over amount needed
- ✓ Large or unusual bank transactions

## Behavioral Indicators (of senior)

- ✓ Withdrawn, depressed, resigned, helpless
- ✓ Hesitates to talk openly
- ✓ Gives implausible stories about injuries or events
- ✓ Denies problems
- ✓ Appears fearful of caregiver or family member
- ✓ Has lost touch with family & friends other than caregiver or alleged abuser

# Appendix G: REPORTING ELDER ABUSE

## Elder Abuse and Neglect Act, 320 ILCS 20/1, et. seq.

The Elder Abuse and Neglect Act requires that mandated reporters report, within 24 hours, any suspected abuse, neglect, or financial exploitation when an person 60 years of age or older who lives in the community is unable, because of dysfunction, to self-report. The report must be made to the Department of Aging's Elder Abuse Hotline or a designated Elder Abuse Provider Agency.

**Who is a “mandatory reporter”?** The Elder Abuse and Neglect Act sets forth a broad list of persons who are mandatory reporters. Law enforcement officers are mandatory reporters.

**What is meant by dysfunction?** Dysfunction is not defined by the law. However, according to the Department on Aging, it is “understood to mean any physical or mental condition that would render an older person unable to seek help for himself or herself.” If the reporter is unsure whether an older person is able to self-report, the Department on Aging recommends that a report still be made.

**How is a report made?** Anyone who suspects that a person age 60 or older is being abused, neglected, or financially exploited can make a report by calling either the designated Elder Abuse Provider Agency for where the alleged victim lives (see page 34) or the Elder Abuse Hotline at 1-866-800-1409 (1-888-206-1327 TTY).

The reporter should be prepared to answer the following questions to the best of his/her ability:

- the alleged victim's name, address, telephone number, gender, age and general condition; the best time to contact the person; and if he or she knows of the report;
- the alleged abuser's name, gender, age, relationship to victim, and condition;
- the circumstances which lead the reporter to believe that a person is being abused, neglected, or financially exploited, with as much specificity as possible;
- whether the alleged victim is in immediate danger, and if there is any danger to the worker going out;
- whether the reporter believes the client could make a report himself or herself;
- the name, telephone number, and profession of the reporter;
- the names of others with information about the situation;
- if the reporter is willing to be contacted again; and
- any other relevant information.

Even if the reporter does not have all of the above information, the call should be made with as much information as possible.

Depending upon the seriousness of the allegations, a trained case worker will make a face-to-face contact with the victim within the following time frame: 24 hours for life threatening situations, 72 hours for most neglect and non life-threatening physical abuse reports, and 7 calendar days for most financial exploitation and emotional abuse reports.

The Elder Abuse and Neglect Act provides extensive protections to all reporters. Anyone who makes an elder abuse report in good faith is exempt from civil or criminal liability.

**What happens if a client does not want services?** Competent seniors may refuse an assessment and any services from an Elder Abuse and Neglect Program. If the Program does not believe that the senior is competent, it can petition the court for guardianship in order to ensure that the senior's needs are being met.

### **Abused and Neglected Long Term Care Facility Residents Reporting Act, 210 ILCS 30/1, et. seq.**

Law enforcement officers are also mandated to immediately report the suspicion of abuse or neglect to a resident of a long term care facility (for example, a nursing home, sheltered care home, or assisted living establishment), mental health facility, or developmental disability facility.

Reporting requirements apply regardless of the ability of the resident to self-report.

Reports are made to the Illinois Department on Public Health's Nursing Home Hotline at 1-800-252-4343.

# DIRECTORY OF ELDER ABUSE & NEGLECT AGENCIES

<u>County</u>	<u>Elder Abuse Agency</u>	<u>Phone</u>
Bureau	Alternatives for the Older Adult	1-309-277-0167
DeKalb	Elder Care Services of DeKalb County	1-815-758-6550
Grundy	Grundy County Health Department	1-815-941-3143
Henry	Alternatives for the Older Adult	1-309-277-0167
Kendall	Senior Services Associates, Inc.	1-630-553-5777
LaSalle	Alternatives for the Older Adult	1-309-277-0167
Livingston	PATH	1-309-827-4005
Marshall	SeniorStrength	1-309-637-3905
Putnam	Alternatives for the Older Adult	1-309-277-0167
Stark	SeniorStrength	1-309-637-3905
Will	Senior Services of Will County	1-815-740-4225

Statewide Elder Abuse Hotline: 1-866-800-1409 (1-888-206-1327 TTY)

Illinois Department of Public Health Nursing Home Hotline: 1-800-252-4343

# DIRECTORY OF DOMESTIC VIOLENCE & SEXUAL ASSAULT AGENCIES

<u>County</u>	<u>Agency</u>	<u>Phone</u>
Bureau	Freedom House (clients only)	1-815-872-0087 1-800-474-6031
DeKalb	Safe Passage	1-815-756-5228
Grundy	Guardian Angel Community Services  Groundwork/Domestic Violence Groundwork Hotline Sexual Assault Services Center	  1-815-941-2261 1-815-729-1228 1-815-730-8984
Henry	Freedom House (clients only)	1-815-872-0087 1-800-474-6031
Kendall	Mutual Ground (domestic violence) Mutual Ground (sexual assault)	1-630-897-0080 1-630-897-8383
LaSalle	ADV & SAS (clients only)	1-815-673-1555 1-800-892-3375
Livingston	ADV & SAS (clients only)	1-815-673-1555 1-800-892-3375
Marshall	Freedom House (clients only)	1-815-872-0087 1-800-474-6031
Putnam	Freedom House (clients only)	1-815-872-0087 1-800-474-6031
Stark	Freedom House (clients only)	1-815-872-0087 1-800-474-6031
Will	Guardian Angel Community Services  Groundwork Hotline Sexual Assault Services Center	  1-815-729-1228 1-815-730-8984

National Domestic Violence Hotline 1-800-799-7233 (1-800-787-3224 TTY)

## **Hotlines & Other Local Resources**

### **To report elder abuse in general community:**

Elder Abuse Hotline  
1-866-800-1409

### **To report elder abuse in a facility:**

Illinois Department of Public Health  
Nursing Home Hotline  
1-800-252-4343

### **Elder agencies:**

Bureau & LaSalle Counties:  
Alternatives for the Older Adult  
1-309-277-0167

Grundy County:  
Grundy County Health Department  
1-815-941-3143

### **Services for victims of domestic violence:**

Bureau County:  
Freedom House  
1-815-872-0087 or 1-800-474-6031

Grundy County:  
Groundwork  
1-815-729-1228

LaSalle County:  
ADV & SAS  
1-815-673-1555 or 1-800-892-3375

For further information on interpersonal violence, and for permission to copy this booklet, please contact:

Thirteenth Judicial Circuit  
Family Violence Prevention Council  
100 W. Lafayette Street  
Ottawa, IL 61350  
815.431.0630 (voice)  
815.431.0637 (phone)  
[13fvpc@mchsi.com](mailto:13fvpc@mchsi.com)