



APPENDIX C
**LEGAL
INTERVENTIONS**

INTRODUCTION: LEGAL INTERVENTIONS

The client, in conjunction with the caseworker, and usually after consultation with an attorney, must consider which legal interventions, if any, are most appropriate. If the client is incapacitated that decision might by necessity be made by the caseworker, or possibly by the client's agent or guardian.

When a legal intervention becomes necessary, the caseworker should recommend the most appropriate and least intrusive legal intervention. Considerations of a client's wishes or an incapacitated client's known preferences, the wishes of the family and caregivers, the availability of legal resources, the possibilities of success, the potential effectiveness of the intervention, and the expense of legal action may each play a role as factors in the decision. In this analysis, the client's wishes should be of the utmost importance.

Caseworkers considering a legal intervention for a client of questionable decisional capacity must keep in mind that their role is not to determine the *competency* of the client – that question is reserved for the court. However, the caseworker must assess the client's *capacity* to consent to or refuse services. This assessment may necessitate further actions, i.e., a petition to the court to allow the assessment or to settle the question of competency.

If the caseworker determines that the victim lacks sufficient capacity to consent to (or refuse) services, the Act provides that the adult protective services provider agency shall take appropriate action necessary to ameliorate the risk to the client if there is a threat of ongoing harm or another emergency exists. The Department or other agency may seek the appointment of a temporary guardian to consent to an assessment of the reported incident or to consent to services.

This summary of a number of possible interventions, both criminal and civil, is designed to help educate and guide the adult protective services caseworker in advising the client on the intervention options available to assist and protect clients. Generally, these are listed from the least restrictive to the most restrictive, with the criminal actions coming at the end.

I. LEAST RESTRICTIVE

Representative Payee

For those whose mental or physical disabilities prevent them from managing their money properly, a trusted friend, relative or money manager can be named as a representative payee.

A representative payee relationship allows a third party to receive certain income for an individual and deposit that income into a separate account. The representative payee will then pay the bills of the individual from the funds deposited into that account. It is available after the onset of incapacity and may suffice to prevent the financial exploitation of a person of moderate means without significant assets. The relationship can be established through the Social Security Administration, the Veteran's Administration, or the Railroad Retirement Board.

To put the procedure in place, contact the local office of the Social Security Administration, Veterans Administration, or Railroad Retirement Board (as appropriate) for the proper forms (see SSA Publication 05-10076, which is available online, at the Social Security Administration website).

Social Security requires a signed authorization from the benefit recipient (if possible) naming the designated representative payee. The benefits agency must receive documentation of the incapacity of the client from a physician. The agency will process the forms and, generally within two months, begin to mail the benefit checks to the designated representative payee.

Though it has the benefit of simplicity, this procedure presents some risks and limitations as the representative payee is granted unlimited access to the client's funds. Accordingly, the representative payee should be a trustworthy person. There are some minimal accounting requirements and safeguards, and the benefits agency may investigate a representative payee if the benefits agency has a suspicion or has received an allegation of misuse of funds; however, these will not always be enough to prevent financial exploitation and even when it does, the exploiter may continue to have access to other funds and accounts.

Direct Deposit

Persons receiving SSI, Social Security or other regular checks (such as pension or retirement benefits) may choose to have those checks deposited directly into their bank account. This may be an effective strategy if a financial exploiter is gaining physical control over the client's checks. An adult protective services caseworker can help the client set up direct deposit by simply contacting the organization issuing the checks and the banking institution and assisting with the required forms. It may be necessary to create a new checking account at the financial institution for the client at that time.

Direct deposit can be useful in ensuring a "paper trail" should financial exploitation occur. It will also provide bank oversight to the actions of a financial exploiter. Despite these safeguards, if a check is written to cash from the account, a caseworker may have difficulty tracking the funds and a bank may not be able to detect or control.

Money Management

Another means of protecting the finances of a client is through the Adult Protective Services' Money Management Program. The program is overseen and monitored by the Illinois Volunteer Money Management Program (IVMMP) Statewide Coordinator. The IVMMP was established in 1991 as a demonstration project between the AARP and the Department, with several community agencies providing the local services. While AARP was involved in the beginning of this program, AARP no longer participates in the program. The program uses screened and trained volunteers (often retired professionals) to assist low income, elderly or disabled individuals with a variety of money management tasks to help them live independently.

The client must demonstrate a need for money management services as determined by the caseworker during the assessment, casework, or follow up period.

A Money Management Program Coordinator matches a volunteer with the client. The volunteer may serve as a “bill payer” or “representative payee,” depending upon the individual’s needs. Money management services under the Adult Protective Services Money Management Program may continue after the abuse case closes as long as the client demonstrates a need for such services.

Powers of Attorney

Under some circumstances, a durable power of attorney for property and financial matters may be the best way to stop the financial exploitation of a victim. Since many abuse cases involve some degree of financial exploitation, an adult protective services caseworker should always consider advising the client to execute a power of attorney delegating financial decision-making to a trusted friend or relative.

However, the effectiveness of a power of attorney may be limited by several factors. First, a client who is no longer capable of managing his or her own legal or financial affairs likely cannot execute a power of attorney that would survive a court challenge, since executing a valid power of attorney requires the same level of capacity as executing any other legal document. For the incapacitated client, the adult protective services caseworker may have no alternative but to explore the possibility of guardianship.

Second, delegating powers under a power of attorney requires that the client have trusted friend or relative to name as the agent. Should a financial exploiter be named the agent or the agent become a financial exploiter, the client’s cause can quickly become unsalvageable.

Finally, executing a power of attorney for property and financial matters does not (unlike a guardianship of the estate) remove from the client the power to make their own financial decisions as it is a shared power between principal and agent. Thus, unless the client chooses to place his or her financial decision-making entirely in the hands of the agent, that client can continue to make income, asset, and property transactions.

Many financial exploiters have established the sort of influence, often based on deceit, intimidation or coercion, which enables them to continue their exploitation even if a power of attorney for property matters has been executed.

The Illinois Power of Attorney Act [755 ILCS 45/1-1 *et seq.*] contains statutory short forms for durable powers of attorney, one for health care and one for property and financial decisions. The legislation reversed the very old common law rule that powers of attorney were not “durable,” i.e., did not survive the disability of the principal.

State law now provides a legal tool for the adult protective services caseworker to investigate possible financial exploitation. A representative of the Adult Protective Services and Neglect Program or the Long Term Care Ombudsman Program may demand of the property/financial agent a copy of the records of the transaction conducted by the property/financial agent when certain circumstances are present. This is further described in the section entitled “Access to Agent’s Financial Records” below.

II. MODERATELY RESTRICTIVE

Petition for Access to an Eligible Adult

Section 13 of the Adult Protective Services Act authorizes the adult protective services provider agency to petition the court for access to an eligible adult reported to be abused, neglected or exploited, when access to that older adult has been denied. Prior to filing such a petition, the caseworker shall first seek the assistance of law enforcement as required by the Adult Protective Services’ Administrative Rules at 89 Ill. Admn. Code 270.245(b). The petition would generally be filed by the adult protective services provider agency. The petitioning agency may ask for an expedited hearing.

The petitioning agency must demonstrate to the court that a third party or caregiver is has interfered with the assessment or service plan or that the agency believes the eligible adult is denying access because of coercion, extortion, or justifiable fear of future abuse, neglect, or exploitation. The petitioning agency then would ask the court to grant an order giving access to assess the validity of the report, determine the needs of the eligible adult, and, if warranted, provide services to the eligible adult. Any order for access must be issued for a fixed period of time not to exceed 2 years. A caseworker must craft an access order in the least restrictive means possible.

If necessary, this provision could be used at any point in the case where a third party attempts to block access to the client. Section 13(a) also allows a provider agency to petition the court for access to financial, mental and physical health records, or other relevant records of the eligible adult when access to the records is denied.

Emergency Orders for Assessment of Suspected or Alleged Abuse or Neglect

Section 9(d) of the Adult Protective Services Act provides that a circuit judge may issue an emergency order for assessment of suspected or alleged abuse or neglect and, if the allegations are determined to be founded, an order for the provision of necessary services. Such order may only be granted where the provider agency has determined an emergency exists and it reasonably appears that the eligible adult lacks the capacity to consent to necessary services. If the 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 the adult protective services provider agency may take action necessary to ameliorate the risk to the eligible adult.

This provision of the Adult Protective Services Act could be used to gain emergency treatment for a client and to prevent third parties (i.e., abusive caregivers) from interfering with access to the client. While an additional effect of this statutory provision was to provide access to victims who are shut in by an abusive or neglectful caregiver, there is not a specific provision in Section 9(d) designed to address access. The access provisions are found at Section 13 of the Adult Protective Services Act.

Access to Agent's Financial Records

In cases where the alleged victim has a financial/property agent under a Power of Attorney, is incapacitated, and there is some basis to suspect that financial exploitation is occurring, the adult protective services provider agency may seek access to the financial records of the victim pursuant to the Illinois Power of Attorney Act.

The law authorizes a representative of an adult protective services provider agency acting in the course of the assessment of a report of abuse pursuant to the APS Act to demand the records of the agent including all receipts, disbursements, and significant actions taken under the authority of the agency [755 ILCS 45/2-7(c)(2)]. If the agent fails to provide this record within 21 days after the request, the provider agency is authorized to petition a court for an order requiring the agent to produce the record. If the court finds that the agent's failure to provide the record was without good cause, it may assess reasonable attorney's fees against the agent and order such relief as is appropriate.

The demand for the records should be made by the provide agency by a letter to the agent which states that there has been a suspicion or allegation of financial exploitation raised against the agent. The letter should demand complete and accurate copies of all financial documents, such as bank records, check registries, receipts, disbursement records, property transfer records, and other documents relative to transactions of the agent for the eligible adult in question.

Orders of Protection

An alternative to seeking criminal charges against an abuser is to petition the circuit court for an order of protection under the Illinois Domestic Violence Act [750 ILCS 60/101 *et seq*], although an order of protection may also be brought in conjunction with criminal charges.

A petition for an order of protection must be filed by the abused adult or someone acting on behalf of a "high risk adult with disabilities." The statute defines a "high risk adult with disabilities" as 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. Orders of protection will only be applicable where the abuse, neglect, or exploitation is being committed by a family or household member.

An emergency order of protection may be issued regardless of prior service on, or notice to, the respondent. The harm the emergency order of protection is designed to prevent would be more likely to occur if the respondent was given prior notice (or the order was delayed until notice was obtained).

A 30-day interim order of protection may be issued once the respondent has been notified and a hearing held. A plenary order of protection may be used for a set period of up to two years once the respondent has received notice and a hearing has been held. Plenary orders may be extended any number of times if the requirements for notice and hearing have been met.

Repeated violations of orders of protection may result in increasingly stiff penalties [720 ILCS 5/12-3.4]. The statute provides that a first offense is a Class A misdemeanor; for a second and subsequent offenses, judges are encouraged to impose 24 hours of jail time (to be lengthened for additional offenses). If the violator has a previous conviction of domestic battery or violation of an order of protection, then the violation is chargeable as a Class 4 felony.

Restraining Orders

Where orders of protection are inapplicable because the abuse, neglect, or financial exploitation is not being committed by a family or household member, another available legal tool is a restraining order. For example, the restraining order might be applied to a neighbor who would not otherwise be covered by the order of protection.

A restraining order is issued by a circuit court on the basis of the court's equity power. This is the inherent power of a court to command that certain things, under certain circumstances, be done, or, where some irreparable harm would result from an action, to command that the action not be done.

Violation of a restraining order by a person covered by that order and having actual knowledge of it can lead to a citation for contempt of court.

Civil Legal Action for Recovery of Assets

In a financial exploitation case, the client may sue to recover assets lost through fraud, deceit, or intimidation. The practicality of this approach will depend upon the value of the assets, whether the fraudulent transfer is documented, the likelihood of recovery, the willingness and ability of the client to press a case, and the difficulty of getting the exploiter into court.

The Financial Exploitation of an Elderly Person or a Person With a Disability [720 ILCS 5/17-56] criminal statute provides criminal sanctions and allows the wronged person to recover triple damages plus court costs and attorneys' fees, for a civil judgment that property had been converted or stolen by threat or deception. Victims may win a civil judgment regardless of the outcome of the criminal trial. The provision for attorney's fees was designed to make it more attractive for a private attorney to bring a civil suit against an eligible adult's exploiter.

Separation and Dissolution of Marriage

Some cases of abuse are best described as spousal abuse. The entire marriage may have included chronic domestic violence. In such situations, the adult protective services caseworker should counsel the client to consider divorce or legal separation.

Although an older couple is not likely to have minor children, the dissolution of their marriage may raise serious division of property issues. In cases of domestic violence, an order of protection is sought at the time of separation. Under a plenary order of protection, a spousal violence victim may be allowed to take exclusive possession (though not ownership) of a jointly owned residence for some time. The plenary order of protection may also require the abuser to seek counseling, which may benefit the abuse victim.

A caseworker may advise a client to consider divorce or legal separation and can assist that individual with the process; however, the client must hire independent legal counsel to effectuate this legal process.

Court Ordered Asset Freeze

After a provider agency has substantiated allegations of financial exploitation, Section 13(d) of the Adult Protective Services Act authorizes the adult protective services provider agency to seek a court order freezing the assets of the victim of financial exploitation. This remedy is useful in situations where the financial exploiter is about to take control of some portion of the eligible adult's assets.

Freezing a victim's assets is a temporary measure designed to prevent the immediate theft, depletion or conversion of the victim's assets. This remedy will also provide the provider agency with a brief period to put permanent effective safeguards into place, or may be seeking to freeze a situation to allow time for the resolution of some legal dispute as to the legitimate ownership of assets.

The petitioning agency must demonstrate to the court that the order is necessary to prevent the victim from being irreparably harmed. The provider agency should file the petition in the circuit court of the county in which the assets are located and may (and usually would) seek an expedited hearing. The court's order would prevent any party from selling, gifting, transferring, or wasting the assets in question without the express permission of the court.

It is important for the provider agency to have a plan in place to provide support to the victim while his/her assets are frozen. A creative approach would be to have the court order freeze only certain accounts and not others, or ask the court to appoint a trusted person to manage the frozen accounts to prevent the older person from being endangered by not having sufficient assets available to meet his/her needs.

III. MOST RESTRICTIVE

Guardianship

In cases where victims are not mentally or physically capable of handling their affairs, the only solution may be to impose guardianship. The Probate Code [755 ILCS 5/11a-1, *et seq.*] provides for two kinds of guardianships: *guardianships of the estate* and *guardianship of the person*. In addition, the statute provides for *limited guardianships* and *temporary guardianships*.

Any adult who a court finds is capable of providing an active and suitable program of guardianship for the person with a disability may be appointed as a guardian. The guardian need not be a resident of Illinois; the earlier restriction on felons serving as guardians has been removed from the law.

A *guardian of the estate* is appointed when the alleged disabled adult is determined by the court to be unable to manage his/her financial affairs. A *guardian of the person* is appointed when the alleged disabled adult is unable to understand, make or communicate responsible decisions concerning his/her own health or personal care.

Limited guardianship may be imposed when the court finds the alleged disabled adult to lack some, but not all, capacity to manage his/her financial affairs or health. The court must enter a written order stating the factual basis for the limited guardianship and specifying the specific powers of the limited guardian (which may be for the estate, or the person, or both). While the guardianship law states that limited guardianships should be preferred by the court in all cases, they are actually rarely used.

The court may also impose a *temporary guardianship* when a showing is made that it is immediately necessary for the welfare or protection of the alleged disabled person or his/her estate. A temporary guardianship expires 60 days after imposition, or upon the imposition of a plenary guardianship. A temporary guardian is invested with the powers specifically enumerated by the court. For practical purposes, a temporary guardianship may be necessary in arranging for emergency medical treatment for a physically abused or medically neglected victim.

There are three major problems with guardianship: first, the cost of attorneys' and court fees which must come from someone's pocket; second, the guardianship reduces the ward to the legal status of a minor, usually ending any hope of continued independence; and third, a successful guardianship requires that a trusted friend, caregiver or relative be available to serve.

The last point is the most important. Should an abuser or exploiter gain guardianship (particularly a guardianship of the estate) over the victim, it is extremely difficult to rectify the situation.

The guardianship law provides that a request for review of the guardian or the guardianship communicated to the judge, even an informal letter written by or on behalf of the ward, can trigger a hearing for revocation, modification, or termination of the appointment of an abusive, neglectful or exploitive guardian. After receiving such a letter, the judge should appoint a *guardian ad litem* (GAL), who would investigate the situation and advise the court. Pursuant to Section 9(g) of the APS Act, a provider agency must notify a probate court with jurisdiction over a guardianship within 30 days of a substantiated finding of abuse, neglect, or financial exploitation.

The court may also appoint a legal advocate for the ward, who is entitled to a legal hearing with a right to present evidence and cross-examine witnesses, and a six-person jury. The judge may enter an order permitting the GAL and the legal counsel appointed for the ward to be paid by the petitioner, except when the petitioner is the adult protective services provider agency, if the ward's estate is insufficient.

While a guardian of the person does have broad powers under a plenary guardianship, he/she must receive court permission before placing the ward in a long term care facility or any other institutional setting. Alternatively the court may state in advance the specific conditions requiring admission of a ward to a long term care facility without further court action.

The guardianship law provides that a guardian of the person may be ordered to file periodic reports with the court. These reports may include information on the current mental, physical and social condition of the ward, as well as present living arrangements, medical and other professional services provided by the ward, and the guardian's recommendation about continuation of guardianship.

An attorney, family member or neighbor who suspects that the guardian may be abusing or exploiting a ward may seek access to the reports which guardians are normally required to file. Unfortunately, these reports are often missing, incomplete or inaccurate.

Mental Commitment

The Mental Health and Developmental Disabilities Code [405 ILCS 5/1-100 *et seq.*] provides several ways to admit or commit a person to a mental health facility. These include informal admission, voluntary admission, emergency admission by certification, and involuntary admission by court order.

If it becomes desirable or perhaps necessary to seek an involuntary or emergency admission hearing the adult protective services caseworker should immediately consult a physician, psychiatrist, or clinical psychologist. In most urban areas, an emergency room physician will certify the emergency admission of someone who clearly needs emergency treatment.

In an abuse case, those working on behalf of the victim might consider seeking the abuser's involuntary admission or admission by certificate. If the abuser's actions indicate that he/she is mentally ill, commitment may not only protect the victim, but may allow the abuser to receive treatment.

The adult protective services caseworker must consider whether removing an abusive caregiver will require that other caregiver arrangements be made for the elderly person. However, the victim may be more willing to accept removal of an abusive caregiver for treatment than arrest and prosecution.

Criminal Prosecution

In some cases of physical or sexual abuse, or financial exploitation, the caseworker may consider advising the client to pursue criminal charges. Statistics on domestic violence cases generally indicate that calling in the police can cut further abuse by as much as 40 to 60 percent. In some cases particularly where the violence is repeated, the abuser may serve jail time or be required to undergo counseling (as a condition of probation).

For several reasons, it may be difficult to pursue a criminal charge: the abuser may intimidate the victim, the victim may be reluctant to subject a family member or caregiver to criminal sanctions, the victim may be unwilling to testify in court and the abuse may be difficult to prove. Obviously, the cooperation of the state's attorney's office is essential, and that office should be consulted from the outset.

In addition to the specific abuse, neglect and financial exploitation crimes against older persons and persons with disabilities in the Criminal Code, other abusive conduct would also be covered by a number of traditional criminal statutes.

These would include domestic battery, aggravated assault, criminal sexual assault or abuse, attempted murder, theft or robbery. In most cases, committing a criminal act against an elderly person or person with a disability constitutes either an aggravated level of the crime or would make the defendant eligible for an extended term; both of which may result in a longer prison term.

When the adult protective services caseworker witnesses or confirms abuse, neglect or financial exploitation, the caseworker should recommend that the client take the case to the state's attorney. If the caseworker witnesses a serious felony, they must report the crime to law enforcement. It is true that many people are reluctant to report crimes involving their own relatives or caregivers.

The attitude of the older person can be a significant factor in the prosecutor's decision to pursue criminal charges. Unless the victim is deceased, the successful prosecution of a criminal offense usually requires the full cooperation of the victim.

IV. ILLINOIS CRIMINAL LAWS PERTINENT TO ABUSE

Criminal Abuse or Neglect of an Elderly Person or a Person with a Disability: 720 ILCS 5/12-21 creates the crime of criminal abuse or neglect of an elderly person or a person with a disability who is incapable of adequately providing for their own health and personal care. The perpetrator must be a caregiver, who has assumed the duty of caring for the elderly person by virtue of being either a family member, employed to render care, appointed by a court or agency, or receiving some kind of consideration (i.e., room and board). This crime is considered a Class 3 felony unless it results in the victim's death in which case it is elevated to a Class 2 felony. If imprisonment is imposed, it shall be for a minimum term of 3 years and a maximum term of 14 years.

Financial Exploitation of an Elderly Person or a Person with a Disability: 720 ILCS 5/17-56 creates the crime of financial exploitation by deception or intimidation of an elderly person by one who has a relationship of trust or confidence. The elderly person or person with a disability must be functionally incapable of avoiding or preventing the commission of the offense. This crime is considered a Class 4 felony if the value of the property is \$300 or less, a Class 3 felony if it is more than \$300 and less than \$5,000, a Class 2 felony if it is \$5,000 or more and less than \$50,000, and a Class 1 felony if it is \$50,000 or more. The crime may also be charged as a Class 1 felony if the elderly person is over 70 years of age and value of the property is \$15,000 or more or if the elderly person is 80 years of age or older and the value of the property is \$5,000 or more.

Murder (First Degree): 720 ILCS 5/9-1(b) dictates that if the victim was 60 years of age or older and the death resulted from exceptionally brutal or heinous behavior indicative of wanton cruelty, a defendant found guilty of the crime may be sentenced to death or to life in prison. Additionally, if the murdered individual was a person with a disability and the defendant knew or should have known that the murdered individual was a person with a disability, a defendant found guilty of the crime may be sentenced to death or to life in prison.

Murder (Second Degree): 720 ILCS 5/9-2 dictates that a defendant may be found guilty of second degree murder if the defendant committed the crime of first degree murder and at the time of the killing he or she is acting under a sudden and intense passion resulting from serious provocation by the individual killed or another whom the offender endeavors to kill, but he or she negligently or accidentally causes the death of the individual killed. Second degree murder is a Class 1 felony.

Involuntary Manslaughter: 720 ILCS 5/9-3 dictates that a defendant may be found guilty of involuntary manslaughter if the defendant unintentionally kills an individual without lawful justification and his or her acts, whether lawful or unlawful, which cause the death are such as are likely to cause death or great bodily harm to some individual and are performed recklessly. Involuntary manslaughter is a Class 3 felony.

Assault: 720 ILCS 5/12-1 dictates that a defendant may be found guilty of assault if he or she knowingly places another person in reasonable apprehension of receiving a battery, without lawful authority. Assault is a Class C misdemeanor.

Aggravated Assault: 720 ILCS 5/12-2 dictates that a defendant may be found guilty of aggravated assault if he or she commits an assault and the individual assaulted is a person with a physical disability or a person 60 years of age or older and the assault is without legal justification. Aggravated assault is a Class A misdemeanor.

Battery: 720 ILCS 5/12-3 dictates that a defendant may be found guilty of a battery if he or she knowingly without legal justification causes bodily harm to an individual or makes physical contact of an insulting or provoking nature with an individual. Battery is a Class A misdemeanor.

Aggravated Battery: 720 ILCS 5/12-3.05 dictates that a defendant may be found guilty of aggravated battery if he or she knowingly commits a battery against an individual he or she knows is 60 years of age or older or is a person with a disability. Such aggravated battery will be a Class 2 felony.

Domestic Battery: 720 ILCS 5/12-3.2 dictates that a defendant may be found guilty of domestic battery if he or she commits a battery against a family or household member. Domestic battery is a Class A misdemeanor or may be charged as a Class 4 felony if certain prior convictions exist.

Aggravated Domestic Battery: 720 ILCS 5/12-3.3 dictates that a defendant may be found guilty of aggravated domestic battery if he or she in committing a battery, knowingly causes great bodily harm, permanent disability, or permanent disfigurement, or who strangles another individual. Aggravated domestic battery is a Class 2 felony. If a person is convicted of a second or subsequent aggravated domestic battery, he or she must be sentenced to a mandatory term of imprisonment of not less than 3 years and not more than 6 years or an extended term of imprisonment of not less than 7 years and not more than 14 years.

Violation of Order of Protection: 720 ILCS 5/12-3.4 dictates that once a defendant has been served notice of an order of protection, or has actual knowledge of it, violation of the order of protection is a Class A misdemeanor. The violation may be charged as a felony if the defendant has a prior record of a conviction for domestic battery or violating an order of protection. The court is empowered to impose at least 24 hours of jail time for a second or subsequent offense, and the statute favors an increase in the penalty for each knowing violation.

Criminal Abuse or Neglect of an Elderly Person or Person with a Disability: 720 ILCS 5/12-4.4a dictates that a defendant may be found guilty of criminal abuse or neglect of an elderly person or a person with a disability when if the defendant is a caregiver and commits any of the following: performs acts that cause the person's life to be endangered, health to be injured, or

pre-existing physical or mental condition to deteriorate; 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 person, and that failure causes the person's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate; abandons the person; physically abuses, harasses, intimidates, or interferes with the personal liberty of the person; or exposes the person to willful deprivation. The Act contains a definition for who will qualify as a caregiver. Criminal abuse or neglect of an elderly person or person with a disability is a Class 3 felony, unless it results in the person's death in which case it is a Class 2 felony. If imprisonment is imposed, it shall be for a minimum of 3 years but may not exceed 14 years.

Intimidation: 720 ILCS 5/12-6 dictates that a defendant may be found guilty of intimidation when he or she, with intent to cause another to perform or to omit performance of any act, communicates to another, directly or indirectly by any means a threat to perform without lawful authority any of the following acts: inflict physical harm on the person threatened or any other person or on property; subject any person to physical confinement or restraint; commit a felony or Class A misdemeanor; accuse any person of an offense; expose any person to hatred, contempt, or ridicule; take action as a public official against anyone or anything or withhold official action or cause such action or withholding; or bring about or continue a strike, boycott, or other collective action. Intimidation is a Class 3 felony for which an offender may be sentenced to a term of imprisonment of not less than 2 years and not more than 10 years.

Threatening Human Service Providers: 720 ILCS 5/12-9 dictates that a defendant may be found guilty of threatening a human service provider if he or she by any means communicates any of the following: a threat that would place the human service provider or member of his or her immediate family in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint; or, a threat that would place the human service provider or member of his or her immediate family in reasonable apprehension that damage will occur to property in the custody, care, or control of the human service provider or his or her immediate family. Human service provider will include a social worker, case worker, or investigator employed by an agency or organization providing social work, case work, or investigative services under a contract or grant with the Department on Aging. Threatening a human service provider is a Class 3 felony for a first offense and a Class 2 felony for a second or subsequent offense.

Unlawful Restraint: 720 ILCS 5/10-3 dictates that a defendant may be found guilty of unlawful restraint if he or she knowingly without legal authority detains another. Unlawful restraint is a Class 4 felony.

Aggravated Unlawful Restraint: 720 ILCS 5/10-3.1 dictates that a defendant may be found guilty of aggravated unlawful restraint if he or she commits unlawful restraint while using a deadly weapon. Aggravated unlawful restraint is a Class 3 felony.

Robbery: 720 ILCS 5/18-1 dictates that a defendant may be found guilty of robbery if he or she knowingly takes property from the person or presence of another by the use of force or by threatening the imminent use of force. Robbery is a Class 2 felony, unless the victim is 60 years of age or over or is a person with a physical disability in which case robbery is a Class 1 felony.

Theft: 720 ILCS 5/16-1 dictates that a defendant may be found guilty of theft if he or she knowingly obtains or exerts unauthorized control over the property of another, obtains by deception or threat control over property of the owner and intends to deprive the owner permanently of the use or benefit of the property, knowingly uses, conceals, or abandons the property in such manner as to deprive the owner permanently of such use or benefit, or uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner permanently of such use or benefit. Theft can range anywhere between a Class A misdemeanor to a Class X felony depending on the specific circumstances. Theft by deception in which the offender obtained money or property valued at \$5,000 or more from a victim 60 years of age or older is a Class 2 felony.

Criminal Sexual Assault: 720 ILCS 5/11-1.20 dictates that a defendant may be found guilty of criminal sexual assault if he or she commits an act of sexual penetration in combination with any one of the following: use of force or threat of force; knows that the victim is unable to understand the nature of the act and is unable to give knowing consent; is a family member of the victim and the victim is under 18 years of age; or, is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim and the victim is at least 13 years of age but under 17 years of age. Criminal sexual assault is generally a Class 1 felony, but there are certain exceptions to this rule.

Aggravated Criminal Sexual Assault: 720 ILCS 5/11-1.30 dictates that a defendant may be found guilty of aggravated criminal sexual assault if he or she commits criminal sexual assault and the victim is 60 years of age or older, is a person with a physical disability, or is a person with a severe or profound intellectual disability. In the above circumstances, aggravated criminal sexual assault will typically be a Class X felony.

Criminal Sexual Abuse: 720 ILCS 5/11-1.50 dictates that a defendant may be found guilty of criminal sexual abuse if he or she commits an act of sexual conduct by the use of force or threat of force or commits an act of sexual conduct and knows that the victim is unable to understand the nature of the act or is unable to give knowing consent. This type of criminal sexual abuse is a Class 4 felony. If it is a second or subsequent conviction, criminal sexual abuse will be a Class 2 felony.

Aggravated Criminal Sexual Abuse: 720 ILCS 5/11-1.60 dictates that a defendant may be guilty of aggravated criminal sexual abuse if he or she commits criminal sexual abuse and the victim is 60 years of age or older, is a person with a physical disability, or is a person with a severe or profound intellectual disability. Aggravated criminal sexual abuse is a Class 2 felony.