AN ACT

Amending the act of November 6, 1987 (P.L.381, No.79), entitled "An act relating to the protection of the abused, neglected, exploited or abandoned elderly; establishing a uniform Statewide reporting and investigative system for suspected abuse, neglect, exploitation or abandonment of the elderly; providing protective services; providing for funding; and making repeals," making extensive amendments and adding provisions relating to preliminary provisions, administration, criminal history for employees, reporting suspected abuse by employees and miscellaneous provisions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 102, 103 and 301 of the act of November 6, 1987 (P.L.381, No.79), known as the Older Adults Protective Services Act, are amended to read:

Section 102. Legislative [policy] intent.

[It is declared the policy of the Commonwealth of Pennsylvania] The General Assembly finds and declares that:

(1) It is the policy of the Commonwealth that older adults who [lack the capacity to protect themselves and are]
are at imminent risk of abuse, neglect, exploitation or abandonment shall have access to and be provided with services necessary to protect their health, safety and welfare.

(2) It is not the purpose of this act to place restrictions upon the personal liberty of [incapacitated] older adults, but this act should be liberally construed to assure the availability of protective services to all older adults in need of them.

(3) Such services shall safeguard the rights of [incapacitated] older adults while protecting them from abuse, neglect, exploitation and abandonment. [It is the intent of the General Assembly]

(4) The General Assembly intends to provide for the detection and reduction, correction or elimination of abuse, neglect, exploitation and abandonment[,] and to establish a program of protective services for older adults in need of them.

(5) It is the policy of the Commonwealth that convictions for certain offenses that evidence a reckless disregard for the vulnerability of care-dependent populations, certain offenses involving misappropriation or misuse of property or convictions that involve inappropriate or irresponsible behavior may legitimately warrant time-limited bans on employment working with older adults under this act.

Section 103. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Abandonment." The desertion of an older adult by a caretaker.

"Abuse." The occurrence of one or more of the following acts:

(1) The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(2) The willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health.

[(3) Sexual harassment, rape or abuse, as defined in the act of October 7, 1976 (P.L.1090, No.218), known as the Protection From Abuse Act.

No older adult shall be found to be abused solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.]

(3) Sexual abuse, including:

(i) rape;

(ii) involuntary deviate sexual intercourse;

(iii) sexual assault;

(iv) aggravated indecent assault;

(v) indecent assault; and

(vi) incest.

(4) Sexual harassment, including:

(i) unwelcome sexual advances;

(ii) requests for sexual favors; and

(iii) other unwelcome verbal or physical conduct of a sexual nature.

"Administrator." The person responsible for the
management of a facility. The term includes a person responsible for employment decisions or an independent contractor responsible for administration of a facility. 

"Agency." The local provider of protective services, which is the area agency on aging or the agency designated by the area agency on aging to provide protective services in the area agency's planning and service area.

"Agent." A person authorized to act on behalf of an older adult, including a person acting pursuant to a power of attorney.

"Applicant." An individual who submits an application to be considered for employment.

"Area agency on aging" or "AAA." The single local agency or its agent designated by the Department of Aging within each planning and service area to administer the delivery of protective services.

"Assessment." The evaluation of an older adult's social, physical and psychological well-being, along with a description of the older adult's current resources and needs using instruments and procedures established by the department.

"Care." Services provided to meet an older adult's need for personal care or health care. Services may include homemaker services, assistance with activities of daily living, physical therapy, occupational therapy, speech therapy, medical social services, home-care aide services, companion-care services, private duty nursing services, respiratory therapy, intravenous therapy, in-home dialysis and durable medical equipment services, which are routinely provided unsupervised and which require interaction with the care-dependent person. The term does not include durable medical equipment delivery.
which requires interaction with the older adult.

"Care-dependent individual." An adult who, due to physical or cognitive disability or impairment, requires assistance to meet needs for food, shelter, clothing, personal care or health care.

"Caretaker." An individual or [institution] entity that has assumed the responsibility for the provision of care needed to maintain the physical or mental health of an older adult. This responsibility may arise voluntarily, by contract, by receipt of payment for care, as a result of [family] familial relationship[,] or by order of a court of competent jurisdiction. [It is not the intent of this act to impose responsibility on any individual if such responsibility would not otherwise exist in law.]

"Case record." The complete record of the information received and the actions taken by the area agency on aging on each report of need.

"Client assessment." Social, physical and psychological findings along with a description of the person's current resources and needs.]

"Consent." Authorization or approval that, where feasible, is obtained in writing.

"Court." A court of common pleas or a district magistrate court, where applicable.]

"Department." The Department of Aging of the Commonwealth.

"Employee." An individual who [is employed by a facility. The term includes contract employees who have direct contact with residents or unsupervised access to their personal living quarters. The term includes any person who is employed or who enters into a contractual relationship to provide care to a
care-dependent individual for monetary consideration in the individual's place of residence.):

(1) Is employed by a facility, or the affiliated corporate entity of a facility, or enters into a contractual relationship with a facility, an older adult, an older adult's family, agent, legal representative or the affiliated corporate entity of a facility, to provide care to an older adult.

(2) Has unsupervised access to another individual and that individual's living quarters, resources or personal records.

"Exploitation." An act or course of conduct by a caretaker or other person against an older adult or an older adult's resources, without the informed consent or authorization of the older adult or with consent or authorization obtained through misrepresentation, coercion or threats of force, [that results] resulting in monetary, personal or other benefit, gain or profit for [the perpetrator] that caretaker or person, or monetary or personal loss to the older adult.

"Facility." Any of the following:

(1) A domiciliary care home as defined in section 2202-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(2) [A home health care agency.] Any of the following entities as defined in section 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act:

(i) A home health care agency.

(ii) A long-term care nursing facility.

(iii) A hospice.
(iv) A home care agency.

(v) A home care registry.

[(3) A long-term care nursing facility as defined in section 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.]

(4) An older adult daily living center as defined in section 2 of the act of July 11, 1990 (P.L.499, No.118), known as the Older Adult Daily Living Centers Licensing Act.


(6) An assisted living residence as defined in section 1001 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.


(8) Any other public or private organization, or entity or part of an organization or entity, that uses public funds and is paid, in part, to provide care to care-dependent individuals.

"Fiduciary." A guardian, custodian, trustee, agent, personal representative or other person authorized or required to act on behalf of an older adult.

"Financial exploitation." The wrongful or unauthorized taking or attempt to take by withholding, appropriation, concealment or use of money, assets or property of an older adult, including any act or omission taken by a person, including through the use of a power of attorney, guardianship, custodian, trustee, personal representative or conservatorship of an older adult or by an individual who stands in a position...
of trust and confidence with the older adult, including business transactions to:

(1) obtain or attempt to obtain control, through deception, intimidation or undue influence, over the older adult's money, assets or property to deprive the older adult of the ownership, use, benefit or possession of the older adult's money, assets or property; or

(2) convert or attempt to convert money, assets or property of the older adult to deprive the older adult of the ownership, use, benefit or possession of the older adult's money, assets or property.

"Financial institution." Any of the following:

(1) An insured bank as defined in section 3(h) of the Federal Insurance Deposit Act (64 Stat. 873, 12 U.S.C. § 1813(h)).

(2) A commercial bank or trust company.

(3) A private banker.

(4) An agency or branch of a foreign bank in the United States.

(5) Any credit union.

(6) A thrift institution.


(8) A broker or dealer in securities or commodities.

(9) An investment banker or investment company.

(10) A currency exchange.

(11) An issuer, redeemer or cashier of travelers' checks, checks, money orders or similar instruments.

(12) An operator of a credit card system.
(13) A loan or finance company.

(14) A licensed sender of money or any other person who engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system.

(15) A person required to be registered as an investment adviser by the Investment Advisers Act of 1940 (54 Stat. 847, 15 U.S.C. § 80b-1 et seq.) or under the laws of this Commonwealth.

(16) Any business or agency that engages in activity the department determines, by regulation, to be similar to, related to or a substitute for any activity engaged in by a business described in paragraphs (1) through (14).

["Home health care agency." Any of the following:

(1) A home health care organization or agency licensed by the Department of Health.

(2) A public or private agency or organization, or part of an agency or organization, which provides care to a care-dependent individual in the individual's place of residence.]

"Incident reporting system." Home and Community Services Information System (HCSIS) or its successor.

"Intimidation." An act or omission by any person or entity toward another person [which is intended to, or with knowledge that the act or omission will, obstruct, impede, impair, prevent or interfere] that obstructs, impedes, impairs, prevents or interferes with the administration of this act or any other law intended to protect older adults from mistreatment.
"Law enforcement official." Any of the following:
  (1) A police officer of a municipality.
  (2) A district attorney.
  (3) The Pennsylvania State Police.
  (4) A county sheriff.
  (6) The United States Department of Justice and other Federal law enforcement agencies.
  (7) A law enforcement authority in another state.

"Mandatory reporter." Any of the following:
  (1) Facility employee or administrator.
  (2) Physician or other licensed or certified health care professional.
  (3) Coroner.

"Neglect." The failure to provide for oneself or the failure of a caretaker to provide goods or services essential to avoid a clear and serious threat to physical or mental health. No older adult who does not consent to the provision of protective services shall be found to be neglected solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.

"Older adult." [A person] An individual within the jurisdiction of [the] this Commonwealth who is 60 years of age or older.

"Older adult in need of protective services." An incapacitated older adult who is unable to perform or obtain services that are necessary to maintain physical or mental health, for whom there is no responsible caretaker and who is at risk or imminent risk of danger to his person or property.
"Protective services." Those activities, resources and supports provided to older adults under this act to detect, prevent, reduce or eliminate abuse, neglect, exploitation and abandonment.

"Protective setting." A setting chosen by the agency where services can be provided in the least restrictive environment to protect the physical and mental well-being of the older adult.

"Recipient." An individual who receives care, services or treatment in or from a facility.

"Secretary." The Secretary of Aging of the Commonwealth.

"Serious bodily injury." Injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ.

"Serious bodily injury." Injury that:

1. creates a substantial risk of death; or
2. causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ.

"Serious physical injury." An injury that:

1. causes a person severe pain; or
2. significantly impairs a person's physical functioning, either temporarily or permanently.

"Service plan." A written plan developed:

1. Developed by the [agency] area agency on aging on the basis of comprehensive assessment of a client's need which describes identified needs, goals to be achieved and specific services to support goal attainment, with regular follow-up and predetermined reassessment of client progress. Specific services to support goal attainment may include, but is not limited to, homemaker services, home-delivered meals,
attendant care, other in-home services, emergency shelter or food, legal aid services, transportation and other such services. Service plans are cooperatively developed by the agency staff, the client or the client's appointed guardian, and other family members when appropriate. The plan shall also address, where applicable, special needs of other members of the household unit as they may affect the older adult's need for protective services.]

(2) That includes regular follow-up and predetermined reassessment of progress.

(3) In which the specific services support goal attainment and may include, but need not be limited to:

(i) Homemaker services.
(ii) Home-delivered meals.
(iii) Personal care.
(iv) Other in-home services.
(v) Emergency shelter or food.
(vi) Legal aid services.
(vii) Transportation.
(viii) Other such services.

(4) Cooperatively developed by the area agency on aging staff, the older adult or his legal representative, and other family members, when appropriate.

(5) That addresses special needs of other members of the household unit if they affect the older adult's need for protective services.

"Sexual abuse." Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual
intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest.

"Suspicious death." A death which is unexpected with unexplained circumstances or cause.

Section 301. Duties of department and area agencies on aging.

(a) Public information and interdepartmental consultation.-- The department shall conduct an ongoing campaign designed to inform and educate older adults, professionals and the general public about the need for [an and the] availability of protective services under this [chapter] act. The department shall consult with other [departments of the Commonwealth] State agencies on the design and implementation of the ongoing public awareness campaign. The department shall also consider the concerns of area agencies on aging and the entities identified by them under subsection (c).

(b) Staff training.--

(1) The department shall establish minimum standards of training and experience [which] that protective services providers funded by the department shall be required to follow in the selection and assignment of staff for the provision of protective services.

(2) The department shall establish a training program for mandatory reporters about the requirement to report under this act.

(c) Protective services plans.--

(1) Each area agency on aging shall include a protective services plan as part of its annual plan. The plan shall describe the local implementation of this [chapter] act, including the organization, staffing, mode of operations and financing of protective services, as well as the provisions
made for purchase of services, interagency relations, interagency agreements, service referral mechanisms and locus of responsibility for cases with multiservice agency needs.

(2) The [description of] department shall establish the methods that will be used by the [agency] AAA, its designees and its service providers to assure the privacy of older adults receiving services and the confidentiality of all records [shall be established by the department]. The department shall establish a schedule for the submission and approval of the plans.

(3) The [plan shall include] area agency on aging shall include in the plan, a list of all entities, whether public or private, that have been identified by the [area agency on aging] AAA as having substantial contact with potential victims or alleged perpetrators of abuse, neglect, exploitation and abandonment. [This list shall be submitted]
The area agency on aging shall submit this list to the department for purposes of the public information campaign under subsection (a).

Section 2. The act is amended by adding a section to read:

Section 301.1. Duties of financial institutions and fiduciaries.

(a) Training.--A financial institution with employees in this Commonwealth, or with employees regularly engaging in financial transactions with, or on behalf of, older adults in this Commonwealth, shall adopt and implement a training program for its employees to:

(1) Identify activities that constitute the financial exploitation of older adults.

(2) Recognize signs of potential financial exploitation
of older adults.

(3) Prevent and deter the financial exploitation of older adults.

(4) Respond to suspected cases of financial exploitation of older adults.

(b) Model training program.--The department, in cooperation with the Department of Banking and Securities and representatives of the financial services industry in this Commonwealth, shall establish a model training program that may be used to satisfy the requirements of subsection (a). A national organization's training program may be adopted as the model program if the training is certified or accredited.

(c) Regulated financial institutions.--A financial institution subject to visitorial examination by a regulatory authority that incorporates the training activities required by subsection (a) into the financial institution's employee training program to control fraud and money laundering that is subject to examination by the regulatory authority shall be deemed to be in compliance with subsection (a).

(d) Authority to prohibit disbursement of funds and transactions.--

(1) If a financial institution or fiduciary reasonably believes after initiating an internal review that a requested disbursement or transaction may result in the financial exploitation of an older adult, the financial institution or fiduciary may, but is not required to, refuse to make the disbursement or engage in the transaction, as appropriate, to prevent financial exploitation of the older adult with respect to the account:

   (i) of the older adult;
(ii) on which the older adult is a beneficiary, including a trust or guardianship account; or

(iii) of a person suspected of perpetrating financial exploitation of an older adult.

(2) A financial institution or fiduciary may, but is not required to, refuse to disburse funds or engage in a transaction under this section if an area agency on aging or law enforcement official requests the financial institution or fiduciary to do so or provides information in writing to the financial institution or fiduciary demonstrating that it is reasonable to believe that financial exploitation of an older adult may have occurred, may have been attempted or is being attempted.

(3) A financial institution or fiduciary is not required to refuse to disburse funds or engage in a transaction when provided with information alleging that financial exploitation of an older adult may have occurred, may have been attempted or is being attempted and may use the financial institution's or fiduciary's discretion to determine whether or not to refuse to disburse funds based on the information available to the financial institution or fiduciary.

(4) Except as prohibited by Federal or State law, a financial institution or fiduciary that refuses to disburse funds or engage in a transaction based on a reasonable belief that financial exploitation of an older adult may have occurred, may have been attempted or is being attempted shall:

(i) Make a reasonable effort to notify all persons authorized to transact business on the account or that
are beneficiaries of the account affected by the refusal
to make the disbursement or engage in the transaction,
orally or in writing, except for any person reasonably
believed to have engaged in the suspected or attempted
financial exploitation of the older adult.

(ii) Report the incident to the area agency on aging
or law enforcement officials.

(5) A notification provided under paragraph (4)(i) is
sufficient if the notice states that a financial institution
or fiduciary has temporarily blocked the disbursement of
funds or delayed the execution of transactions as authorized
by section 301.1(d) and identifies the name of the financial
institution or fiduciary and any account or transactions to
which the notification applies and provides a name and
telephone number of a contact person representing the
financial institution or fiduciary or the area agency on
aging or law enforcement agency to which a report has been
provided under paragraph (4)(ii).

(6) Any refusal to disburse funds or engage in a
transaction as authorized by this section based on the
reasonable belief of a financial institution or fiduciary
that financial exploitation of an older adult may have
occurred, may have been attempted or is being attempted shall
expire upon the sooner of:

(i) fifteen business days after the date on which
the financial institution or fiduciary first refused to
disburse the funds or engage in a transaction, unless
sooner terminated or extended by an order of a court of
competent jurisdiction, or upon a request made by a law
enforcement official, the department or an area agency on
aging. An additional 25 business days shall be permitted, if requested by a law enforcement official, the department or an area agency on aging or following the submission of an application for a court order further extending the time period; or

(ii) except as provided by paragraph (i), the time when the financial institution or fiduciary is satisfied that the disbursement will not result in financial harm to the older adult. A request provided by subparagraph (i) shall be documented in writing.

(7) A court of competent jurisdiction may enter an order extending the refusal by the financial institution or fiduciary to disburse funds based on a reasonable belief that financial exploitation of an older adult may have occurred, may have been attempted or is being attempted. A court of competent jurisdiction may also order other protective relief as authorized.

(e) Immunity.--Except as provided by subsection (g), a financial institution or fiduciary and its directors, officers, employees or agents shall not be subject to a claim for damages or other civil or criminal liability for:

(1) The identification or failure to identify the financial exploitation of an older adult.

(2) A decision to make a report or not make a report under subsection (a).

(3) A refusal to disburse funds or engage in a transaction under subsection (c) or a decision to allow the disbursement of funds or the conduct of transactions under subsection (c).

(4) The release of information to a law enforcement
agency, the department or an area agency on aging as
authorized by this chapter.

(f) Additional immunities and defenses.--Notwithstanding any
other law to the contrary:

(1) The refusal by a financial institution to engage in
a transaction as authorized under this subsection shall not
constitute the wrongful dishonor of an item under 13 Pa.C.S.
§ 4402 (relating to liability of bank to customer for
wrongful dishonor; time of determining insufficiency of
account).

(2) A reasonable belief that payment of a check will
facilitate the financial exploitation of an older adult shall
constitute reasonable grounds to doubt the collectability of
the item for purposes of the Expedited Funds Availability Act
(Public Law 100-86, 12 U.S.C. § 4001 et seq.), the Check
Clearing for the 21st Century Act (Public Law 108-100, 12
U.S.C. § 5001 et seq.) and 12 C.F.R. Pt. 229 (relating to
availability of funds and collection of checks (regulation
cc)).

(g) Limitation.--The immunities and defenses provided under
subsections (e) and (f) shall not apply to a director, officer,
employee or agent of a financial institution or fiduciary who
has been found to have engaged in financial exploitation of an
older adult.

(h) Standing.--

(1) A financial institution, fiduciary or mandatory
reporter may initiate a proceeding in a court of competent
jurisdiction to:

(i) obtain protective services for an older adult in
need of protective services;
(ii) prohibit the disbursement of funds or transactions that may result in the financial exploitation of an older adult; or

(iii) to request the review of an order issued under this act or other law to protect an older adult from suspected financial exploitation.

(2) A financial institution, fiduciary or mandatory reporter shall not be subject to a claim for damages or other civil or criminal liability for initiating or participating in proceedings under this subsection or for a decision not to do so.

(i) Suspicious activity reports.--

(1) The department shall use its best efforts to enter into a cooperative agreement with the United States Department of the Treasury to receive or access suspicious activity reports filed by financial institutions with the United States Department of the Treasury.

(2) Except as prohibited by Federal law, any other Commonwealth agency that receives or is granted access to such reports from the United States Department of the Treasury shall make the reports or access to the reports available to the department in order to facilitate the discharge of the department's duties under this act.

Section 3. Section 302 of the act is amended to read:

Section 302. Reporting[; protection from retaliation; immunity].

(a) [Reporting] Voluntary reports.--Any person, including an employee of a financial institution or fiduciary, having reasonable cause to [believe] suspect that an older adult [is in need of protective services] may be a victim of abuse, neglect,
exploitation or abandonment may report such information to the area agency on aging. [agency which is the local provider of protective services. Where applicable, reports shall comply with the provisions of Chapter 7.

(b) Receiving reports.--The agency shall be capable of receiving reports of older adults in need of protective services 24 hours a day, seven days a week (including holidays). This capability may include the use of a local emergency response system or a crisis intervention agency, provided that access can be made to a protective services caseworker in appropriate emergency situations as set forth in regulations promulgated by the department. All reports received orally under this section shall be reduced to writing immediately by the person who receives the report.

(c) Retaliatory action; penalty.--Any person making a report or cooperating with the agency, including providing testimony in any administrative or judicial proceeding, and the victim shall be free from any discriminatory, retaliatory or disciplinary action by an employer or by any other person or entity. Any person who violates this subsection is subject to a civil lawsuit by the reporter or the victim wherein the reporter or victim shall recover treble compensatory damages, compensatory and punitive damages or $5,000, whichever is greater.

(c.1) Intimidation; penalty.--Any person, including the victim, with knowledge sufficient to justify making a report or cooperating with the agency, including possibly providing testimony in any administrative or judicial proceeding, shall be free from any intimidation by an employer or by any other person or entity. Any person who violates this subsection is subject to civil lawsuit by the person intimidated or the victim wherein

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the person intimidated or the victim shall recover treble compensatory damages, compensatory and punitive damages or $5,000, whichever is greater.

(d) Immunity.--Any person participating in the making of a report or who provides testimony in any administrative or judicial proceeding arising out of a report shall be immune from any civil or criminal liability on account of the report or testimony unless the person acted in bad faith or with malicious purpose. This immunity shall not extend to liability for acts of abuse, neglect, exploitation or abandonment, even if such acts are the subject of the report or testimony.]

(e) Mandatory reports.--

(1) A mandatory reporter, who has reasonable cause to suspect that an older adult may be a victim of abuse, neglect, exploitation or abandonment shall immediately make an oral report to the area agency on aging. If applicable, the AAA shall advise the mandatory reporter of additional reporting requirements that may pertain under paragraph (2). Within 48 hours of making the oral report, the mandatory reporter shall make a written report to the AAA.

(2) A mandatory reporter who has reasonable cause to suspect that an older adult may be a victim of suspicious death, serious bodily injury, serious physical injury, sexual abuse or financial exploitation shall, in addition to any duty imposed under paragraph (1), immediately contact law enforcement officials and the department to make an oral report. Within 48 hours of making the oral report, the mandatory reporter shall make a written report to appropriate law enforcement officials and to the area agency on aging. The AAA shall forward the report to the department within 48
hours of receipt.

(3) A written mandatory report under this subsection shall be in a manner and on forms prescribed by the department. At a minimum, the report shall include the following information, as well as any additional information required by regulation:

(i) Name, age, sex and address of the older adult.

(ii) Name and address of the older adult's legal representative or next of kin.

(iii) Name and address of the facility, if applicable.

(iv) Nature and location of the reported incident and any specific comments or observations that are directly related to the alleged incident and the older adult involved.

(v) Any relevant information known related to the identity of the alleged perpetrator, including, but not limited to, name, age, sex and relationship to the older adult.

(vi) Name of the individual making the report, contact information for the reporter, and information regarding any actions taken by the reporter in response to the incident.

(4) The provisions of this section shall be satisfied when the mandatory or voluntary reporter submits a report to the Incident Reporting System. Nothing in this subsection shall be construed to prohibit a reporter who has reasonable cause to suspect that a recipient is a victim of abuse or neglect from also making a report to the area agency on aging.
(5) A mandatory reporter shall be trained by the department or its agent on the requirements to report under this act.

(f) Coroner.--For a report under subsection (a) or (b) that concerns the death of an older adult, if there is reasonable cause to suspect that the older adult died as a result of abuse, neglect, exploitation or abandonment, the area agency on aging shall give the oral report and forward a copy of the written report to the appropriate coroner within 24 hours.

Section 4. Sections 303 and 304 of the act are repealed:

(Section 303. Investigations of reports of need for protective services.

(a) Investigation.--It shall be the agency's responsibility to provide for an investigation of each report made under section 302. The investigation shall be initiated within 72 hours after the receipt of the report and shall be carried out under regulations issued by the department. These regulations shall provide for the methods of conducting investigations under this section and shall assure that steps are taken to avoid any conflict of interest between the investigator and service delivery functions. Reports and investigations under this section shall comply with Chapter 7, where applicable.

(b) Investigation involving licensed facilities.--Any report concerning older adults residing in a State-licensed facility shall be investigated under procedures developed by the department in consultation with the State agency licensing such facility. If the report concerns a resident of a State-licensed facility for whom the area agency on aging provides ombudsman services, the ombudsman of the area agency on aging must be notified.
(c) Unsubstantiated reports.--If, after investigation by the agency, the report is unsubstantiated, the case shall be closed and all information identifying the reporter and the alleged abuser shall be immediately deleted from all records. For purposes of substantiating a pattern of abuse, neglect, exploitation or abandonment, the name of the alleged victim and any information describing the alleged act of abuse, neglect, exploitation or abandonment may be maintained for a period of six months under procedures established by the department.

(d) Substantiated reports.--If the report is substantiated by the agency, or if the client assessment is necessary in order to determine whether or not the report is substantiated, the agency shall provide for a timely client assessment if the older adult consents to an assessment. Upon completion of the assessment, written findings shall be prepared which shall include recommended action. This service plan shall provide for the least restrictive alternative, encouraging client self-determination and continuity of care. The service plan shall be in writing and shall include a recommended course of action, which may include the pursuit of civil or criminal remedies. If an older adult found to be in need of protective services does not consent to a client assessment or the development of a service plan, the agency may apply to the case the provisions of section 307.

Section 304. Provision of services; access to records and persons.

(a) Availability of protective services.--The agency shall offer protective services under any of the following conditions:

(1) An older adult requests such services.

(2) Another interested person requests such services on
behalf of an older adult.

(3) If, after investigation of a report, the agency determines the older adult is in need of such services.

(b) Consent by request.--Except as provided in section 307, an individual shall receive protective services voluntarily. In no event may protective services be provided under this chapter to any person who does not consent to such services or who, having consented, withdraws such consent, unless such services are ordered by a court, requested by a guardian of the older adult or provided under section 307. Nothing in this chapter shall prevent the agency from petitioning for the appointment of a guardian pursuant to Title 20 of the Pennsylvania Consolidated Statutes (relating to decedents, estates and fiduciaries).

(c) Interference with services.--If any person interferes with the provision of services or interferes with the right of an older adult to consent to provision of services, the agency may petition the court for an order enjoining such interference.

(d) Access to records.--The agency shall have access to all records relevant to:

(1) Investigations of reports under section 303.

(2) Assessment of client need.

(3) Service planning when an older adult's need for protective services has been or is being established.

(4) The delivery of services arranged for under the service plan developed by the agency to respond to an older adult's assessed need for specific services.

(e) Access to persons.--The agency shall have access to older persons who have been reported to be in need of protective services in order to:

(1) Investigate reports under section 303 and Chapter 7.
(2) Assess client need and develop a service plan for addressing needs determined.

(3) Provide for the delivery of services by the agency or other service provider arranged for under the service plan developed by the agency.

(f) Denial of access to persons.--If the agency is denied access to an older adult reported to be in need of protective services and access is necessary to complete the investigation or the client assessment and service plan, or the delivery of needed services in order to prevent further abuse, neglect, exploitation or abandonment of the older adult reported to be in need of protective services, the agency may petition the court for an order to require the appropriate access when either of the following conditions apply:

(1) The caretaker or a third party has interfered with the completion of the investigation or the client assessment and service plan or the delivery of services.

(2) The agency can demonstrate that the older adult reported to be in need of protective services is denying access because of coercion, extortion or justifiable fear of future abuse, neglect, or exploitation or abandonment.

(g) Access by consent.--The agency's access to confidential records held by other agencies or individuals and the agency's access to an older adult reported to be in need of protective services shall require the consent of the older adult or a court-appointed guardian except as provided for under this section or section 307.

(h) Denial of access to records.--If the agency is denied access to records necessary for the completion of a proper investigation of a report or a client assessment and service
plan, or the delivery of needed services in order to prevent further abuse, neglect, exploitation or abandonment of the older adult reported to be in need of protective services, the agency may petition the court of common pleas for an order requiring the appropriate access when either of the following conditions apply:

(1) The older adult has provided written consent for any confidential records to be disclosed and the keeper of the records denies access.

(2) The agency can demonstrate that the older adult is denying access to records because of incompetence, coercion, extortion or justifiable fear of future abuse, neglect, exploitation or abandonment.

Section 5. The act is amended by adding sections to read:

Section 304.1. Receipt and investigation of reports.

(a) Receipt.--The area agency on aging shall be capable of receiving reports of older adults in need of protective services 24 hours per day, seven days per week. This capability may include the use of a local emergency response system or a crisis intervention agency provided that access can be made to a protective services caseworker in appropriate emergency situations, as set forth in regulations issued by the department. All reports received orally shall be documented immediately in a manner set forth by the department.

(b) Investigation.--

(1) The area agency on aging shall investigate each report in accordance with regulations issued by the department. The investigation shall be initiated within 72 hours after the receipt of the report and carried out under regulations issued by the department. The regulations shall
provide for the methods of conducting investigations and
shall assure that steps are taken to avoid any conflict of
interest.

(2) Consent of the older adult is not required in order
to begin investigating reports of abuse, neglect,
exploitation or abandonment.

(c) Access to older adults.--

(1) The area agency on aging shall have direct access to
older adults who have been reported to be in need of
protective services in order to:

(i) Investigate reports.

(ii) Assess needs of the older adult and develop a
service plan for addressing those needs.

(iii) Provide for the delivery of services by the
AAA or other service provider arranged for under the
service plan.

(2) If the AAA is denied access to an older adult
reported to be in need of protective services, the AAA may
petition the court for an order to require any of the
following:

(i) Access to the older adult.

(ii) A medical evaluation of the older adult.

(iii) A psychiatric evaluation of the older adult.

(3) For purposes of paragraph (2), denial of access may
include:

(i) interference by a caretaker or third party with
the completion of the investigation or the assessment and
service plan or the delivery of services; or

(ii) refusal of the older person to permit or
cooperate with the AAA investigation as a result of
correction, extortion or justifiable fear of future abuse,

neglect, exploitation, abandonment or death.

(d) Access to records.--

(1) The area agency on aging shall have access to all
records for the purposes of investigating reports.

(2) The AAA shall, subject to the consent of the older
adult, have access to all records for the purposes of:

(i) Assessing an older adult's need for services.

(ii) Planning and delivery of services.

(3) Records of State agencies, private organizations,
financial institutions, fiduciaries, medical institutions and
practitioners and persons reasonably suspected of engaging in
or facilitating the abuse, neglect, exploitation or
abandonment of an older adult, which the AAA reasonably
believes to be necessary to complete an investigation or
assessment and service plan, shall be requested in written
form and be made available to the AAA unless the disclosure
would be prohibited by any other provision of Federal or
State law. Except as provided by a court order, access to
records of financial institutions shall be limited to records
relating to the most recent transaction or transactions that
may comprise financial exploitation and that occurred not
more than 60 calendar days prior to the first transaction
that was reported or 60 calendar days after the last
transaction that was reported.

(4) If the AAA can demonstrate that the older adult has
denied access to the older adult's records because of
incapacity, coercion, extortion or justifiable fear, the AAA
shall have the power to access all records. If the older
adult denying access to records is competent, the AAA may
petition the court for an order to require access.

(5) If any other entity or individual denies access to
the older adult's records, the AAA may petition the court for
an order to require access.

(6) The area agency on aging or the department shall
compensate any person requested or ordered to provide records
to the AAA for the reasonable costs of producing records in a
manner consistent with the requirements of section 1115(a) of
the Right to Financial Privacy Act of 1978 (Public Law 96-

(e) Investigations involving facilities.--

(1) If the report concerns a facility, the area agency
on aging shall notify the local ombudsman and the licensing
agency. Any investigations concerning facilities shall be
conducted under procedures developed by the department in
consultation with the State agency with oversight authority
for such facility.

(2) The department and any other State agency shall
share information with one another and with mandatory
reporters, fiduciaries and financial institutions necessary
to ensure the health, safety and welfare of the older adult
and to assist financial institutions and fiduciaries in
exercising their authority to prohibit disbursement of funds
and transactions as provided by section 301.1(c).

(3) Facilities shall take reasonable steps to protect
the older adults following receipt of a report of suspected
abuse, neglect, abandonment or exploitation involving a
facility employee, including a plan of supervision or
suspension.

(f) Investigations involving law enforcement.--
(1) Law enforcement officials, the area agency on aging and mandatory reporters shall coordinate their respective investigations and shall advise each other and provide any applicable additional information on an ongoing basis.

(2) Upon receiving a report that falls into any of the following categories, the AAA shall immediately notify law enforcement:

(i) Suspicious death.

(ii) Serious bodily injury.

(iii) Serious physical injury.

(iv) Sexual abuse.

(3) Following a referral to law enforcement:

(i) The AAA shall contact law enforcement to obtain information about any actions taken and the outcomes, including any decisions regarding criminal charges.

(ii) Law enforcement shall provide this information to the extent that it is available.

(iii) To the extent a law enforcement agency exercises discretion not to pursue or to defer a criminal investigation or prosecution, the area agency on aging may initiate civil proceedings to obtain a protective order, seek injunctive relief or seek compensation or restitution for damages from a person that abuses, neglects, abandons or exploits an older adult.

(iv) The AAA shall report this information to the department in a manner prescribed by the department.

(g) Unsubstantiated reports.--If, after investigation by the area agency on aging, the report is unsubstantiated, the case shall be closed. For purposes of substantiating a pattern of abuse, neglect, exploitation or abandonment, case records shall
be maintained for three years.

(h) Substantiated reports.--

(1) If, after investigation by the area agency on aging, the report is substantiated, the AAA, in conjunction with the older adult, the older adult's caregiver, including the healthcare provider or representative from the facility, shall develop a service plan.

(2) The service plan shall encourage self-determination and continuity of care in the least restrictive setting.

(3) For purposes of substantiating a pattern of abuse, neglect, exploitation or abandonment, case records shall be maintained for three years.

(4) The AAA may pursue civil or criminal remedies.

(5) An older adult shall not be found to be abused or neglected solely on the grounds of environmental factors that are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.

Section 304.2. Provision of protective services.

(a) Availability of protective services.--The area agency on aging shall offer protective services under any of the following conditions:

(1) An older adult requests protective services.

(2) Another interested person requests protective services on behalf of an older adult.

(3) After investigation of a report, the AAA determines the older adult is in need of protective services.

(b) Consent by request.--An older adult shall receive protective services voluntarily, unless protective services are ordered by a court of competent jurisdiction or requested by the
older adult's legal representative.

(c) Interference with protective services.--If any person interferes with the provision of protective services or interferes with the right of an older adult to consent to provision of protective services, the area agency on aging may petition the court for an order enjoining such interference.

(d) Financial obligations; liabilities and payments.--All older adults receiving services and all agencies providing protective services under this act shall comply with the following provisions regarding liability for the payment of services:

(1) Funding to provide or make available protective services under this act shall not be used in place of any public or private entitlements or benefits for which the older adult receiving protective services under this act is or may be eligible.

(2) Funding available to local protective services agencies under this act may be used to cover the costs of activities, including, but not limited to:

   (i) Administering protective services plans.

   (ii) Receiving and maintaining records of reports of abuse, neglect, exploitation and abandonment.

   (iii) Conducting investigations of reported abuse, neglect, exploitation and abandonment.

   (iv) Carrying out assessments and developing service plans.

   (v) Petitioning the court.

   (vi) Providing for emergency involuntary intervention.

   (vii) Arranging for available services needed to
carry out service plans, which may include, as appropriate, arranging for services for other persons in the household unit in order to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult.

(viii) Purchasing, on a temporary basis, protective services determined by a service plan to be necessary to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult when such protective services are not available within the existing resources of the AAA or other appropriate provider. Purchase of protective services under this subparagraph shall be limited to a 30-day period, which period may be renewed with adequate justification under regulations issued by the department.

(3) Older adults receiving protective services shall not be required to pay a fee for any protective services received by other older adults when the receipt of such protective services by others is not subject to cost sharing.

Section 6. Sections 305 and 306 of the act are repealed:

[Section 305. Immunity from civil and criminal liability.

In the absence of willful misconduct or gross negligence, the agency, the director, employees of the agency, protective services workers or employees of the department shall not be civilly or criminally liable for any decision or action or resulting consequence of decisions or action when acting under and according to the provisions of this chapter.

Section 306. Confidentiality of records.

(a) General rule.--Information contained in reports, records of investigation, client assessment and service plans shall be
considered confidential and shall be maintained under 
regulations promulgated by the department to safeguard 
confidentiality. Except as provided below, this information 
shall not be disclosed to anyone outside the agency other than 
to a court of competent jurisdiction or pursuant to a court 
order.

(b) Limited access to the agency's protective services 
records.--

(1) In the event that an investigation by the agency 
results in a report of criminal conduct, law enforcement 
officials shall have access to all relevant records 
maintained by the agency or the department.

(2) In arranging specific services to carry out service 
plans, the agency may disclose to appropriate service 
providers such information as may be necessary to initiate 
the delivery of services.

(3) A subject of a report made under section 302 may 
receive, upon written request, all information contained in 
the report except that prohibited from being disclosed by 
paragraph (4).

(4) The release of information that would identify the 
person who made a report of suspected abuse, neglect, 
exploitation or abandonment or person who cooperated in a 
subsequent investigation, is hereby prohibited unless the 
secretary can determine that such a release will not be 
detrimental to the safety of such person.

(5) When the department is involved in the hearing of an 
appeal by a subject of a report made under section 302, the 
appropriate department staff shall have access to all 
information in the report record relevant to the appeal.
For the purposes of monitoring agency performance, appropriate staff of the department may access agency protective services records.

Section 7. Section 307 of the act is amended to read:

Section 307. Involuntary intervention by emergency court order. (a) Emergency petition. Where there was clear and convincing evidence that if protective services are not provided, the person to be protected is at imminent risk of death or serious physical harm, the agency may petition the court for an emergency order to provide the necessary services.

The courts of common pleas of each judicial district shall ensure that a judge or district justice is available on a 24-hour-a-day, 365-day-a-year basis to accept and decide on petitions for an emergency court order under this section whenever the agency determines that a delay until normal court hours would significantly increase the danger the older adult faces.

(1) An area agency on aging may petition a court of common pleas for an emergency order to provide protective services to an older adult who is at imminent risk of death, sexual abuse, serious bodily injury, serious physical injury, or financial exploitation.

(2) The court of common pleas shall grant the AAA's petition if it finds, by a preponderance of the evidence, that failure to provide protective services will place the older adult at imminent risk of death, sexual abuse, serious bodily injury, serious physical injury or financial exploitation.

(3) The courts of common pleas of each judicial district shall ensure that a judge or magisterial district judge is available.
available on a 24-hour-a-day, 365-days-a-year basis to accept
and rule on petitions for emergency court orders under this
section whenever the AAA determines that a delay until normal
court hours may significantly increase danger to the older
adult.

(b) Limited order.--The court, after finding clear and
convincing evidence of the need for an emergency order, shall
order only such protective services as are necessary to remove
the conditions creating the established need.

(c) Right to counsel.--In order to protect the rights of an
older adult for whom protective services are being ordered, an
emergency court order under this section shall provide that the
older adult has the right to legal counsel. If the older adult
is unable to provide for counsel, such counsel shall be
appointed by the court.

(d) Forcible entry.--Where it is necessary to forcibly enter
premises after obtaining a court order, a [peace officer] law
enforcement official may do so, accompanied by a representative
of the [agency] area agency on aging.

(e) Health and safety requirements.--The [agency] area
agency on aging shall take reasonable steps to [assure] ensure
that while the [person is receiving] older adult receives
protective services under an emergency court order, the health
and safety needs of any of the [person's] older adult's
dependents are met and that personal property and the dwelling
the [person] older adult occupies are secure.

[(f) Exclusion of remedy.--Nothing in this chapter shall be
interpreted to deny any older adult access to the emergency
medical services or police protection that would be provided to
anyone, regardless of age, in similar circumstances.]
Section 8. Sections 308, 309, 310 and 311 of the act are repealed:

[Section 308. Individual rights.

(a) Rights of protective services clients.--The agency shall observe the following minimum requirements to safeguard the rights of an older adult who is reported to be in need of protective services:

(1) The agency shall discreetly notify the older person during the investigation that a report has been made and shall provide the person with a brief summary of the nature of the report.

(2) As provided under section 306(b)(3), the older adult may request, and the agency shall provide, additional information contained in the report.

(3) Any denial of services by the department or an authorized agency under this chapter may be appealed according to the provisions of the rules and regulations issued by the department under Article XXII-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(4) Nothing in this act shall limit the right of any older person to file a petition pursuant to the act of October 7, 1976 (P.L.1090, No.218), known as the Protection From Abuse Act.

(b) Rights of alleged abusers.--An individual who is alleged in a protective services report to be a perpetrator of the abuse, neglect, exploitation or abandonment of an older adult shall be entitled to the following if the report is substantiated by the agency:

(1) Such an individual shall be notified by the agency...
at the conclusion of the investigation of the report that
allegations have been made and shall be given a brief summary
of the allegations.

(2) As provided under section 306(b)(3), the alleged
perpetrator may request, and the agency shall provide,
additional information contained in the report.

(3) An alleged perpetrator is entitled to file an appeal
with the department under 1 Pa. Code Part II (relating to
general rules of administrative practice and procedure) to
challenge the agency's finding resulting from the
investigation of a report made under section 303.

Section 309. Financial obligations; liabilities and payments.
All individuals receiving services and all agencies providing
services under this chapter shall comply with the following
provisions regarding liability for the payment of services:

(1) Funding to provide or make available protective
services under this chapter shall not supplant any public and
private entitlements or resources for which persons receiving
protective services under this chapter are or may be
eligible, and shall not be available until such persons have
exhausted their eligibility and receipt of benefits under
said public and private entitlements or resources.

(2) Funding available to local protective services
agencies under this chapter may be used to cover the costs of
activities including, but not limited to, the following:

(i) Administering protective services plans required
under section 301(c).

(ii) Receiving and maintaining records of reports of
abuse under section 302.

(iii) Conducting investigations of reported abuse
under section 303.

(iv) Carrying out client assessments and developing service plans under section 303.

(v) Petitioning the court under sections 304 and 307.

(vi) Providing emergency involuntary intervention under section 307.

(vii) Arranging for available services needed to carry out service plans, which may include, as appropriate, arranging for services for other household members in order to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult.

(viii) Purchasing, on a temporary basis, services determined by a service plan to be necessary to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult when such services are not available within the existing resources of the agency or other appropriate provider. Purchase of services under this provision is limited to a 30-day period which may be renewed with adequate justification under regulations promulgated by the department.

(3) The obligation of the Commonwealth and the counties to provide funds to the department or any agency for services provided pursuant to this chapter shall be entirely discharged by the appropriations made to the department or an agency. Provided that the agency has met its responsibility under the law, no action at law or equity shall be instituted in any court to require the department, any agency, county or the Commonwealth to provide benefits or services under this chapter for which appropriations from the Commonwealth or
counties are not available.

(4) Protective services clients receiving the same services provided to others under an agency service plan shall not be required to pay a fee for any services not subject to cost sharing for other older adults.

Section 310. Regulations; enforcement.

(a) Promulgation of regulations.--The department shall promulgate the rules and regulations to carry out this chapter and shall be responsible for presenting to the General Assembly annually a report on the program and services performed.

(b) Enforcement.--This chapter shall be enforced only after promulgation of regulations by the department, which shall occur no later than 12 months following passage of this chapter, except that section 301 shall apply when the area agency on aging certifies to the department that it is prepared to fulfill its responsibilities. The certification shall be made within 90 days following promulgation of regulations.

Section 311. Funds for payment of administration of chapter.

Funds necessary to administer this chapter shall be provided by annual appropriation by the General Assembly.

Section 9. The act is amended by adding sections to read:

Section 312. Confidentiality of records.

(a) General rule.--Information contained in reports, records of investigation, assessments and service plans created under this act shall be considered privileged and confidential and shall be maintained under regulations issued by the department. Except as provided below, this information shall only be disclosed by area agency on aging staff for the purpose of development and implementation of protective services. Neither the department nor the AAA may release information that could be
detrimental to an older adult, except that such information shall be released to law enforcement under subsection (b)(2).

All information contained in protective services records is subject to other Federal and State confidentiality and security laws.

(b) Access.--

(1) Any person in possession of protective services records may only provide access to the records, or information contained in the records, to:

   (i) A court of competent jurisdiction or another party pursuant to a court order for purposes of implementation of this act or other law enforcement or official governmental purposes, but not for use by nongovernmental persons in civil litigation. A subpoena shall not be deemed a court order for purposes of this section.

   (ii) Law enforcement officials or the coroner, if the information is relevant to their investigation of abuse, neglect, exploitation or abandonment or death of the older adult.

   (iii) A practitioner of the healing arts who is examining or treating the older adult and who suspects that the older adult is in need of protection under this act.

   (iv) The director or an individual specifically designated in writing by the director of any hospital or other medical institution where the older adult is being treated, if the director or designee suspects that the recipient is in need of protection under this act.

   (v) A financial institution or fiduciary as
necessary to exercise the authority to prohibit 
disbursement of funds and transactions provided by 
section 301.1(c).

(2) In arranging specific services to carry out service 
plans, the area agency on aging may disclose to appropriate 
service providers such information as may be necessary to 
initiate delivery of services.

(3) The older adult who is the subject of a report or 
his guardian may receive, upon written request, all 
information contained in the report, except information that 
would identify the person who made a report of suspected 
abuse, neglect, exploitation or abandonment or persons who 
cooperated in a subsequent investigation.

(4) A person who makes a report of suspected abuse, 
neglect, exploitation or abandonment may receive, upon 
written request, confirmation that the report was received 
and the AAA is acting in accordance with this act.

(5) For the purposes of monitoring agency performance or 
conducting other official duties, appropriate staff of the 
department, as designated by the secretary, may access AAA 
protective services records.

(6) The department or the AAA may collaborate or share a 
summary of protective services information with State 
agencies for purposes of official Commonwealth business.

(7) The department or the AAA may share a summary of 
protective services information with another AAA that is 
performing duties under this act that are relevant to older 
adults within their jurisdictions.

(8) An employee of an agency of another state who 
performs older adult protective services similar to those
under this act may access protective services records relevant to older adults within their jurisdiction.

(c) Protecting identify of reporter and cooperating witnesses.--

(1) Except for disclosures to law enforcement officials, the release of records that would identify the individual who made a report under this act or an individual who cooperated in a subsequent investigation is prohibited.

(2) Where records are provided pursuant to court order, the identity of the reporter and cooperating witnesses shall be redacted, unless otherwise ordered by the court after an in camera review.

Section 313. Rights of older adults.

(a) General rule.--An area agency on aging shall discreetly notify the older adult during the investigation that a report has been made and shall provide the older adult a brief summary of the nature of the report.

(b) Release of information.--As provided in section 312(b)(3), an older adult who is the subject of a report, or the older adult's guardian, if the guardian is not named as the alleged perpetrator in the report, may receive, upon written request, a summary of information contained in the report of need except information that would identify the person who made a report of suspected abuse, neglect, exploitation or abandonment or persons who cooperated in a subsequent investigation.

(c) Appeal.--Any denial of protective services by the department or an authorized area agency on aging under this act may be appealed according to the provisions of the rules and regulations issued by the department under Article XXII-A of the

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act of April 9, 1929 (P.L.177, No.175), known as The
Administrative Code of 1929.

Section 314. Electronic records.

Any requirements of this act that information be prepared,
filed, submitted, requested, maintained or signed in writing may
be satisfied by the use of an electronic record or signature to
the extent otherwise permitted by law, unless the department, an
AAA or a law enforcement agency requires the use of a written
record or signature.

Section 10. Sections 501, 502 and 503 of the act are
repealed:

Section 501. Definitions.
The following words and phrases when used in this chapter
shall have the meanings given to them in this section unless the
context clearly indicates otherwise:

"Applicant." An individual who submits an application, which
is being considered for employment, to a facility.


Section 502. Information relating to prospective facility
personnel.

(a) General rule.--A facility shall require all applicants
to submit with their applications, and shall require all
administrators and any operators who have or may have direct
contact with a recipient to submit, the following information
obtained within the preceding one-year period:

(1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal
history record information), a report of criminal history
record information from the State Police or a statement from
the State Police that their central repository contains no
such information relating to that person. The criminal
history record information shall be limited to that which is

disseminated pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to
general regulations).

(2) Where the applicant is not and for the two years
immediately preceding the date of application has not been a
resident of this Commonwealth, administration shall require
the applicant to submit with the application for employment a
report of Federal criminal history record information
pursuant to the Federal Bureau of Investigation's
appropriation under the Departments of State, Justice, and
Commerce, the Judiciary, and Related Agencies Appropriation
Act, 1973 (Public Law 92-544, 86 Stat. 1109). The department
shall be the intermediary for the purposes of this paragraph.
For the purposes of this paragraph, the applicant shall
submit a full set of fingerprints in a manner prescribed by
the department. The Commonwealth shall submit the
fingerprints to the Federal Bureau of Investigation for a
national criminal history record check. The information
obtained from the criminal record check shall be used by the
department to determine the applicant's eligibility. The
determination shall be submitted to the administrator by the
applicant prior to commencing employment. The administrator
shall insure confidentiality of the information. The
provisions of 18 Pa.C.S. § 9121(b)(2) shall not apply if the
request for a report of Federal criminal history record
information is made pursuant to this section.

(b) (Reserved).

Section 503. Grounds for denying employment.

(a) General rule.--In no case shall a facility hire an
applicant or retain an employee required to submit information
pursuant to section 502(a) if the applicant's or employee's
criminal history record information indicates the applicant or
employee has been convicted of any of the following offenses:

(1) An offense designated as a felony under the act of
April 14, 1972 (P.L.233, No.64), known as The Controlled
Substance, Drug, Device and Cosmetic Act.

(2) An offense under one or more of the following
provisions of 18 Pa.C.S. (relating to crimes and offenses):

Chapter 25 (relating to criminal homicide).
Section 2702 (relating to aggravated assault).
Section 2901 (relating to kidnapping).
Section 2902 (relating to unlawful restraint).
Section 3121 (relating to rape).
Section 3122.1 (relating to statutory sexual
assault).
Section 3123 (relating to involuntary deviate sexual
intercourse).
Section 3124.1 (relating to sexual assault).
Section 3125 (relating to aggravated indecent
assault).

Section 3126 (relating to indecent assault).
Section 3127 (relating to indecent exposure).
Section 3301 (relating to arson and related
offenses).

Section 3502 (relating to burglary).
Section 3701 (relating to robbery).

A felony offense under Chapter 39 (relating to theft
and related offenses) or two or more misdemeanors under
Chapter 39.

Section 4101 (relating to forgery).
Section 4114 (relating to securing execution of documents by deception).

Section 4302 (relating to incest).

Section 4303 (relating to concealing death of child).

Section 4304 (relating to endangering welfare of children).

Section 4305 (relating to dealing in infant children).

Section 4952 (relating to intimidation of witnesses or victims).

Section 4953 (relating to retaliation against witness or victim).

A felony offense under section 5902(b) (relating to prostitution and related offenses).

Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).

Section 6301 (relating to corruption of minors).

Section 6312 (relating to sexual abuse of children).

(3) A Federal or out-of-State offense similar in nature to those crimes listed in paragraphs (1) and (2).

(c) Immunity.--An administrator or a facility shall not be held civilly liable for any action directly related to good faith compliance with this section.

Section 11. The act is amended by adding a section to read:

Section 503.1. Criminal history.

(a) General rule.--Prior to hiring or engaging an applicant, a facility shall require the applicant to submit to the facility the following information obtained within the preceding one-year period:

(1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal
history record information), a report of criminal history
record information from the Pennsylvania State Police or a
statement from the Pennsylvania State Police that their
central repository contains no such information relating to
the applicant. The provisions of 18 Pa.C.S. § 9121(b)(2)
(relating to general regulations) shall not apply to criminal
history information or other criminal history record
information requested or received under this section.

(2) Federal criminal history record information pursuant

to the Federal Bureau of Investigation's appropriation under
the Departments of State, Justice, and Commerce, the
Judiciary, and Related Agencies Appropriation Act, 1973
(Public Law 92-544, 86 Stat. 1109), subject to the following:

(i) The department shall be the intermediary for the
purposes of this paragraph. The applicant shall submit a
full set of fingerprints to the Federal Bureau of
Investigation in a manner designated by the department.
The provisions of 18 Pa.C.S. § 9121(b)(2) shall not apply
to criminal history information or other criminal history
record information requested or received under this
section.

(ii) Criminal history information shall be used by
the department to determine the applicant's eligibility
for employment with a facility. The employment
determination shall be provided to the facility and the
applicant prior to commencement of employment. The
facility shall ensure confidentiality of the information.

(3) The department may require the applicant to submit
additional information from a court or other authority within
the time frame designated by the department. Failure to
provide the requested information within the time frame
designated by the department may result in employment
ineligibility.
(b) Prohibited offenses.—The following offenses and Federal
or out-of-State offenses similar in nature shall be prohibited,
as follows:
   (1) Lifetime ban. A facility may not hire or engage an
applicant required to submit criminal history information
under this act if the applicant's criminal history record
information indicates that the applicant has been convicted
of an offense or attempt, solicitation or conspiracy to
commit an offense under one of the following provisions of 18
Pa.C.S. (relating to crimes and offenses):
      Chapter 25 (relating to criminal homicide).
      Section 2718 (relating to strangulation).
      Section 3011 (relating to trafficking in
      individuals).
      Section 3121 (relating to rape).
      Section 3123 (relating to involuntary deviate sexual
      intercourse).
      Section 3124.2 (relating to institutional sexual
      assault).
   (2) Twenty-five year ban. A facility may not hire or
engage an applicant required to submit criminal history
information under this act for a period of 25 years from the
date of conviction if the applicant's criminal history record
information indicates the applicant has been convicted of an
offense or attempt, solicitation or conspiracy to commit an
offense under one of the following provisions of 18 Pa.C.S.:
      Chapter 26 (relating to crimes against unborn child).
Section 2702 (relating to aggravated assault).
Section 2713 (relating to neglect of care-dependent person).
Section 2715 (relating to threat to use weapons of mass destruction).
Section 2716 (relating to weapons of mass destruction).
Section 2717 (relating to terrorism).
Section 2901 (relating to kidnapping).
Section 2903 (relating to false imprisonment).
Section 3122.1 (relating to statutory sexual assault).
Section 3124.1 (relating to sexual assault).
Section 3125 (relating to aggravated indecent assault).
Section 3126 (relating to indecent assault).
Section 3129 (relating to sexual intercourse with an animal).
Section 3212 (relating to infanticide).
Section 4302 (relating to incest).
Section 4303 (relating to concealing death of child).
Section 4304 (relating to endangering welfare of children).
Section 4305 (relating to dealing in infant children).
Section 5510 (relating to abuse of corpse).
Section 5903 (a)(1), (a)(3)(ii), (a)(5)(ii), (a)(6), (c) or (d) (relating to obscene and other sexual materials and performances).
Section 6310 (relating to the sexual exploitation of
Section 6312 (relating to sexual abuse of children).
Section 6318 (relating to unlawful contact with a minor).
Section 6319 (relating to solicitation of minors to traffic drugs).

(3) Ten-year ban. A facility may not hire or engage an applicant required to submit criminal history information under this act for a period of ten years from the date of conviction, if the applicant's criminal history record information indicates that the applicant has been convicted of:

(i) Any of the following provisions of 18 Pa.C.S.:
Section 2705 (relating to recklessly endangering another person) two or more misdemeanors.
Section 2710 (relating to ethnic intimidation).
Section 2902 (relating to unlawful restraint).
A felony offense under section 2904 (relating to interference with custody of children).
Section 2909 (relating to concealment of whereabouts of a child).
Section 3127 (relating to indecent exposure).
Section 3131 (relating to unlawful dissemination of intimate image).
Section 3301 (relating to arson and related offenses).
Section 3502 (relating to burglary).
Section 3701 (relating to robbery).
A felony offense under Chapter 39 (relating to theft and related offenses).
Two or more misdemeanors under Chapter 39.
Section 4101 (relating to forgery).
Section 4103 (relating to fraudulent destruction, removal or concealment of recordable instruments).
Section 4106 (relating to access device fraud).
Section 4114 (relating to securing execution of documents by deception).
Section 4115 (relating to falsely impersonating persons privately employed).
Section 4120 (relating to identity theft).
Section 4952 (relating to intimidation of witnesses or victims).
Section 4953 (relating to retaliation against witness, victim or party).
A felony offense under section 5902(b) (relating to prostitution and related offenses).
Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).
Section 6301 (relating to corruption of minors).

(4) 5-year ban. A facility may not hire or engage an applicant required to submit criminal history information under this act for a period of five years from the date of conviction, if the applicant's criminal history record information indicates that the applicant has been convicted of:

(i) Any of the following provisions of 75 Pa.C.S. (relating to vehicles):
Section 3735 (relating to homicide by vehicle while driving under influence).
Section 3735.1 (relating to aggravated assault by
vehicle while driving under the influence).

Section 3742 (relating to accidents involving death or personal injury).

Section 3802 (relating to driving under influence of alcohol or controlled substance) graded as a misdemeanor of the second degree or higher.

(ii) An offense designated as a felony under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(iii) A misdemeanor of the first degree or a felony under 18 Pa.C.S. §4105 (relating to bad checks).

(c) Waiver request.--Unless prohibited by Federal law, the department may grant a waiver of the prohibitions under subsection (b) when the individual submits a written waiver request. The waiver request shall be submitted on a form provided by the department and shall contain the following:

(1) The length of time since the individual's conviction.

(2) The circumstances of the individual's conviction.

(3) If the individual was incarcerated, a copy of the order from the Federal, State or local jurisdiction that released the individual from incarceration, including the date of release.

(4) Evidence of the individual's rehabilitation.

(5) Evidence of prior or present relevant work experience.

(6) Evidence of competency and proficiency of the individual in relevant work.

(d) Waiver approval.--

(1) The department shall review and issue a decision on
approval or denial of the waiver request within 30 days.

(2) If the waiver request is denied, the response letter from the department shall include information regarding the appeal process.

(e) Applicability.--A waiver request granted under subsection (e) applies only to the crimes listed on the waiver application and shall be in effect for the shorter of the following time periods:

(1) three years after the date of issuance of the waiver by the department; or

(2) the expiration of the applicable employment ban.

(f) Exception.--If the individual is granted a waiver and remains continuously employed by the same employer after the expiration of the time period in subsection (d), the waiver shall continue to apply for the duration of the individual's employment with that employer.

(g) Limitations.--

(1) The grant of a waiver request by the department does not guarantee employment to the individual.

(2) If new criminal charges are filed against an individual who has obtained a waiver from the department, the individual must report the new criminal charges to both the employer and the department within seven days of the charges being filed.

(h) Appeal rights.--If the department denies an individual's request for a waiver, the individual shall have 20 days to submit a written appeal to the Secretary of Aging.

(1) Upon receipt of such notice of appeal, the Secretary of Aging shall have 30 days to complete a review of the relevant facts and circumstances and issue a final decision.
(2) All final decisions by the Secretary of Aging shall be reviewable in accordance with the laws.

(i) Duties and responsibilities of the department.--

(1) Within 60 days from the effective date of this section, the department shall develop a waiver form to be used by individuals seeking a waiver from the restrictions listed in subsection (b).

(2) Within 90 days from the effective date of this section, the department shall develop a procedure for the hearing of appeals resulting from department denials of waiver request applications.

(j) Date of release or discharge.--To determine an individual's release, discharge or termination of supervision, the individual shall provide to the department, upon request, documentation relating to the individual's release or discharge from a State or county correctional institution or from termination of supervised probation or parole.

(k) Employee disclosure.--

(1) The department shall develop a standardized form to be used by facilities for the written reporting by employees and administrators of any conviction for an offense enumerated under subsection (b). The form shall be published on the department's publicly accessible Internet website and in the Pennsylvania Bulletin.

(2) Facilities required to use the form under paragraph (1) shall comply with the following:

(i) The form shall contain a list of the prohibited offenses under subsection (b) and a space for the employee to indicate any convictions. Employees and administrators who have not been convicted of any
enumerated offense shall respond "no conviction."

(ii) Employees and administrators shall be informed that failure to accurately report any conviction for an offense enumerated under subsection (b) shall subject the employee to criminal prosecution under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(3) Facilities shall require employees and administrators to complete and submit the form on an annual basis relating to any conviction that occurred during the prior 12-month period. Employees and administrators shall advise their employers with written notice utilizing the form not later than 72 hours after a conviction.

(4) If an employee or administrator refuses to submit the form, the facility shall immediately require the employee to submit a current report of criminal history record information as required under subsection (a).

(l) Penalties.--

(1) An employee or administrator who discloses a conviction for an offense enumerated under subsection (b) shall be subject to termination.

(2) An employee or administrator who willfully fails to disclose a conviction for an offense enumerated under subsection (b) shall be subject to termination and may be subject to criminal prosecution under 18 Pa.C.S. § 4904.

(m) Provisional employees for limited periods.--

(1) Facilities may employ applicants on a provisional basis for a single period not to exceed 30 days, if all of the following conditions are met:

(i) The applicant has applied for a criminal history report required under subsection (a)(1) and (2) and
provided the facility with a copy of the completed request forms.

(ii) The facility has no knowledge about the applicant that would disqualified the applicant from employment under 18 Pa.C.S. § 4911 (relating to tampering with public records or information).

(iii) The applicant swears or affirms in writing that the applicant is not disqualified from employment under this act.

(2) If the information obtained from the criminal history report reveals that the applicant is disqualified from employment, the applicant shall be dismissed immediately.

(3) The department shall develop guidelines, in consultation with the Department of Health and the Department of Human Services, regarding the supervision of applicants. Supervision shall include random direct supervision by an employee who has been employed by the facility for a period of at least one year.

Section 12. Sections 504, 505, 506, 507, 508, 702, 703, 704, 705 and 706 of the act are repealed:

[Section 504. Regulations.

The department, in consultation with the Department of Health and the Department of Public Welfare, shall promulgate the regulations necessary to carry out this chapter.

Section 505. Violations.

(a) Administrative.--

(1) An administrator who intentionally or willfully fails to comply or obstructs compliance with the provisions of this chapter commits a violation of this chapter and shall
be subject to an administrative penalty under paragraph (3).

(2) A facility owner that intentionally or willfully
fails to comply with or obstructs compliance with this
chapter commits a violation of this chapter and shall be
subject to an administrative penalty under paragraph (3).

(3) The Commonwealth agency or Commonwealth agencies
which license the facility have jurisdiction to determine
violations of this chapter and may issue an order assessing a
civil penalty of not more than $2,500. An order under this
paragraph is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to
practice and procedure of Commonwealth agencies) and Ch. 7
Subch. A (relating to judicial review of Commonwealth agency
action).

(b) Criminal.--

(1) An administrator who intentionally or willfully
fails to comply or obstructs compliance with this chapter
commits a misdemeanor of the third degree and shall, upon
conviction, be sentenced to pay a fine of $2,500 or to
imprisonment for not more than one year, or both.

(2) A facility owner that intentionally or willfully
fails to comply with or obstructs compliance with this
chapter commits a misdemeanor of the third degree and shall,
upon conviction, be sentenced to pay a fine of $2,500 or to
imprisonment for not more than one year, or both.

Section 506. Provisional employees for limited periods.

Notwithstanding section 502, administrators may employ
applicants on a provisional basis for a single period not to
exceed 30 days or, for applicants under section 502(a)(2), a
period of 90 days, if all of the following conditions are met:

(1) The applicant has applied for the information
required under section 502 and the applicant provides a copy of the appropriate completed request forms to the administrator.

(2) The administrator has no knowledge of information pertaining to the applicant which would disqualify him from employment pursuant to section 503, subject to 18 Pa.C.S. § 4911 (relating to tampering with public records or information).

(3) The applicant swears or affirms in writing that he is not disqualified from employment under section 503.

(4) If the information obtained under section 502 reveals that the applicant is disqualified from employment under section 503, the applicant shall be immediately dismissed by the administrator.

(5) The department shall develop guidelines regarding the supervision of applicants. For a home health care agency, supervision shall include random direct supervision by an employee who has been employed by the facility for a period of one year.

Section 507. State Police.

No later than one year following the effective date of this chapter, the State Police and the department shall report to the Aging and Youth Committee of the Senate and the Aging and Youth Committee of the House of Representatives with their findings and recommendations regarding the implementation of this chapter.

Section 508. Applicability.

This chapter shall apply as follows:

(1) An individual who, on the effective date of this chapter, has continuously for a period of one year been an
employee of the same facility shall be exempt from section
502 as a condition of continued employment.

(2) If an employee is not exempt under paragraph (1),
the employee and the facility shall comply with section 502
within one year of the effective date of this chapter.

(3) If an employee who is exempt under paragraph (1)
seeks employment with a different facility, the employee and
the facility shall comply with section 502.

(4) An employee who has obtained the information
required under section 502 may transfer to another facility
established and supervised by the same owner and is not
required to obtain additional reports before making the
transfer.

Section 702. Reports to department and coroner.

(a) Department.--

(1) Within 48 hours of receipt of a written report under
section 701(a) involving sexual abuse, serious physical
injury, serious bodily injury or suspicious death, the agency
shall transmit a written report to the department.
Supplemental reports shall be transmitted as they are
obtained by the agency.

(2) A report under this subsection shall be made in a
manner and on forms prescribed by the department. The report
shall include, at a minimum, the following information:

(i) The name and address of the alleged victim.

(ii) Where the suspected abuse occurred.

(iii) The age and sex of the alleged perpetrator and
victim.

(iv) The nature and extent of the suspected abuse,
including any evidence of prior abuse.
(v) The name and relationship of the individual responsible for causing the alleged abuse to the victim, if known, and any evidence of prior abuse by that individual.

(vi) The source of the report.

(vii) The individual making the report and where that individual can be reached.

(viii) The actions taken by the reporting source, including taking of photographs and x-rays, removal of recipient and notification under subsection (b).

(ix) Any other information which the department may require by regulation.

(b) Coroner.--For a report under section 701(a) which concerns the death of a recipient, if there is reasonable cause to suspect that the recipient died as a result of abuse, the agency shall give the oral report and forward a copy of the written report to the appropriate coroner within 24 hours.

Section 703. Investigation.

(a) Law enforcement officials.--Upon receipt of a report under section 701(b), law enforcement officials shall conduct an investigation to determine what criminal charges, if any, will be filed.

(b) Notification.--If law enforcement officials have reasonable cause to suspect that a recipient has suffered sexual abuse, serious physical injury, serious bodily injury or a suspicious death, law enforcement officials shall notify the agency.

(c) Cooperation.--To the fullest extent possible, law enforcement officials, the facility and the agency shall coordinate their respective investigations. Law enforcement
officials, the facility and the agency shall advise each other
and provide any applicable additional information on an ongoing
basis.

(d) Further notification.--Law enforcement officials shall
notify the agency and the facility of a decision regarding
criminal charges. The agency and the department shall keep a
record of any decision regarding criminal charges.

(e) Compliance with Chapter 3.--In addition to the
provisions of this section, the agency shall comply with Chapter
3.

Section 704. Restrictions on employees.

(a) Plan of supervision.--Upon notification that an employee
is alleged to have committed abuse, the facility shall
immediately implement a plan of supervision or, where
appropriate, suspension of the employee, subject to approval by
the agency and by the Commonwealth agency with regulatory
authority over the facility. A plan of supervision for a home
health care agency must include periodic random direct
inspections of care-dependent individuals by a facility employee
who has been continuously employed by that facility for a period
of at least one year.

(b) Prohibition.--Upon the filing of criminal charges
against an employee, the Commonwealth agency which licenses the
facility shall order the facility to immediately prohibit that
employee from having access to recipients at the facility. If
that employee is a director, operator, administrator or
supervisor, that employee shall be subject to restrictions
deemed appropriate by the Commonwealth agency which licenses the
facility to assure the safety of recipients of the facility.

Section 705. Confidentiality of and access to confidential
(a) General rule.--Except as provided in subsection (b), a report under this chapter shall be confidential.

(b) Exceptions.--A report under this chapter shall be made available to all of the following:

1. An employee of the department or of an agency in the course of official duties in connection with responsibilities under this chapter.

2. An employee of the Department of Health or the Department of Public Welfare in the course of official duties.

3. An employee of an agency of another state which performs protective services similar to those under this chapter.

4. A practitioner of the healing arts who is examining or treating a recipient and who suspects that the recipient is in need of protection under this chapter.

5. The director, or an individual specifically designated in writing by the director, of any hospital or other medical institution where a victim is being treated if the director or designee suspects that the recipient is in need of protection under this chapter.

6. A guardian of the recipient.

7. A court of competent jurisdiction pursuant to a court order.

8. The Attorney General.

9. Law enforcement officials of any jurisdiction as long as the information is relevant in the course of investigating cases of abuse.

10. A mandated reporter under Chapter 3 who made a
report of suspected abuse. Information released under this paragraph shall be limited to the following:

(i) The final status of the report following the investigation.

(ii) Services provided or to be provided by the agency.

(c) Excision of certain names.—The name of the person suspected of committing the abuse shall be excised from a report made available under subsection (b)(4), (5) and (10).

(d) Release of information to alleged perpetrator and victim.—Upon written request, an alleged perpetrator and victim may receive a copy of all information except that prohibited from being disclosed by subsection (e).

(e) Protecting identity of person making report.—Except for reports to law enforcement officials, the release of data that would identify the individual who made a report under this chapter or an individual who cooperated in a subsequent investigation is prohibited. Law enforcement officials shall treat all reporting sources as confidential information.

Section 706. Penalties.

(a) Administrative.—

(1) An administrator who intentionally or willfully fails to comply or obstructs compliance with the provisions of this chapter or who intimidates or commits a retaliatory act against an employee who complies in good faith with the provisions of this chapter commits a violation of this chapter and shall be subject to an administrative penalty under paragraph (3).

(2) A facility owner that intentionally or willfully fails to comply with or obstructs compliance with this
chapter or that intimidates or commits a retaliatory act
against an employee who complies in good faith with this
chapter commits a violation of this chapter and shall be
subject to an administrative penalty under paragraph (3).

(3) The Commonwealth agency or Commonwealth agencies
which regulate the facility have jurisdiction to determine
violations of this chapter and may issue an order assessing a
civil penalty of not more than $2,500. An order under this
paragraph is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to
practice and procedure of Commonwealth agencies) and Ch. 7
Subch. A (relating to judicial review of Commonwealth agency
action).

(b) Criminal.--

(1) An administrator who intentionally or willfully
fails to comply or obstructs compliance with this chapter
comits a misdemeanor of the third degree and shall, upon
conviction, be sentenced to pay a fine of $2,500 or to
imprisonment for not more than one year, or both.

(2) A facility owner that intentionally or willfully
fails to comply with or obstructs compliance with this
chapter commits a misdemeanor of the third degree and shall,
upon conviction, be sentenced to pay a fine of $2,500 or to
imprisonment for not more than one year, or both.

(c) Penalties for failure to report.--A person required
under this chapter to report a case of suspected abuse who
willfully fails to do so commits a summary offense for the first
violation and a misdemeanor of the third degree for a second or
subsequent violation.]

Section 13. The act is amended by adding a section to read:

Section 706.1. Penalties.
(a) Civil penalties.--

(1) A mandatory reporter who fails to comply or obstructs compliance with the provisions of this act or who intimidates or commits a retaliatory act against an individual who complies in good faith with the provisions of this act commits a violation of this act and shall be subject to an administrative penalty. The department shall determine violations of this act and may issue an order assessing a civil penalty of not more than $5,000. An order under this paragraph is subject to 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action).

(2) The Commonwealth agency or agencies which license a facility shall determine violations of section 503.1 (relating to criminal history) and may issue an order assessing a civil penalty of not more than $5,000.

(b) Damages for retaliatory action.--

(1) The older adult or any person making a report or cooperating with an area agency on aging, including providing testimony in any administrative or judicial proceeding, shall be free from any discriminatory, retaliatory or disciplinary action by an employer or by any other person or entity.

(2) Any person who violates this subsection is subject to a civil lawsuit by the reporter or the older adult wherein the reporter or older adult shall recover treble compensatory damages, compensatory and punitive damages or $5,000, whichever is greater.

(c) Damages for intimidation.--

(1) Any person, including an older adult, with knowledge
sufficient to justify making a report or cooperating with an area agency on aging, including possibly providing testimony in any administrative or judicial proceeding, shall be free from any intimidation by an employer or by any other person or entity.

(2) Any person who violates this subsection is subject to a civil lawsuit by the person intimidated or the older adult wherein the person intimidated or the older adult shall recover treble compensatory damages, compensatory and punitive damages or $5,000, whichever is greater.

(d) Criminal penalties.--

(1) A mandatory reporter under this act who intentionally fails to report suspected abuse, neglect, exploitation or abandonment commits a summary offense for the first violation and a misdemeanor of the second degree for a second or subsequent violation and shall, upon conviction, be sentenced to pay a fine of $5,000, or imprisonment for not more than one year, or both.

(2) It shall be unlawful for a person to knowingly or intentionally make or cause to be made a false statement or representation of a material fact in a report of need, in accordance with 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). A person who makes a false statement is guilty of a misdemeanor of the second degree for each violation with a maximum penalty of $10,000 and five years' imprisonment.

(e) Immunity.--

(1) Any person participating in the making of a report or who provides testimony in any administrative or judicial proceeding in any court of this Commonwealth, arising out of
a report, shall be immune from any civil or criminal
liability on account of the report or testimony related to
good faith compliance with this act.

(2) This immunity shall not extend to liability for acts
of abuse, neglect, exploitation or abandonment, even if such
acts are the subject of the report or testimony.

(3) Any company, institution and all affiliated entities
that employ a person required or permitted to make a report
under this act shall not be held civilly liable for any
action directly related to good faith compliance with this
act.

(f) Funds.--Funds collected under this act by the department
shall be dedicated for department programs to investigate and
prevent the abuse, neglect, exploitation and abandonment of
older adults.

Section 14. Section 707 of the act is repealed:
[Section 707. Immunity.
An administrator or a facility shall not be held civilly
liable for any action directly related to good faith compliance
with this chapter.]

Section 15. The act is amended by adding sections to read:
Section 707.1. Immunity from civil and criminal liability.
In the absence of willful misconduct or gross negligence, an
area agency on aging, the director, employees of an area agency
on aging, protective services workers or employees of the
department shall not be civilly or criminally liable for any
decision or action or resulting consequence of decisions or
action when acting under and according to the provisions of this
act.

Section 707.2. Funding.

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Funds necessary to administer this act shall be provided by annual appropriation by the General Assembly.

Section 16. Section 708 of the act is amended to read:

Section 708. Regulations and annual report.

(a) General rule.--The Department of Aging, the Department of Health and the Department of [Public Welfare] Human Services shall promulgate the regulations necessary to carry out this act.

(b) Duty to report.--The department shall present to the General Assembly annually a report on the program and services performed.

Section 17. This act shall take effect as follows:

(1) The addition of section 301.1 of the act shall take effect in one year.

(2) This section shall take effect immediately.

(3) The remainder of this act shall take effect in 180 days.