

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 2099

Session of  
1988

INTRODUCED BY KUKOVICH, MANDERINO, HAGARTY, JOSEPHS, MAINE,  
RITTER, RUDY, ARTY AND FREEMAN, JANUARY 19, 1988

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
FEBRUARY 9, 1988

## AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An  
2 act to consolidate, editorially revise, and codify the public  
3 welfare laws of the Commonwealth," reenacting and amending  
4 provisions relating to domestic violence and rape crisis  
5 programs; ESTABLISHING STANDARDS FOR PERSONAL CARE FACILITY  
6 ADMINISTRATORS; PROVIDING FOR LEVELS OF CARE FOR PERSONAL  
7 CARE FACILITIES; FURTHER PROVIDING FOR POWERS AND DUTIES OF  
8 THE DEPARTMENT AND FOR REGULATIONS BY THE DEPARTMENT; and  
9 imposing costs. <—

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

12 SECTION 1. THE ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN <—  
13 AS THE PUBLIC WELFARE CODE, IS AMENDED BY ADDING SECTIONS TO  
14 READ:

15 SECTION 212. ESTABLISHMENT OF LEVELS OF CARE.--(A) IN  
16 DEVELOPING RULES AND REGULATIONS FOR LICENSURE OF PERSONAL CARE  
17 FACILITIES, THE DEPARTMENT SHALL BY REGULATION ESTABLISH  
18 STANDARDS FOR THE MENTAL AND PHYSICAL MOBILITY OF RESIDENTS AND  
19 FOR DETERMINING WHETHER A PERSONAL CARE FACILITY MEETS THESE  
20 STANDARDS. THE DEPARTMENT SHALL, IN THE ESTABLISHMENT OF THESE

1 STANDARDS, CONSIDER THE EMERGENCY EVACUATION CAPABILITIES AND  
2 STAFFING NEEDS OF THE FACILITY AS IT MAY DEEM APPROPRIATE FOR  
3 THE RESIDENT POPULATION. SUCH STANDARDS SHALL INCLUDE, BUT NOT  
4 BE LIMITED TO, THE FOLLOWING CATEGORIES OF PERSONAL CARE  
5 FACILITIES:

6 (1) LEVEL 1 FACILITIES MAY HAVE RESIDENTS THAT ARE MOBILE  
7 AND NEED ONLY MINIMAL PERSONAL CARE AND SUPERVISION AND SHALL BE  
8 CONSTRUCTED IN ACCORDANCE WITH PROMPT EVACUATION CAPABILITY  
9 REQUIREMENTS ESTABLISHED IN CHAPTER 21, RESIDENTIAL BOARD AND  
10 CARE OCCUPANCIES OF THE LIFE SAFETY CODE OF 1985 OF THE NATIONAL  
11 FIRE PROTECTION ASSOCIATION INCORPORATED AS ADMINISTERED BY THE  
12 DEPARTMENT OF LABOR AND INDUSTRY.

13 (2) LEVEL 2 FACILITIES MAY HAVE RESIDENTS THAT HAVE  
14 FUNCTIONAL LIMITATIONS AND RELY ON THE FACILITY FOR EXTENSIVE  
15 ASSISTANCE WITH PERSONAL ACTIVITIES OF DAILY LIVING AND WHO DO  
16 NOT REQUIRE REGULAR CONTINUOUS 24-HOUR NURSING CARE, ALTHOUGH  
17 THEY MAY BE NONAMBULATORY AND REQUIRE THE OCCASIONAL SERVICES OF  
18 AN APPROPRIATE SKILLED HEALTH PROFESSIONAL. THESE FACILITIES  
19 SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE SLOW CAPABILITY  
20 REQUIREMENTS ESTABLISHED IN CHAPTER 21, RESIDENTIAL BOARD AND  
21 CARE OCCUPANCIES OF THE LIFE SAFETY CODE OF 1985 OF THE NATIONAL  
22 FIRE PROTECTION ASSOCIATION INCORPORATED AS ADMINISTERED BY THE  
23 DEPARTMENT OF LABOR AND INDUSTRY. ENFORCEMENT FOR NONCOMPLIANCE  
24 UNDER THIS SUBSECTION SHALL BE EFFECTIVE JANUARY 1, 1989.

25 (B) A PERSONAL CARE FACILITY MAY BE LICENSED AS A LEVEL 1  
26 AND/OR A LEVEL 2 FACILITY IN ACCORDANCE WITH THE STANDARDS  
27 ESTABLISHED BY THE DEPARTMENT.

28 SECTION 213. PERSONAL CARE FACILITY ADMINISTRATOR.--(A)  
29 AFTER JANUARY 1, 1989, ALL PERSONAL CARE FACILITIES SHALL  
30 IDENTIFY AND APPOINT A PERSONAL CARE FACILITY ADMINISTRATOR OR

1 ADMINISTRATORS WHO MEET THE QUALIFICATIONS PROVIDED IN THIS  
2 SECTION.

3 (B) A PERSONAL CARE FACILITY ADMINISTRATOR SHALL:

4 (1) BE AT LEAST 21 YEARS OF AGE, HAVE A HIGH SCHOOL DIPLOMA  
5 OR A GENERAL EDUCATIONAL DEVELOPMENT DIPLOMA AND BE OF GOOD  
6 MORAL CHARACTER, PROVIDED THAT AN ADMINISTRATOR OF A LICENSED  
7 PERSONAL CARE FACILITY ON THE EFFECTIVE DATE OF THIS ACT SHALL  
8 BE EXEMPT FROM THE PROVISION THAT REQUIRES AN ADMINISTRATOR TO  
9 HAVE A HIGH SCHOOL DIPLOMA OR GENERAL EDUCATIONAL DEVELOPMENT  
10 DIPLOMA; AND

11 (2) HAVE KNOWLEDGE, EDUCATION AND TRAINING IN:

12 (I) FIRE PREVENTION AND EMERGENCY PLANNING;

13 (II) FIRST AID, MONITORING OF MEDICATIONS, MEDICAL  
14 TERMINOLOGY AND PERSONAL HYGIENE;

15 (III) NUTRITION;

16 (IV) RECREATION;

17 (V) MENTAL ILLNESS AND GERONTOLOGY;

18 (VI) COMMUNITY RESOURCES AND SOCIAL SERVICES; AND

19 (VII) STAFF SUPERVISION AND TRAINING.

20 (C) BY JANUARY 1988, THE DEPARTMENT SHALL BY REGULATION  
21 DEVELOP SUCH STANDARDS FOR KNOWLEDGE, EDUCATION OR TRAINING TO  
22 MEET THE STANDARDS OF THIS SECTION.

23 (D) IF NOT OTHERWISE AVAILABLE, THE DEPARTMENT SHALL  
24 SCHEDULE AND OFFER AT COST, TRAINING AND EDUCATIONAL PROGRAMS  
25 FOR A PERSON TO MEET THE KNOWLEDGE, EDUCATIONAL AND TRAINING  
26 REQUIREMENTS ESTABLISHED BY THIS ACT.

27 SECTION 2. SECTION 1001 OF THE ACT, AMENDED JULY 10, 1980  
28 (P.L.493, NO.105) AND DECEMBER 5, 1980 (P.L.1112, NO.193), IS  
29 AMENDED TO READ:

30 SECTION 1001. DEFINITIONS.--AS USED IN THIS ARTICLE--

1 "ADULT DAY CARE" MEANS CARE GIVEN FOR PART OF THE TWENTY-FOUR  
2 HOUR DAY TO ADULTS REQUIRING ASSISTANCE TO MEET PERSONAL NEEDS  
3 AND WHO, BECAUSE OF PHYSICAL OR MENTAL INFIRMITY, CANNOT  
4 THEMSELVES MEET THESE NEEDS, BUT WHO DO NOT REQUIRE NURSING  
5 CARE.

6 "ADULT DAY CARE CENTER" MEANS ANY PREMISES OPERATED FOR  
7 PROFIT, IN WHICH ADULT DAY CARE IS SIMULTANEOUSLY PROVIDED FOR  
8 FOUR OR MORE ADULTS WHO ARE NOT RELATIVES OF THE OPERATOR.

9 "BOARDING HOME FOR CHILDREN" MEANS ANY PREMISES OPERATED FOR  
10 PROFIT IN WHICH CARE IS PROVIDED FOR A PERIOD EXCEEDING TWENTY-  
11 FOUR HOURS FOR ANY CHILD OR CHILDREN UNDER SIXTEEN YEARS OF AGE,  
12 WHO ARE NOT RELATIVES OF THE OPERATOR AND WHO ARE NOT  
13 ACCOMPANIED BY PARENT, INDIVIDUAL STANDING IN LOCO PARENTIS OR  
14 LEGAL GUARDIAN. THE TERM SHALL NOT BE CONSTRUED TO INCLUDE ANY  
15 SUCH PREMISES SELECTED FOR CARE OF SUCH CHILD OR CHILDREN BY A  
16 PARENT, INDIVIDUAL STANDING IN LOCO PARENTIS OR LEGAL GUARDIAN  
17 FOR A PERIOD OF THIRTY DAYS OR LESS, NOR ANY SUCH PREMISES  
18 CONDUCTED UNDER SOCIAL SERVICE AUSPICES.

19 "CHILD DAY CARE" MEANS CARE IN LIEU OF PARENTAL CARE GIVEN  
20 FOR PART OF THE TWENTY-FOUR HOUR DAY TO CHILDREN UNDER SIXTEEN  
21 YEARS OF AGE, AWAY FROM THEIR OWN HOMES, BUT DOES NOT INCLUDE  
22 CHILD DAY CARE FURNISHED IN PLACES OF WORSHIP DURING RELIGIOUS  
23 SERVICES.

24 "CHILD DAY CARE CENTER" MEANS ANY PREMISES OPERATED FOR  
25 PROFIT IN WHICH CHILD DAY CARE IS PROVIDED SIMULTANEOUSLY FOR  
26 SEVEN OR MORE CHILDREN WHO ARE NOT RELATIVES OF THE OPERATOR,  
27 EXCEPT SUCH CENTERS OPERATED UNDER SOCIAL SERVICE AUSPICES.

28 "EVACUATION CAPABILITY" MEANS THE ABILITY OF THE OCCUPANTS,  
29 RESIDENTS AND STAFF AS A GROUP TO EITHER EVACUATE THE BUILDING  
30 OR RELOCATE FROM THE POINT OF OCCUPANCY TO A POINT OF SAFETY.

1 THE TWO TYPES OF EVACUATION CAPABILITIES ARE:

2 (1) PROMPT - EVACUATION CAPABILITY EQUIVALENT TO THE  
3 CAPABILITY OF THE GENERAL POPULATION. EVACUATION CAPABILITY  
4 SHALL BE PRESUMED TO BE PROMPT IF, AFTER CONDUCTING TIMED FIRE  
5 DRILLS PURSUANT TO STANDARDS ADOPTED BY THE DEPARTMENT,  
6 EVACUATION IS ACCOMPLISHED WITHIN THREE MINUTES OR LESS.

7 (2) SLOW - EVACUATION CAPABILITY OF THE GROUP TO MOVE TO A  
8 POINT OF SAFETY IN A TIMELY MANNER, WITH SOME OF THE RESIDENTS  
9 REQUIRING ASSISTANCE FROM STAFF. EVACUATION CAPABILITY SHALL BE  
10 PRESUMED TO BE SLOW IF, AFTER CONDUCTING TIMED FIRE DRILLS  
11 PURSUANT TO STANDARDS ADOPTED BY THE DEPARTMENT, EVACUATION IS  
12 ACCOMPLISHED IN MORE THAN THREE BUT LESS THAN THIRTEEN MINUTES.

13 "FACILITY" MEANS AN ADULT DAY CARE CENTER, CHILD DAY CARE  
14 CENTER, FAMILY DAY CARE HOME, BOARDING HOME FOR CHILDREN, MENTAL  
15 HEALTH ESTABLISHMENT, PERSONAL CARE [HOME FOR ADULTS] FACILITY,  
16 NURSING HOME, HOSPITAL OR MATERNITY HOME, AS DEFINED HEREIN, AND  
17 SHALL NOT INCLUDE THOSE OPERATED BY THE STATE OR FEDERAL  
18 GOVERNMENTS OR THOSE SUPERVISED BY THE DEPARTMENT.

19 "HOSPITAL" MEANS ANY PREMISES, OTHER THAN A MENTAL HEALTH  
20 ESTABLISHMENT AS DEFINED HEREIN, OPERATED FOR PROFIT, HAVING AN  
21 ORGANIZED MEDICAL STAFF AND PROVIDING EQUIPMENT AND SERVICES  
22 PRIMARILY FOR INPATIENT CARE FOR TWO OR MORE INDIVIDUALS WHO  
23 REQUIRE DEFINITIVE DIAGNOSIS AND/OR TREATMENT FOR ILLNESS,  
24 INJURY OR OTHER DISABILITY OR DURING OR AFTER PREGNANCY, AND  
25 WHICH ALSO REGULARLY MAKES AVAILABLE AT LEAST CLINICAL  
26 LABORATORY SERVICES, DIAGNOSTIC X-RAY SERVICES AND DEFINITIVE  
27 CLINICAL TREATMENT SERVICES. THE TERM SHALL INCLUDE SUCH  
28 PREMISES PROVIDING EITHER DIAGNOSIS OR TREATMENT, OR BOTH, FOR  
29 SPECIFIC ILLNESSES OR CONDITIONS.

30 "MATERNITY HOME" MEANS ANY PREMISES OPERATED FOR PROFIT IN

1 WHICH, WITHIN A PERIOD OF SIX MONTHS, ANY PERSON RECEIVES MORE  
2 THAN ONE WOMAN OR GIRL, NOT A RELATIVE OF THE OPERATOR, FOR CARE  
3 DURING PREGNANCY OR IMMEDIATELY AFTER DELIVERY.

4 "MENTAL HEALTH ESTABLISHMENT" MEANS ANY PREMISES OR PART  
5 THEREOF, PRIVATE OR PUBLIC, FOR THE CARE OF INDIVIDUALS WHO  
6 REQUIRE CARE BECAUSE OF MENTAL ILLNESS, MENTAL RETARDATION OR  
7 INEBRIETY BUT SHALL NOT BE DEEMED TO INCLUDE THE PRIVATE HOME OF  
8 A PERSON WHO IS RENDERING SUCH CARE TO A RELATIVE.

9 "MOBILE" AND "AMBULATORY" MEANS AN INDIVIDUAL WHO IS  
10 PHYSICALLY AND MENTALLY ABLE TO UNDERSTAND AND CARRY OUT  
11 INSTRUCTIONS WITHOUT THE ASSISTANCE OF OTHERS; CAPABLE OF MOVING  
12 ABOUT INDEPENDENTLY AND TO EXIT FROM THE BUILDING; ABLE TO  
13 ASCEND OR DESCEND STAIRS; ABLE TO INDEPENDENTLY OPERATE A DEVICE  
14 SUCH AS A WHEELCHAIR, PROSTHESIS, WALKER OR CANE.

15 "NONMOBILE" AND "NONAMBULATORY" MEANS AN INDIVIDUAL WHO IS  
16 PHYSICALLY AND/OR MENTALLY UNABLE TO MOVE FROM ONE LOCATION TO  
17 ANOTHER WITHOUT THE CONTINUED FULL ASSISTANCE OF OTHER PERSONS.  
18 THE TERM "FULL ASSISTANCE" MEANS THE INDIVIDUAL NEEDS TO BE LED,  
19 CARRIED OR WHEELED FROM ONE LOCATION TO ANOTHER.

20 "NURSING HOME" MEANS ANY PREMISES OPERATED FOR PROFIT IN  
21 WHICH NURSING CARE AND RELATED MEDICAL OR OTHER HEALTH SERVICES  
22 ARE PROVIDED, FOR A PERIOD EXCEEDING TWENTY-FOUR HOURS, FOR TWO  
23 OR MORE INDIVIDUALS, WHO ARE NOT RELATIVES OF THE OPERATOR, WHO  
24 ARE NOT ACUTELY ILL AND NOT IN NEED OF HOSPITALIZATION, BUT WHO,  
25 BECAUSE OF AGE, ILLNESS, DISEASE, INJURY, CONVALESCENCE OR  
26 PHYSICAL OR MENTAL INFIRMITY NEED SUCH CARE.

27 "PERSON" MEANS ANY INDIVIDUAL, PARTNERSHIP, ASSOCIATION OR  
28 CORPORATION OPERATING A FACILITY.

29 "PERSONAL CARE [HOME FOR ADULTS] FACILITY" MEANS ANY PREMISES  
30 IN WHICH FOOD, SHELTER AND PERSONAL ASSISTANCE OR SUPERVISION

1 ARE PROVIDED FOR A PERIOD EXCEEDING TWENTY-FOUR HOURS FOR MORE  
2 THAN THREE ADULTS WHO ARE NOT RELATIVES OF THE OPERATOR AND WHO  
3 REQUIRE ASSISTANCE OR SUPERVISION IN SUCH MATTERS AS DRESSING,  
4 BATHING, MOBILITY, DIET OR MEDICATION PRESCRIBED FOR SELF  
5 ADMINISTRATION AND INCLUDING TASKS OF DAILY LIVING AND OBTAINING  
6 MEDICAL AND OTHER HEALTH CARE OR SOCIAL SERVICES SUCH AS THE  
7 OCCASIONAL SERVICES OF AN APPROPRIATE SKILLED HEALTH  
8 PROFESSIONAL AND FINANCIAL MANAGEMENT. THE DEPARTMENT OR ITS  
9 DESIGNEE SHALL HAVE THE POWER TO DETERMINE WHETHER A PREMISES IS  
10 A PERSONAL CARE FACILITY FOR WHICH A LICENSE TO OPERATE MUST BE  
11 OBTAINED UNDER THIS ACT.

12 "PERSONAL CARE FACILITY ADMINISTRATOR" MEANS ANY INDIVIDUAL  
13 WHO IS CHARGED WITH THE GENERAL ADMINISTRATION OF A PERSONAL  
14 CARE FACILITY, WHETHER OR NOT SUCH INDIVIDUAL HAS AN OWNERSHIP  
15 INTEREST IN SUCH FACILITY AND WHETHER OR NOT HIS FUNCTIONS AND  
16 DUTIES ARE SHARED WITH ONE OR MORE INDIVIDUALS.

17 "PERSONAL CARE FACILITY RESIDENT" MEANS ANY OCCUPANT, OTHER  
18 THAN FACILITY PERSONNEL, OF A PERSONAL CARE FACILITY, WHETHER OR  
19 NOT HE OR SHE NEEDS PERSONAL ASSISTANCE OR SUPERVISION.

20 "RELATIVE" MEANS PARENT, CHILD, STEPPARENT, STEPCHILD,  
21 GRANDPARENT, GRANDCHILD, BROTHER, SISTER, HALF BROTHER, HALF  
22 SISTER, AUNT, UNCLE, NIECE, NEPHEW.

23 "SOCIAL SERVICE AUSPICES" MEANS ANY NONPROFIT AGENCY  
24 REGULARLY ENGAGED IN THE AFFORDING OF CHILD OR ADULT CARE.

25 Section 4 3. Article XII of the act ~~of June 13, 1967~~ <—  
26 ~~(P.L.31, No.21), known as the Public Welfare Code, added June~~  
27 18, 1982 (P.L.544, No.157), is reenacted and amended to read:

28 ARTICLE XII

29 DOMESTIC VIOLENCE AND RAPE VICTIMS SERVICES

30 Section 1201. Legislative Findings and Intent.--The General

1 Assembly finds that the public health and safety is threatened  
2 by increasing incidences of domestic violence and rape. Domestic  
3 violence programs and rape crisis programs provide needed  
4 support services for victims and assist in prevention through  
5 community education. Therefore the General Assembly finds that  
6 it is in the public interest for the Commonwealth to establish a  
7 mechanism to provide financial assistance to domestic violence  
8 centers and rape crisis centers for the operation of domestic  
9 violence and rape crisis programs.

10 Section 1202. Definitions.--As used in this article:

11 "Crime" means an act committed in Pennsylvania which, if  
12 committed by a mentally competent, criminally responsible adult,  
13 who had no legal exemption or defense, would constitute a crime  
14 as defined in and proscribed by Title 18 of the Pennsylvania  
15 Consolidated Statutes (relating to crimes and offenses) or  
16 enumerated in the act of April 14, 1972 (P.L.233, No.64), known  
17 as "The Controlled Substance, Drug, Device and Cosmetic Act."  
18 However, no act involving the operation of a motor vehicle which  
19 results in injury shall constitute a crime for the purpose of  
20 this article unless such injury was intentionally inflicted  
21 through the use of a motor vehicle.

22 "Domestic violence" means the occurrence of one or more of  
23 the following acts between family or household members:

24 (1) Intentionally, knowingly, or recklessly causing or  
25 attempting to cause bodily injury.

26 (2) Placing by physical menace another in fear of imminent  
27 serious bodily injury.

28 "Domestic violence center" means an organization or the  
29 coordinating body of an organization which has as its primary  
30 purpose the operation of domestic violence programs.



1 "Domestic violence program" means a program which has as its  
2 primary purpose the provision of direct services to victims of  
3 domestic violence and their children, including, but not limited  
4 to victim advocacy, counseling, shelter, information and  
5 referral, victim-witness, accompaniment, community education and  
6 prevention.

7 "Rape crisis center" means an organization, or the  
8 coordinating body of an organization which has as its primary  
9 purpose the operation of rape crisis programs.

10 "Rape crisis program" means a program which has as its  
11 primary purpose the provision of direct services to victims of  
12 sexual assault, including, but not limited to, crisis  
13 intervention, counseling, victim advocacy, information and  
14 referral, victim-witness and assistance, accompaniment through  
15 the medical, police and judicial systems as well as providing  
16 education and prevention programs on rape and sexual assaults.

17 "Sexual assault," for purposes of this act, shall constitute  
18 any conduct which is a crime under 18 Pa.C.S. Ch. 31 (relating  
19 to sexual offenses).

20 Section 1203. Additional Costs.--Where any person after the  
21 effective date of this article pleads guilty or nolo contendere  
22 to or is convicted of any crime as herein defined, there shall  
23 be imposed in addition to all other costs, an additional cost in  
24 the sum of ten dollars (\$10) for the purpose of funding the  
25 services as described in this article. Such sum shall be paid  
26 over to the State Treasurer to be deposited in the General Fund.  
27 Under no condition shall a political subdivision be liable for  
28 the payment of the ten dollars (\$10) in additional costs.

29 Section 1204. Program Grants Authorized.--The department  
30 shall make grants to domestic violence centers and rape crisis

1 centers for the operation of domestic violence programs and rape  
2 crisis programs consistent with this article. In awarding  
3 grants, the department shall consider the population to be  
4 served, the geographical area to be serviced, the scope of the  
5 services, the need for services, and the amount of funds  
6 provided from other sources.

7 Section 1205. Public Review and Accountability.--The  
8 department shall make available at cost to the public copies of  
9 applications that have been submitted or approved for funding  
10 and reports on any fiscal or programmatic reviews of funded  
11 programs.

12 [Section 1206. Termination of Article.--The provisions of  
13 this article shall expire five years from the effective date of  
14 this article unless reenacted by the General Assembly.]

15 Section ~~2~~ 4. This act shall be retroactive to June 18, 1987. <—

16 Section ~~3~~ 5. This act shall take effect immediately. <—