

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 227 Session of
1999

INTRODUCED BY SATHER, SCHULER, YOUNGBLOOD, GEIST, BAKER, HERMAN,
PESCI, DEMPSEY, FAIRCHILD, E. Z. TAYLOR, SAYLOR, TRELLO,
STERN, TIGUE, SEYFERT, HESS, McCALL, SEMMEL, HARHAI, CLYMER,
WILT, M. COHEN, ROSS AND WASHINGTON, FEBRUARY 1, 1999

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 13, 2000

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 durable powers of attorney.

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

6 Section 1. Section 5604 of Title 20 of the Pennsylvania
7 Consolidated Statutes is amended by adding a subsection to read:
8 § 5604. Durable powers of attorney.

9 * * *

10 (d) Discovery of information and records regarding actions
11 of attorney-in-fact.--

12 (1) If the ~~agency~~ DEPARTMENT OF AGING, as ~~defined~~ ACTING <—
13 pursuant to the act of November 6, 1987 (P.L.381, No.79),
14 known as the Older Adults Protective Services Act, is denied
15 access to records necessary for the completion of a proper
16 investigation of a report or a client assessment and service
17 plan or the delivery of needed services in order to prevent

1 further abuse, neglect, exploitation or abandonment of the
2 older adult reported to be in need of protective services,
3 the ~~agency~~ DEPARTMENT OF AGING may petition the court of <—
4 common pleas for an order requiring the appropriate access
5 when either of the following conditions applies:

6 (i) the older adult has provided written consent for
7 confidential records to be disclosed and the keeper of
8 the records denies access; or

9 (ii) the ~~agency~~ DEPARTMENT OF AGING can demonstrate <—
10 that the older adult has denied access to the records
11 because of incompetence, coercion, extortion or
12 justifiable fear of future abuse, neglect, exploitation
13 or abandonment.

14 (2) This petition may be filed in the county wherein the
15 attorney-in-fact resides or has his principal place of
16 business, or, if a nonresident, in the county wherein the
17 principal resides, or, if a guardian has been appointed for
18 the principal, in the court which made the appointment. The
19 court, after reasonable notice to the attorney-in-fact and to
20 the principal if no guardian has been appointed, otherwise to
21 the guardian, may conduct a hearing on the petition.

22 (3) Upon the failure of the attorney-in-fact to provide
23 the requested information, the court may make and enforce
24 such further orders respecting discovery.

25 (4) A determination to grant or deny in whole or in part
26 discovery sought shall not be considered a finding regarding
27 the competence, capacity or impairment of the principal, nor
28 shall the granting or denial of discovery preclude the
29 availability of other remedies involving protection of the
30 person or estate of the principal or the rights and duties of

1 the attorney-in-fact.

2 Section 2. This act shall take effect immediately.