

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2117 Session of
2001

INTRODUCED BY HARHART, BROWNE, GEIST, E. Z. TAYLOR, CAPPELLI,
CAWLEY, DALEY, HORSEY, JAMES, KIRKLAND, MANN, McILHATTAN,
PISTELLA, SHANER, STABACK, STERN, THOMAS, TIGUE, WASHINGTON,
WATERS, WILT, WOGAN, G. WRIGHT AND YOUNGBLOOD,
NOVEMBER 13, 2001

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 3, 2002

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," further providing FOR <—
4 BLIND PENSION ELIGIBILITY AND AMOUNT, for payments to
5 counties for services to children AND FOR ADOPTION <—
6 OPPORTUNITIES DEFINITIONS, REGULATIONS AND REIMBURSEMENT;
7 ESTABLISHING AN ADOPTION INFORMATION RETRIEVAL SYSTEM;
8 FURTHER PROVIDING FOR PERSONAL CARE BOARDING HOMES; PROVIDING
9 FOR LIABILITY INSURANCE FOR FAMILY DAY CARE HOMES; FURTHER
10 PROVIDING FOR RECORDS IN FAMILY DAY CARE HOMES; AND MAKING
11 EDITORIAL CHANGES.

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

14 ~~Section 1. Section 704.1(e) of the act of June 13, 1967 <—~~
15 ~~(P.L.31, No.21), known as the Public Welfare Code, added July 9,~~
16 ~~1976 (P.L.846, No.148), is amended to read:~~

17 SECTION 1. SECTION 506 OF THE ACT OF JUNE 13, 1967 (P.L.31, <—
18 NO.21), KNOWN AS THE PUBLIC WELFARE CODE, AMENDED DECEMBER 26,
19 1974 (P.L.991, NO.324), JUNE 21, 1977 (P.L.18, NO.14) AND APRIL
20 6, 1980 (P.L.99, NO.37), IS AMENDED TO READ:

1 SECTION 506. ELIGIBILITY.--THE DEPARTMENT SHALL PROVIDE A
2 STATE BLIND PENSION TO ANY BLIND PERSON WHO:

3 (1) RESIDES IN PENNSYLVANIA;

4 (2) IS NOT AN INMATE OF ANY PENAL INSTITUTION OR HOSPITAL
5 FOR MENTAL DISEASE;

6 (3) HAS ACTUAL ANNUAL INCOME OF HIS OWN OF [LESS] NOT MORE
7 THAN [FOUR THOUSAND TWO HUNDRED SIXTY DOLLARS (\$4,260)] THE
8 POVERTY LEVEL BY FAMILY SIZE, FOR ONE PERSON, ESTABLISHED BY THE
9 BUREAU OF THE CENSUS;

10 (4) OWNS REAL OR PERSONAL PROPERTY OF A COMBINED VALUE OF
11 NOT MORE THAN SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7500); AND
12 WHO

13 (5) HAS NOT DISPOSED OF ANY PROPERTY WITHOUT FAIR
14 CONSIDERATION WITHIN THE TWO YEARS IMMEDIATELY PRECEDING THE
15 DATE OF APPLICATION FOR STATE BLIND PENSION, OR WHILE RECEIVING
16 SUCH PENSION, IF OWNERSHIP OF SUCH PROPERTY, TOGETHER WITH HIS
17 OTHER PROPERTY, WOULD RENDER HIM INELIGIBLE FOR SUCH PENSION;

18 (6) IS NOT RECEIVING SUPPLEMENTAL SECURITY INCOME FOR THE
19 AGED, BLIND AND DISABLED PURSUANT TO TITLE XVI OF THE FEDERAL
20 SOCIAL SECURITY ACT.

21 WITH RESPECT TO THE DETERMINATION OF ELIGIBILITY FOR STATE
22 BLIND PENSION, THE VALUE OF REAL PROPERTY SHALL BE DEEMED TO BE
23 ITS ASSESSED VALUE MINUS ENCUMBRANCES BUT IN NO CASE SHALL THE
24 ASSESSED VALUE BE MORE THAN THIRTY PERCENT OF THE OFFICIAL
25 MARKET VALUE; THE VALUE OF PERSONAL PROPERTY SHALL BE DEEMED TO
26 BE ITS ACTUAL VALUE; AND INTEREST IN PROPERTY OWNED BY THE
27 ENTIRETIES SHALL BE DEEMED TO BE A ONE-HALF INTEREST.

28 DETERMINATION OF THE AMOUNT OF AN APPLICANT'S INCOME AND THE
29 VALUE OF HIS PROPERTY SHALL BE MADE BY THE DEPARTMENT WITHOUT
30 REGARD TO ANY FEDERAL LAWS OR REGULATIONS RESPECTING INCOME AND

1 RESOURCES OF APPLICANTS FOR AID TO THE BLIND. THE VALUATION OF
2 REAL PROPERTY FOR THE PURPOSES OF CLAUSE (4) SHALL NOT BE
3 INCREASED BY REASON OF REASSESSMENT, EXCEPT TO THE EXTENT THAT
4 THE REAL PROPERTY HAS BEEN ACTUALLY ENLARGED OR IMPROVED.
5 DETERMINATION OF THE AMOUNT OF AN APPLICANT'S INCOME SHALL
6 EXCLUDE ANY INCREASE IN (I) SOCIAL SECURITY PAYMENTS TO HIM
7 PROVIDED UNDER FEDERAL LAW AND TAKING EFFECT SUBSEQUENT TO
8 JANUARY 1, 1971; (II) RAILROAD RETIREMENT BENEFITS PROVIDED TO
9 HIM UNDER THE RAILROAD RETIREMENT ACT OF 1937, 45 U.S.C. § 228
10 ET SEQ., AND TAKING EFFECT SUBSEQUENT TO JANUARY 1, 1976; AND
11 (III) VETERANS' BENEFITS PROVIDED TO HIM AND ADMINISTERED BY THE
12 VETERANS' ADMINISTRATION AND TAKING EFFECT SUBSEQUENT TO JANUARY
13 1, 1976.

14 SECTION 2. SECTION 507 OF THE ACT, AMENDED APRIL 6, 1980
15 (P.L.99, NO.37), IS AMENDED TO READ:

16 SECTION 507. AMOUNT OF PENSION.--EXCEPT AS PROVIDED FOR
17 PAYMENT FOR NURSING HOME CARE, THE AMOUNT PAID AFTER THE
18 EFFECTIVE DATE OF THIS ACT TO AN ELIGIBLE BLIND PERSON HAVING
19 ACTUAL ANNUAL INCOME OF HIS OWN [OF THREE THOUSAND SIXTY DOLLARS
20 (\$3,060) OR LESS] EQUAL TO THE POVERTY LEVEL BY FAMILY SIZE, FOR
21 ONE PERSON, ESTABLISHED BY THE BUREAU OF THE CENSUS, SHALL BE
22 ONE HUNDRED DOLLARS (\$100) MONTHLY[,]; AND THE MONTHLY AMOUNT
23 PAID TO ANY OTHER ELIGIBLE BLIND PERSON SHALL BE FIXED IN SUCH
24 AMOUNT THAT THE SUM OF HIS ACTUAL ANNUAL INCOME AND STATE BLIND
25 PENSION EQUALS [FOUR THOUSAND TWO HUNDRED SIXTY DOLLARS
26 (\$4,260)] THE POVERTY LEVEL BY FAMILY SIZE, FOR ONE PERSON,
27 ESTABLISHED BY THE BUREAU OF THE CENSUS, PLUS ONE THOUSAND TWO
28 HUNDRED DOLLARS (\$1,200) A YEAR.

29 SECTION 3. SECTION 704.1(E) OF THE ACT, ADDED JULY 9, 1976
30 (P.L.846, NO.148), IS AMENDED TO READ:

1 Section 704.1. Payments to Counties for Services to
2 Children.--* * *

3 (e) If, after due notice to the parents or other persons
4 legally obligated to care for and support the child, and after
5 affording them an opportunity to be heard, the court finds that
6 they are financially able to pay all or part of the costs and
7 expenses stated in subsection (a), the court may order them to
8 pay the same and prescribe the manner of payment. Unless
9 otherwise ordered, payment shall be made to the clerk of the
10 court for remittance to the person to whom compensation is due,
11 or if the costs and expenses have been paid by the county, to
12 the appropriate officer of the county. No parent or other person
13 legally obligated to care for and support the child shall be
14 ordered to pay any part of the costs and expenses stated in
15 subsection (a) if the child has been found to be a delinquent
16 child pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile
17 matters) and the parent or other person was the victim of a
18 delinquent act committed by the child and that resulted in
19 bodily injury to the parent or other person.

20 * * *

21 SECTION 4. SECTIONS 771, 772, 773 AND 774 OF THE ACT, ADDED <—
22 DECEMBER 30, 1974 (P.L.1039, NO.339), ARE AMENDED TO READ:

23 SECTION 771. DECLARATION OF PURPOSE.--THIS [SUBDIVISION]
24 SUBARTICLE SHALL BE INTERPRETED AND CONSTRUED SO AS TO EFFECT
25 THE FOLLOWING PURPOSE: TO ENCOURAGE AND PROMOTE THE PLACEMENT IN
26 ADOPTIVE HOMES OF CHILDREN WHO ARE PHYSICALLY AND/OR MENTALLY
27 HANDICAPPED, EMOTIONALLY DISTURBED, OR HARD TO PLACE BY VIRTUE
28 OF AGE, SIBLING RELATIONSHIP, OR ETHNICITY.

29 SECTION 772. DEFINITIONS.--AS USED IN THIS [SUBDIVISION]
30 SUBARTICLE:

1 "ADOPTION OPPORTUNITY" IS A SUBSIDY WHICH MAY INCLUDE
2 MAINTENANCE COST; MEDICAL, SURGICAL, AND PSYCHOLOGICAL EXPENSES;
3 AND OTHER COSTS INCIDENT TO THE ADOPTION.

4 "CHILD" MEANS AN INDIVIDUAL WHO IS UNDER THE AGE OF:

5 (1) EIGHTEEN YEARS[.]; OR

6 (2) TWENTY-ONE YEARS IF A COUNTY AGENCY DETERMINES,

7 CONSISTENT WITH SECTION 473 OF THE SOCIAL SECURITY ACT (49 STAT.
8 620, 42 U.S.C. § 673), THAT THE CHILD HAS A MENTAL OR PHYSICAL
9 HANDICAP WHICH WARRANTS CONTINUATION OF AN ADOPTION OPPORTUNITY.

10 "COUNTY AGENCY" MEANS THE COUNTY CHILDREN AND YOUTH SOCIAL
11 SERVICE AGENCY ESTABLISHED UNDER SECTION 405 OF THE ACT OF JUNE
12 24, 1937 (P.L.2017, NO.396), KNOWN AS THE "COUNTY INSTITUTION
13 DISTRICT LAW," AND SUPERVISED BY THE DEPARTMENT UNDER ARTICLE
14 IX.

15 "ELIGIBLE CHILD" MEANS A CHILD IN THE LEGAL CUSTODY OF [LOCAL
16 AUTHORITIES] A COUNTY AGENCY WHERE PARENTAL RIGHTS HAVE BEEN
17 TERMINATED PURSUANT TO THE PROCEDURE SET FORTH IN ARTICLE III OF
18 THE ACT OF JULY 24, 1970 (P.L.620, NO.208), KNOWN AS THE
19 "ADOPTION ACT," AND SUCH CHILD HAS BEEN IN FOSTER PLACEMENT FOR
20 A PERIOD OF NOT LESS THAN SIX MONTHS AND WHERE THE CHILD HAS
21 BEEN SHOWN TO BE A DIFFICULT ADOPTION PLACEMENT BECAUSE OF A
22 PHYSICAL AND/OR MENTAL HANDICAP, EMOTIONAL DISTURBANCE, OR BY
23 VIRTUE OF AGE, SIBLING RELATIONSHIP, OR ETHNICITY. A CHILD IN
24 THE LEGAL CUSTODY OF AN AGENCY APPROVED BY THE DEPARTMENT SHALL
25 BE AN ELIGIBLE CHILD IF THE CHILD IS CERTIFIED AS ELIGIBLE BY
26 THE LOCAL AUTHORITIES.

27 ["LOCAL AUTHORITIES" MEANS COUNTY INSTITUTION DISTRICTS OR
28 THEIR SUCCESSORS.]

29 SECTION 773. RULES AND REGULATIONS.--(A) THE DEPARTMENT OF
30 PUBLIC WELFARE SHALL ESTABLISH AND DEVELOP CRITERIA AND

1 PROMULGATE NECESSARY REGULATIONS FOR [PUBLIC CHILD WELFARE]
2 COUNTY AGENCIES TO IMPLEMENT AN ADOPTION OPPORTUNITY IN
3 ACCORDANCE WITH THE PROVISIONS OF THIS [SUBDIVISION (E).]
4 SUBARTICLE AND SECTIONS 470 THROUGH 476 OF THE SOCIAL SECURITY
5 ACT (49 STAT. 620, 42 U.S.C. §§ 670 THROUGH 676). IT IS THE
6 DEPARTMENT'S DUTY TO ASSURE THAT NO COUNTY AGENCY ESTABLISHES
7 POLICIES OR PROCEDURES WHICH PREVENT THE USE OF ADOPTION
8 OPPORTUNITIES FOR ELIGIBLE CHILDREN.

9 (B) THE REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO,
10 CRITERIA FOR IDENTIFYING ELIGIBLE CHILDREN AND ADOPTIVE HOMES,
11 PROCEDURES FOR IMPLEMENTING THE SUBSIDY, AND REPORTING
12 REQUIREMENTS BY [LOCAL AUTHORITIES] COUNTY AGENCIES.

13 (C) ALL REGULATIONS ESTABLISHED PURSUANT TO THIS SECTION
14 SHALL BE ADOPTED PURSUANT TO THE ACT OF JULY 31, 1968 (P.L.769,
15 NO.240), KNOWN AS THE "COMMONWEALTH DOCUMENTS LAW," AND THE
16 HEARINGS REFERRED TO IN SECTION 202 OF THAT ACT SHALL BE
17 MANDATORY.

18 SECTION 774. ADOPTION OPPORTUNITY PAYMENTS AND
19 REIMBURSEMENT.--(A) THE AMOUNT OF ADOPTION SUBSIDY FOR
20 MAINTENANCE COSTS TO AN ADOPTIVE FAMILY SHALL NOT EXCEED THE
21 MONTHLY PAYMENT RATE FOR FOSTER FAMILY CARE IN THE COUNTY IN
22 WHICH THE CHILD [RESIDES] IS DETERMINED ELIGIBLE.

23 (B) THE DEPARTMENT SHALL REIMBURSE LOCAL AUTHORITIES FOR [AT
24 LEAST EIGHTY PERCENT (80%) OF] THE TOTAL COST OF AN ADOPTION
25 OPPORTUNITY PROVIDED BY [LOCAL AUTHORITY] A COUNTY AGENCY
26 PURSUANT TO THE PROVISIONS OF THIS [SUBDIVISION (E)] SUBARTICLE,
27 PROVIDED THE [LOCAL AUTHORITY] COUNTY AGENCY COMPLIES WITH THE
28 REPORTING REQUIREMENTS ESTABLISHED BY THE DEPARTMENT PURSUANT TO
29 SECTION 773.

30 (C) NO PUBLIC FUNDS SHALL BE EXPENDED UNDER THIS

1 [SUBDIVISION (E)] SUBARTICLE ON BEHALF OF AN ELIGIBLE CHILD
2 UNTIL ALL AVAILABLE BENEFITS UNDER EXISTING OR FUTURE PRIVATE,
3 PUBLIC, LOCAL, STATE, OR FEDERAL PROGRAMS HAVE BEEN EXHAUSTED.
4 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ADOPTIVE FAMILIES
5 SUBSIDIZED UNDER THE PROVISIONS OF THIS [SUBDIVISION (E)]
6 SUBARTICLE SHALL NOT BE LIABLE PURSUANT TO THE PROVISIONS OF THE
7 ACT OF OCTOBER 20, 1966 (3RD SP. SESS., P.L.96, NO.6), KNOWN AS
8 THE "MENTAL HEALTH AND MENTAL RETARDATION ACT OF 1966," OR THE
9 ACT OF JUNE 24, 1937 (P.L.2045, NO.397), KNOWN AS "THE SUPPORT
10 LAW," IN THE EVENT THAT THE ADOPTED CHILD NEEDS SERVICES OR
11 ASSISTANCE UNDER THE PROVISIONS OF ARTICLE IV OF THIS ACT OR
12 UNDER THE PROVISIONS OF THE "MENTAL HEALTH AND MENTAL
13 RETARDATION ACT OF 1966."

14 SECTION 5. ARTICLE VII OF THE ACT IS AMENDED BY ADDING A
15 SUBARTICLE TO READ:

16 (F) ADOPTION INFORMATION RETRIEVAL SYSTEM

17 SECTION 781. DEFINITIONS.--AS USED IN THIS SUBARTICLE:

18 "AGENCY" MEANS ANY INCORPORATED OR UNINCORPORATED
19 ORGANIZATION, SOCIETY, INSTITUTION OR OTHER ENTITY, PUBLIC OR
20 VOLUNTARY, WHICH MAY RECEIVE OR PROVIDE FOR THE CARE OF
21 CHILDREN, SUPERVISED BY THE DEPARTMENT AND PROVIDING ADOPTION
22 SERVICES IN ACCORDANCE WITH STANDARDS ESTABLISHED BY THE
23 DEPARTMENT.

24 "CLERK" MEANS THE CLERK OF THE DIVISION OF THE COURT OF
25 COMMON PLEAS HAVING JURISDICTION OVER VOLUNTARY RELINQUISHMENT,
26 INVOLUNTARY TERMINATION AND ADOPTION PROCEEDINGS.

27 "COURT" MEANS THE COURT OF COMMON PLEAS.

28 "INTERMEDIARY" MEANS ANY PERSON OR AGENCY ACTING BETWEEN THE
29 BIOLOGICAL PARENTS AND THE PROPOSED ADOPTIVE PARENTS IN
30 ARRANGING AN ADOPTION PLACEMENT.

1 "SYSTEM" MEANS THE PENNSYLVANIA ADOPTION INFORMATION
2 RETRIEVAL SYSTEM ESTABLISHED IN SECTION 782.

3 SECTION 782. SYSTEM.--(A) IN ORDER TO DEVELOP MORE RELIABLE
4 DATA ON ADOPTION PRACTICES AND TO IMPROVE THE ANALYSIS OF TRENDS
5 AND ISSUES IN ADOPTIONS, THE DEPARTMENT SHALL ESTABLISH THE
6 PENNSYLVANIA ADOPTION INFORMATION RETRIEVAL SYSTEM TO SERVE AS A
7 STATEWIDE DATA COLLECTION AND REPORTING SYSTEM FOR
8 NONIDENTIFYING, STATISTICAL INFORMATION REGARDING ADOPTIONS.

9 (B) ON A QUARTERLY BASIS AND ON FORMS PREPARED AND
10 DISTRIBUTED BY THE DEPARTMENT, THE CLERK, IN COOPERATION WITH
11 THE AGENCY OR INTERMEDIARY THAT FACILITATED THE ADOPTION, SHALL
12 FORWARD TO THE DEPARTMENT CERTAIN INFORMATION CONCERNING EACH
13 ADOPTION FINALIZED BY THE COURT.

14 (C) IT IS THE DUTY OF THE AGENCY OR INTERMEDIARY THAT
15 FACILITATED THE ADOPTION TO COOPERATE TO THE FULLEST EXTENT
16 POSSIBLE IN PROVIDING THE CLERK INFORMATION CONCERNING THE
17 ADOPTION WHICH IS REQUESTED BY THE DEPARTMENT.

18 (D) THE DEPARTMENT SHALL DEVELOP AN ADOPTION DATA CARD,
19 WHICH SHALL BE A STREAMLINED FORM DISTRIBUTED TO EACH COURT OF
20 COMMON PLEAS. THE FORM SHALL INCLUDE THE FOLLOWING
21 NONIDENTIFYING INFORMATION AND DATA ELEMENTS RELATING TO EACH
22 ADOPTION FINALIZED BY A COURT:

23 (1) THE CHILD'S BIRTH DATE, RACE AND PLACE OF BIRTH.

24 (2) THE BIRTH DATE AND RACE OF THE BIOLOGICAL PARENTS.

25 (3) THE BIRTH DATE AND RACE OF THE ADOPTIVE PARENT.

26 (4) WHETHER THE ADOPTIVE PARENT IS A STEPPARENT, FOSTER
27 PARENT OR RELATIVE AND ANY RELATIONSHIP TO THE CHILD.

28 (5) WHETHER PARENTAL RIGHTS WERE TERMINATED VOLUNTARILY OR
29 INVOLUNTARILY, INCLUDING THE DATE WHEN RIGHTS WERE TERMINATED,
30 OR WHETHER THE BIOLOGICAL PARENTS CONSENTED TO THE ADOPTION AND

1 THE DATE THE CONSENTS WERE ENTERED.

2 (6) WHETHER THE CHILD WAS IN THE CUSTODY OF A PUBLIC OR
3 PRIVATE AGENCY OR IN A PRIVATE PLACEMENT ARRANGED BY AN
4 INDEPENDENT INTERMEDIARY WHEN THE ADOPTION PETITION WAS FILED
5 AND FOR HOW LONG THE CHILD WAS IN THE PLACEMENT PRIOR TO THE
6 FILING OF THE ADOPTION PETITION.

7 (7) THE DATE THE COURT ENTERED THE ADOPTION DECREE.

8 (8) WHETHER THE CHILD WAS ELIGIBLE FOR AND RECEIVED ADOPTION
9 ASSISTANCE AND WHAT TYPE OF ASSISTANCE.

10 (9) ANY OTHER INFORMATION THAT THE DEPARTMENT MAY REQUIRE BY
11 REGULATION.

12 (E) NO LATER THAN MAY 1 OF EACH YEAR, THE DEPARTMENT SHALL
13 SUBMIT TO THE GOVERNOR, TO THE AGING AND YOUTH COMMITTEE AND THE
14 PUBLIC HEALTH AND WELFARE COMMITTEE OF THE SENATE AND TO THE
15 CHILDREN AND YOUTH COMMITTEE AND THE HEALTH AND HUMAN SERVICES
16 COMMITTEE OF THE HOUSE OF REPRESENTATIVES A REPORT ON THE SYSTEM
17 BASED UPON THE STATISTICAL INFORMATION RECEIVED FROM THE CLERKS.
18 THE DEPARTMENT SHALL INCLUDE IN THE REPORT ANY ANALYSES OF THE
19 DATA OR RECOMMENDATIONS WHICH IT DEEMS APPROPRIATE.

20 SECTION 6. SECTION 1001 OF THE ACT IS AMENDED BY ADDING A
21 DEFINITION TO READ:

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

23 * * *

24 "WAGE PAYMENT AND COLLECTION LAW" MEANS THE ACT OF JULY 14,
25 1961 (P.L.637, NO.329), KNOWN AS THE "WAGE PAYMENT AND
26 COLLECTION LAW."

27 SECTION 7. SECTION 1026(B) OF THE ACT IS AMENDED TO READ:

28 SECTION 1026. REFUSAL TO ISSUE LICENSE; REVOCATION;
29 NOTICE.--* * *

30 (B) THE DEPARTMENT SHALL REFUSE TO ISSUE A LICENSE OR SHALL

1 REVOKE A LICENSE FOR ANY OF THE FOLLOWING REASONS:

2 (1) VIOLATION OF OR NON-COMPLIANCE WITH THE PROVISIONS OF
3 THIS ACT OR OF REGULATIONS PURSUANT THERETO[;]_.

4 (2) FRAUD OR DECEIT IN OBTAINING OR ATTEMPTING TO OBTAIN A
5 LICENSE[;]_.

6 (3) LENDING, BORROWING OR USING THE LICENSE OF ANOTHER, OR
7 IN ANY WAY KNOWINGLY AIDING OR ABETTING THE IMPROPER GRANTING OF
8 A LICENSE[;]_.

9 (4) GROSS INCOMPETENCE, NEGLIGENCE OR MISCONDUCT IN
10 OPERATING THE FACILITY[;]_.

11 (5) MISTREATING OR ABUSING INDIVIDUALS CARED FOR IN THE
12 FACILITY.

13 (6) THE DEPARTMENT OF LABOR AND INDUSTRY HAS FOUND THAT THE
14 FACILITY OPERATOR HAS EXHIBITED A PATTERN OF FAILURE TO PAY
15 EMPLOYES PURSUANT TO THE "WAGE PAYMENT AND COLLECTION LAW."

16 (7) THE FACILITY HAS FEDERAL, STATE OR LOCAL TAX LIENS
17 AMOUNTING IN THE AGGREGATE TO MORE THEN FIVE PERCENT OF TOTAL
18 REVENUES FOR THE PRIOR FISCAL YEAR OR ONE HUNDRED THOUSAND
19 DOLLARS (\$100,000).

20 (8) THE FACILITY HAS RECEIVED A NOTICE OF TERMINATION OF
21 ELECTRICITY, HEATING OR WATER SUPPLY.

22 * * *

23 SECTION 8. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

24 SECTION 1072.1. LIABILITY INSURANCE.--IN ORDER TO CONTINUE
25 OPERATION, A FAMILY DAY CARE HOME MUST HAVE A COMPREHENSIVE
26 GENERAL LIABILITY INSURANCE POLICY TO COVER ALL PERSONS ON THE
27 PREMISES IN A MINIMUM AMOUNT TO BE DETERMINED BY REGULATION OF
28 THE DEPARTMENT.

29 SECTION 9. SECTION 1075 OF THE ACT, ADDED DECEMBER 5, 1980
30 (P.L.1112, NO.193), IS AMENDED TO READ:

1 SECTION 1075. RECORDS.--EVERY INDIVIDUAL WHO OPERATES A
2 FAMILY DAY CARE HOME REGISTERED UNDER THIS ARTICLE SHALL KEEP
3 AND MAINTAIN SUCH RECORDS AS REQUIRED BY THE DEPARTMENT. A COPY
4 OF THE INSURANCE POLICY UNDER SECTION 1072.1 SHALL BE KEPT ON
5 THE PREMISES.

6 SECTION 10. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

7 SECTION 1088. MATERIALS TO BE SUBMITTED WITH LICENSE
8 APPLICATION.--IN ADDITION TO ANY OTHER MATERIALS THE DEPARTMENT
9 DEEMS NECESSARY FOR LICENSURE PURPOSES, THE DEPARTMENT SHALL
10 REQUIRE EACH FACILITY SEEKING LICENSURE OR RELICENSURE TO SUBMIT
11 A SIGNED AFFIDAVIT STATING THAT THE APPLICANT IS IN COMPLIANCE
12 WITH SECTION 1026. THE FAILURE TO PROVIDE SUCH MATERIALS SHALL
13 BE CAUSE FOR THE DEPARTMENT TO DENY A LICENSE TO THE APPLICANT.

14 SECTION 1089. AUTHORITY TO AUDIT RECORDS.--UPON NOTIFICATION
15 BY A LICENSEE OR UPON REFERRAL THAT A LICENSEE HAS FAILED TO
16 MEET THE REQUIREMENTS OF SECTION 1026, THE DEPARTMENT SHALL HAVE
17 THE AUTHORITY TO AUDIT THE FINANCIAL RECORDS OF ANY APPLICANT OR
18 LICENSEE. THE FAILURE OF AN APPLICANT OR LICENSEE TO ALLOW THE
19 DEPARTMENT TO AUDIT SAID RECORDS SHALL BE CAUSE FOR THE
20 DEPARTMENT TO REVOKE, SUSPEND OR DENY A LICENSE.

21 SECTION 1090. INVESTIGATION.--WHENEVER THE DEPARTMENT, UPON
22 REFERRAL, INSPECTION OR INVESTIGATION, LEARNS THAT A LICENSEE
23 MEETS ONE OF THE CONDITIONS UNDER SECTION 1026, THE DEPARTMENT
24 SHALL AUTOMATICALLY CONDUCT AN INVESTIGATION AS TO WHETHER OR
25 NOT PATIENT HEALTH OR SAFETY IS AT RISK. IF THE DEPARTMENT
26 DETERMINES BASED ON THIS INVESTIGATION THAT THESE CIRCUMSTANCES
27 CONSTITUTE A THREAT TO RESIDENT HEALTH OR SAFETY SUCH AS TO
28 CONSTITUTE A CLASS I OR CLASS II VIOLATION, IT MAY, AT ITS
29 DISCRETION, SUSPEND OR REVOKE THE LICENSE OF THE FACILITY
30 OPERATOR, PROHIBIT NEW RESIDENTS FROM BEING ADMITTED TO THE

1 FACILITY OR ISSUE A PROVISIONAL LICENSE TO THE FACILITY.

2 SECTION 1091. PLAN OF CORRECTION.--IF A FACILITY IS FOUND BY
3 THE DEPARTMENT TO MET THE CRITERIA IN SECTION 1090 AND THE
4 DEPARTMENT DOES NOT SUSPEND OR REVOKE THE LICENSE OF THAT
5 FACILITY, THE DEPARTMENT SHALL REQUIRE THE FACILITY OPERATOR TO
6 SUBMIT A CORRECTION PLAN. IF THAT CORRECTION PLAN REQUIRES
7 PERIODIC PAYMENTS, THE FACILITY OPERATOR SHALL FILE MONTHLY
8 STATEMENTS PROVIDING EVIDENCE THAT SUCH PAYMENTS HAVE BEEN MADE.
9 THE FAILURE TO SUBMIT OR ADHERE TO A CORRECTION PLAN APPROVED BY
10 THE DEPARTMENT SHALL CONSTITUTE CAUSE FOR IMMEDIATE REVOCATION
11 OF THAT FACILITY OPERATOR'S LICENSE.

12 ~~Section 2. The amendment of section 704.1(e) of the act~~ <—

13 SECTION 11. THIS ACT SHALL APPLY AS FOLLOWS: <—

14 (1) IF THE AMENDMENT OF SECTIONS 506(3) AND 507 OF THE
15 ACT TAKE EFFECT AFTER JULY 1, 2002, THE AMENDMENT OF THOSE
16 SECTIONS SHALL APPLY RETROACTIVELY TO JULY 1, 2002.

17 (2) THE AMENDMENT OF SECTION 704.1(E) OF THE ACT shall
18 apply to parents or other persons paying costs and expenses
19 on the effective date of this ~~act~~ PARAGRAPH and shall apply <—
20 to relieve them of any further liability for such payments
21 after the effective date of this ~~act~~ PARAGRAPH. <—

22 ~~Section 3. This act shall take effect in 60 days.~~ <—

23 SECTION 12. THIS ACT SHALL TAKE EFFECT AS FOLLOWS: <—

24 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT JULY 1,
25 2002, OR IMMEDIATELY, WHICHEVER IS LATER:

26 (I) THE AMENDMENT OF SECTION 506 OF THE ACT.

27 (II) THE AMENDMENT OF SECTION 507 OF THE ACT.

28 (III) SECTION 11(1).

29 (2) THE ADDITION OF SUBARTICLE (F) OF ARTICLE VII OF THE
30 ACT SHALL TAKE EFFECT IN 180 DAYS.

1 (3) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT ON THE
2 EFFECTIVE DATE OF REGULATIONS PROMULGATED TO ADMINISTER THE
3 AMENDMENT OF SECTION 1072.1 OF THE ACT:

4 (I) THE ADDITION OF SECTION 1072.1 OF THE ACT.

5 (II) THE AMENDMENT OF SECTION 1075 OF THE ACT.

6 (4) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

7 (5) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
8 DAYS.