
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 899 Session of
2017

INTRODUCED BY MENSCH, BROWNE, BAKER, VULAKOVICH, RAFFERTY,
VOGEL, WARD, KILLION, COSTA, HAYWOOD, YUDICHAK, BREWSTER AND
BOSCOLA, SEPTEMBER 26, 2017

REFERRED TO AGING AND YOUTH, SEPTEMBER 26, 2017

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, providing for older adult protective
3 services and imposing penalties; and making a related repeal.

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

6 Section 1. Title 23 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 69

9 OLDER ADULT PROTECTIVE SERVICES

10 Subchapter

11 A. Preliminary Provisions

12 B. Duties of Department

13 C. Duties of Area Agencies on Aging

14 D. Protective Services

15 E. Reporting

16 F. Financial Institutions and Fiduciaries

17 G. Criminal History

18 H. Remedies

1 I. Administration

2 SUBCHAPTER A

3 PRELIMINARY PROVISIONS

4 Sec.

5 6901. Scope of chapter.

6 6902. Definitions.

7 6903. Intent.

8 § 6901. Scope of chapter.

9 This chapter relates to older adult protective services.

10 § 6902. Definitions.

11 The following words and phrases when used in this chapter
12 shall have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Abandonment." The desertion of an older adult by a
15 caretaker.

16 "Abuse." Intentionally, willfully, knowingly or recklessly
17 causing or attempting to cause:

18 (1) Infliction of injury or unreasonable confinement
19 resulting in physical harm or pain.

20 (2) Intimidation or punishment resulting in mental
21 anguish.

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

24 (4) Sexual abuse, including rape, involuntary deviate
25 sexual intercourse, sexual assault, aggravated indecent
26 assault, indecent assault or incest.

27 (5) Sexual harassment, including unwelcome sexual
28 advances, requests for sexual favors and other unwelcome
29 verbal or physical conduct of a sexual nature.

30 "Administrator." The person responsible for the management

1 of a facility. The term includes a person responsible for
2 employment decisions or an independent contractor responsible
3 for administration of a facility.

4 "Applicant." An individual seeking employment or engagement
5 as an employee.

6 "Area agency on aging." The single local agency designated
7 by the department within each planning and service area to
8 administer the delivery of protective services.

9 "Assessment." The evaluation of an older adult's social,
10 physical and psychological well-being, along with a description
11 of the older adult's current resources and needs.

12 "Care." Services provided to meet an older adult's need for
13 personal care or health care which require interaction with the
14 older adult.

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

19 "Caretaker." A person that has assumed the responsibility
20 for the provision of care needed to maintain the physical or
21 mental health of an older adult. This responsibility may arise
22 voluntarily, by contract, by receipt of payment for care, as a
23 result of familial relationship, or by order of a court of
24 competent jurisdiction.

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

28 "Consent." Authorization or approval, which, when feasible,
29 shall be obtained in writing.

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

1 "Direct care worker." The individual employed by a home care
2 agency or referred by a home care registry to provide home care
3 services to a customer.

4 "Employee." An individual who:

5 (1) either:

6 (i) is employed by a facility; or

7 (ii) enters into a contractual relationship with a
8 facility to provide care to an older adult; and

9 (2) has unsupervised access to the older adult or the
10 older adult's living quarters, resources or personal records,
11 including employees of affiliated corporate entities.

12 "Exploitation." An act or course of conduct by a caretaker
13 or other person against an older adult or an older adult's
14 resources, which, through misrepresentation, coercion or threats
15 of force, results in monetary, personal or other benefit, gain
16 or profit for that caretaker or person, or monetary or personal
17 loss to the older adult.

18 "Facility."

19 (1) Any of the following:

20 (i) Domiciliary care as defined in section 2202-A of
21 the act of April 9, 1929 (P.L.177, No.175), known as The
22 Administrative Code of 1929.

23 (ii) An assisted living residence as defined in
24 section 1001 of the act of June 13, 1967 (P.L.31, No.21),
25 known as the Human Services Code.

26 (iii) A personal care home as defined in section
27 1001 of the Human Services Code.

28 (iv) The following entities as defined in section
29 802.1 of the act of July 19, 1979 (P.L.130, No.48), known
30 as the Health Care Facilities Act:

- 1 (A) A home care agency.
2 (B) A home care registry.
3 (C) A home health care agency.
4 (D) A hospice.
5 (E) A long-term care nursing facility.

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

10 (vi) A PACE provider as defined in section 1894 of
11 the Social Security Act (49 Stat. 620, 42 U.S.C. §
12 1395eee) and licensed under the Older Adult Daily Living
13 Centers Licensing Act.

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

18 (2) The term does not include an entity licensed by the
19 Department of Drug and Alcohol Programs or the Department of
20 Health to provide drug and alcohol addiction treatment
21 services or an entity licensed by the Department of Human
22 Services Office of Developmental Programs.

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

26 "Financial exploitation." Exploitation involving the illegal
27 taking, misuse or concealment of money, property or assets of an
28 older adult in the custody or control of a financial
29 institution.

30 "Financial institution." Any of the following:

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

4 (2) A commercial bank or trust company.

5 (3) A private banker.

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

8 (5) A credit union.

9 (6) A thrift institution.

10 (7) A broker or dealer registered with the Securities
11 and Exchange Commission under the Securities Exchange Act of
12 1934 (48 Stat. 881, 15 U.S.C. § 78A et seq.).

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

14 (9) An investment banker or investment company.

15 (10) A currency exchange.

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

18 (12) An operator of a credit card system.

19 (13) A loan or finance company.

20 (14) A licensed sender of money or any other person who
21 engages as a business in the transmission of money, including
22 any person who engages as a business in an informal money
23 transfer system or any network of people who engage as a
24 business in facilitating the transfer of money domestically
25 or internationally outside of the conventional financial
26 institution system.

27 (15) Any business or agency which engages in any
28 activity which the department determines, by regulation, to
29 be an activity which is similar to, related to or a
30 substitute for any activity conducted by a business described

1 in paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9),
2 (10), (11), (12), (13) and (14).

3 "Health care provider." A licensed hospital or health care
4 facility or person who is licensed, certified or otherwise
5 regulated to provide health care services under the laws of this
6 Commonwealth, including a physician, podiatrist, optometrist,
7 psychologist, physical therapist, certified nurse practitioner,
8 registered nurse, nurse midwife, physician's assistant,
9 chiropractor, dentist, pharmacist or an individual accredited or
10 certified to provide behavioral health services.

11 "Intimidation." An act or omission by a person toward
12 another person that obstructs, impedes, impairs, prevents or
13 interferes with the administration of this chapter or any other
14 law intended to protect older adults from mistreatment.

15 "Law enforcement official." Any of the following:

16 (1) A police officer of a municipality.

17 (2) A peace officer, as defined in 18 Pa.C.S. § 501
18 (relating to definitions).

19 (3) A district attorney.

20 (4) A Pennsylvania State Police officer.

21 (5) The Attorney General.

22 (6) An agent of the Department of Justice and other
23 Federal law enforcement agencies, who possesses law
24 enforcement powers and duties.

25 (7) Law enforcement authorities in other states.

26 "Mandatory reporter." Any of the following:

27 (1) Administrators and employees of a facility.

28 (2) Health care providers.

29 (3) A law enforcement official.

30 "Neglect." The failure to provide for oneself or the failure

1 of a caretaker to provide goods or services essential to avoid a
2 clear and serious threat to physical or mental health.

3 "Older adult." An individual residing within this
4 Commonwealth who is 60 years of age or older.

5 "Older adult in need of protective services." An older adult
6 who is unable to perform or obtain services that are necessary
7 to maintain physical or mental health, for whom there is no
8 responsible caretaker and who is at risk of danger to self or
9 property.

10 "Protective services." Those activities, resources and
11 supports provided to older adults under this chapter to detect,
12 prevent, reduce or eliminate abuse, neglect, exploitation and
13 abandonment.

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

18 "Service plan." As follows:

19 (1) A written plan developed by an area agency on aging
20 on the basis of a comprehensive assessment of an older adult
21 that describes identified needs and specific services
22 designed to support goal attainment, which includes regular
23 follow-up appointments and predetermined reassessment of
24 progress.

25 (2) As used in this definition, specific services
26 designed to support goal attainment may include homemaker
27 services, home-delivered meals, personal care, other in-home
28 services, emergency shelter or food, legal aid services and
29 transportation services.

30 (3) Service plans shall be cooperatively developed by

1 area agency on aging staff, the older adult or the older
2 adult's legal representative, and other family members, if
3 appropriate.

4 (4) The service plan shall address special needs of
5 other members of the household unit if they affect the older
6 adult's need for protective services.

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

9 § 6903. Intent.

10 It is not the intent of this chapter to impose responsibility
11 on any individual if the responsibility would not otherwise
12 exist in law.

13 SUBCHAPTER B

14 DUTIES OF DEPARTMENT

15 Sec.

16 6910. Public education.

17 6911. Interdepartmental consultation.

18 6912. Training required.

19 6913. Confidentiality.

20 6914. Schedule.

21 6915. Employee disclosure.

22 6916. Disclosure form.

23 6917. Disclosure reporting.

24 6918. Supervision.

25 § 6910. Public education.

26 The department shall conduct an ongoing campaign designed to
27 inform and educate older adults, professionals and the general
28 public about the need for and the availability of protective
29 services under this chapter.

30 § 6911. Interdepartmental consultation.

1 The following apply:

2 (1) The department shall consult with other Commonwealth
3 agencies on the design and implementation of the ongoing
4 public awareness campaign.

5 (2) The department shall consider the concerns of area
6 agencies on aging on the design and implementation of the
7 ongoing public awareness campaign.

8 § 6912. Training required.

9 (a) Standards.--The department shall establish minimum
10 standards of experience and training that protective services
11 providers receiving money from the department shall be required
12 to follow in the selection and assignment of employees for the
13 provision of protective services.

14 (b) Mandatory reporters.--The department shall establish a
15 training program for mandatory reporters to inform employees
16 about the requirement to report under this chapter.

17 (c) Financial exploitation prevention.--The department shall
18 develop and provide training programs for the personnel of area
19 agencies on aging regarding the identification and prevention of
20 financial exploitation of older adults and on procedures to
21 provide relief to older adults from financial exploitation.

22 (d) Model training program.--

23 (1) The department shall establish a model training
24 program for personnel of financial institutions regarding the
25 identification and prevention of financial exploitation of
26 older adults and on procedures to provide relief to older
27 adults from financial exploitation, including guidelines
28 regarding:

29 (i) when to report suspected financial exploitation;

30 (ii) to whom suspected financial exploitation should

1 be reported;

2 (iii) information that should be included in a
3 report; and

4 (iv) applicable laws, rules and regulations that
5 must be followed while reporting suspected financial
6 exploitation.

7 (2) The department may adopt a national organization's
8 training program as its model training program so long as the
9 training is certified or accredited.

10 § 6913. Confidentiality.

11 The department shall establish methods which shall be used by
12 an area agency on aging, its designees and its service providers
13 to ensure the privacy of older adults receiving services and the
14 confidentiality of all records.

15 § 6914. Schedule.

16 The department shall establish a schedule for the submission
17 and approval of the plans associated with the development of
18 training provided in section 6912 (relating to training
19 required).

20 § 6915. Employee disclosure.

21 The department shall develop a standardized form to be used
22 by facilities for the written reporting by administrators and
23 employees of any conviction for an offense enumerated under
24 section 6960(c) (relating to criminal history). The form shall
25 be published on the department's publicly accessible Internet
26 website and in the Pennsylvania Bulletin.

27 § 6916. Disclosure form.

28 (a) Form.--The disclosure form shall contain a list of the
29 prohibited offenses under section 6960(c) (relating to criminal
30 history) and a space for the employee to indicate convictions.

1 Administrators and employees who have not been convicted of any
2 enumerated offense shall respond "no conviction."

3 (b) Failure to report.--The disclosure form shall state that
4 administrators and employees who fail to accurately report any
5 conviction for an offense enumerated under section 6960(b) shall
6 subject the employee to criminal prosecution under 18 Pa.C.S. §
7 4904 (relating to unsworn falsification to authorities).
8 § 6917. Disclosure reporting.

9 The department shall require the following reporting:

10 (1) Facilities shall require administrators and
11 employees to complete and submit the disclosure form under
12 section 6916 (relating to disclosure form) not later than 72
13 hours after a conviction.

14 (2) If an administrator or employee refuses to submit
15 the disclosure form, the facility shall immediately require
16 the administrator or employee to submit a current report of
17 criminal history record information as required under section
18 6960(a) (relating to criminal history).

19 § 6918. Supervision.

20 The department shall develop guidelines regarding the
21 supervision of applicants. Supervision shall include random
22 direct supervision by an employee who has been employed by the
23 facility for a period of at least one year.

24 SUBCHAPTER C

25 DUTIES OF AREA AGENCIES ON AGING

26 Sec.

27 6920. Receipt of reports.

28 6921. Investigations.

29 6922. Investigations involving facilities.

30 6923. Investigations involving law enforcement officials.

1 6924. Access to older adults.

2 6925. Access to records.

3 6926. Rights of older adults.

4 6927. Confidentiality standards required.

5 6928. Availability of protective services.

6 § 6920. Receipt of reports.

7 The area agency on aging must be capable of electronically
8 receiving reports of older adults in need of protective services
9 at all times. This capability may include the use of a local
10 emergency response system or a crisis intervention agency, if
11 access can be made to a protective services caseworker in
12 appropriate emergency situations, as set forth in regulations
13 issued by the department. All reports received orally shall be
14 documented in a manner set forth by the department.

15 § 6921. Investigations.

16 An area agency on aging shall investigate each report in
17 accordance with regulations issued by the department. The
18 investigation shall be initiated within 72 hours after the
19 receipt of the report and shall be carried out under regulations
20 issued by the department. The regulations shall provide for the
21 methods of conducting investigations and shall assure that steps
22 are taken to avoid any conflict of interest. Consent of the
23 older adult is not required in order to investigate reports of
24 abuse, neglect, exploitation or abandonment.

25 § 6922. Investigations involving facilities.

26 If the report concerns a facility, the area agency on aging
27 shall notify the local ombudsman and the licensing agency.
28 Investigations concerning facilities shall be conducted under
29 procedures developed by the department in consultation with the
30 Commonwealth agency with oversight authority for the facility.

1 The department and any other Commonwealth agency shall share
2 information with each other and with mandatory reporters,
3 fiduciaries and financial institutions as necessary to ensure
4 the health, safety and welfare of the older adult and to assist
5 financial institutions and fiduciaries in exercising the
6 financial institution's and fiduciaries' authority to prohibit
7 disbursement of money and transactions as provided by section
8 6952 (relating to authority to prohibit disbursement of money
9 and transactions). Facilities shall take reasonable steps to
10 protect older adults following receipt of a report of suspected
11 abuse, neglect, exploitation or abandonment involving an
12 employee, including a plan of supervision or suspension.
13 § 6923. Investigations involving law enforcement officials.

14 The following shall apply:

15 (1) To the extent possible, law enforcement officials,
16 the area agency on aging and other mandatory reporters shall
17 coordinate respective investigations and shall advise each
18 other and provide applicable additional information on an
19 ongoing basis.

20 (2) Upon receiving a report of any of the following, the
21 area agency on aging shall immediately notify a law
22 enforcement official:

23 (i) Suspicious death.

24 (ii) Serious bodily injury.

25 (iii) Sexual abuse.

26 (iv) Financial exploitation.

27 (3) (i) Following a referral to a law enforcement
28 official, the area agency on aging shall contact a law
29 enforcement official to obtain information about actions
30 taken and the outcomes, including any decisions regarding

1 criminal charges, and the law enforcement official shall
2 provide the information to the extent that the
3 information is available.

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

12 (iii) The area agency on aging shall report the
13 information under subparagraph (i) to the department in a
14 manner prescribed by the department.

15 § 6924. Access to older adults.

16 The following apply:

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

20 (i) Investigate reports.

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

23 (iii) Provide for the delivery of services by the
24 area agency on aging or other service provider as
25 provided for under the service plan.

26 (2) If the area agency on aging is denied access to an
27 older adult reported to be in need of protective services,
28 the area agency on aging may petition the court for an order
29 to require any of the following:

30 (i) Access to the older adult.

1 (ii) A medical evaluation of the older adult.

2 (iii) A psychiatric evaluation of the older adult.

3 § 6925. Access to records.

4 (a) Area agency on aging access.--The area agency on aging
5 shall, subject to the consent of the older adult, have access to
6 all records for the purposes of:

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

8 (2) Planning and delivery of services.

9 (3) Investigating reports.

10 (b) Refusal.--The following apply:

11 (1) If an older adult refuses to provide consent, the
12 department or the area agency on aging may file a petition
13 with the court of common pleas in the county where the older
14 adult resides for an order compelling the production of
15 records. Upon the issuance of the order, the department or
16 the area agency on aging shall have access to all records
17 reasonably necessary for the purposes of investigating
18 reports.

19 (2) If a record custodian refuses to comply with an
20 order, the area agency on aging may file a petition with the
21 court of common pleas in the county where the older adult
22 resides for an order compelling the production of records.
23 The area agency on aging or the department shall compensate
24 the record custodian for actual costs of producing records,
25 or amounts as set forth by regulations adopted by the
26 department.

27 (3) If any other entity or individual denies access to
28 the older adult's records, the area agency on aging may
29 petition the court for an order to require access.

30 (c) Request of certain records.--Records of State agencies,

1 private organizations, financial institutions, fiduciaries,
2 medical institutions and practitioners and persons reasonably
3 suspected of engaging in or facilitating the abuse, neglect,
4 exploitation or abandonment of an older adult, which the area
5 agency on aging reasonably believes to be necessary to complete
6 an investigation or assessment and service plan, shall be
7 requested in written form and be made available to the area
8 agency on aging unless the disclosure would be prohibited by any
9 other provision of Federal or State law. Except as provided by a
10 court order, access to financial records shall be limited to
11 records relating to the most recent transaction or transactions
12 that may comprise financial exploitation, not to exceed 30
13 calendar days prior to the first transaction that was reported
14 or 30 calendar days after the last transaction that was
15 reported.

16 (d) Involuntary denial.--If the area agency on aging can
17 demonstrate that the older adult has denied access to the older
18 adult's records because of incompetence, coercion, extortion or
19 justifiable fear, the area agency on aging shall have access to
20 all records reasonably necessary for the purposes of
21 investigating reports. If the older adult denying access to
22 records is competent, the area agency on aging may petition the
23 court for an order to require access.

24 (e) Compensation.--The area agency on aging or the
25 department shall compensate any person requested or ordered to
26 provide records to the area agency on aging for the reasonable
27 costs of producing records in a manner consistent with the
28 requirements of section 1115(a) of the Right to Financial
29 Privacy Act (Public Law 95-630, 12 U.S.C. § 3415).
30 § 6926. Rights of older adults.

1 (a) Notification.--The area agency on aging shall discreetly
2 notify the older adult during the investigation that a report
3 has been made and shall provide the older adult with a brief
4 summary of the nature of the report.

5 (b) Information.--As provided in section 6934 (relating to
6 confidentiality of records), the older adult who is the subject
7 of a report, or the older adult's guardian, if the guardian is
8 not named in the report, may receive, upon written request, all
9 information contained in the report of need except information
10 that would identify the person who made a report of suspected
11 abuse, neglect, exploitation or abandonment or persons who
12 cooperated in a subsequent investigation.

13 (c) Appeal.--Any denial of services by the department or an
14 area agency on aging under this subchapter may be appealed
15 according to the provisions of the rules and regulations issued
16 by the department under Article XXII-A of the act of April 9,
17 1929 (P.L.177, No.175), known as The Administrative Code of
18 1929.

19 § 6927. Confidentiality standards required.

20 The area agencies on aging shall utilize the department's
21 confidentiality standards established under section 6913
22 (relating to confidentiality).

23 § 6928. Availability of protective services.

24 The area agency on aging shall offer protective services
25 under any of the following conditions:

26 (1) An older adult requests the services.

27 (2) Another interested person requests the services on
28 behalf of an older adult.

29 (3) After investigation of a report, the area agency on
30 aging determines the older adult is in need of the services.

1 SUBCHAPTER D

2 PROTECTIVE SERVICES

3 Sec.

4 6930. Consent by request.

5 6931. Interference with services.

6 6932. Financial obligations, liabilities and payments.

7 6933. Involuntary intervention by emergency court order.

8 6934. Confidentiality of records.

9 § 6930. Consent by request.

10 An individual shall receive protective services voluntarily
11 unless the services are ordered by a court of competent
12 jurisdiction or requested by the older adult's legal
13 representative.

14 § 6931. Interference with services.

15 If any person interferes with the provision of services or
16 interferes with the right of an older adult to consent to
17 provision of services, the area agency on aging may petition the
18 court for an order enjoining the interference.

19 § 6932. Financial obligations, liabilities and payments.

20 All older adults receiving services and all agencies
21 providing services under this subchapter shall comply with the
22 following provisions regarding liability for the payment of
23 services:

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

29 (2) Funding available to local protective services
30 agencies under this subchapter may be used to cover the costs

1 of activities, including, but not limited to:

2 (i) Administering protective services plans.

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

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

7 (iv) Carrying out assessments and developing service
8 plans.

9 (v) Petitioning the court.

10 (vi) Providing for emergency involuntary
11 intervention.

12 (vii) Arranging for available services needed to
13 carry out service plans, which may include arranging for
14 services for other persons in order to reduce, correct or
15 eliminate abuse, neglect, exploitation or abandonment of
16 an older adult.

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

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

30 § 6933. Involuntary intervention by emergency court order.

1 (a) Emergency petition.--An area agency on aging may
2 petition a court of common pleas for an emergency order to
3 provide protective services to an older adult who is at imminent
4 risk of death, sexual abuse, serious bodily injury or financial
5 exploitation. The court of common pleas shall grant the area
6 agency on aging's petition if it finds, by clear and convincing
7 evidence, that failure to provide protective services will place
8 the older adult at imminent risk of death, sexual abuse, serious
9 bodily injury or financial exploitation. The courts of common
10 pleas of each judicial district shall ensure that a judge or
11 magisterial district judge is available at all times to accept
12 and rule on petitions for emergency court orders under this
13 section whenever the area agency on aging determines that a
14 delay until normal court hours may significantly increase danger
15 to the older adult.

16 (b) Limited order.--The court, after finding clear and
17 convincing evidence of the need for an emergency order, shall
18 order only services necessary to remove the conditions creating
19 the established need.

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

26 (d) Forcible entry.--If it is necessary to forcibly enter
27 premises after obtaining a court order, a law enforcement
28 official may do so, accompanied by a representative of the area
29 agency on aging.

30 (e) Health and safety requirements.--The area agency on

1 aging shall take reasonable steps to ensure that while the older
2 adult is receiving services under an emergency court order, the
3 health and safety needs of any of the older adult's dependents
4 are met and that the personal property and dwelling of the older
5 adult are secure.

6 § 6934. Confidentiality of records.

7 (a) Requirement.--Information contained in reports, records
8 of investigation, assessments and service plans created under
9 this subchapter shall be considered confidential and shall be
10 maintained under regulations issued by the department. Except as
11 provided below, this information shall be disclosed by area
12 agency on aging staff for the purposes of development and
13 implementation of protective services. The department or the
14 area agency on aging may not release information that could be
15 detrimental to the older adult except that the information shall
16 be released to a law enforcement official under subsection (b)
17 (2) and may be used by the department in civil proceedings,
18 subject to protective orders. All information contained in
19 protective service records is subject to other Federal and State
20 confidentiality and security laws.

21 (b) Release of protective services records.--Protective
22 services records may be provided as follows:

23 (1) Protective services records may be provided to a
24 court of competent jurisdiction or to another party pursuant
25 to court order. A subpoena, other than a grand jury subpoena,
26 shall not be a court order for purposes of this section.

27 (2) Protective services records may be provided to law
28 enforcement officials or a coroner if the information is
29 relevant to the official's or coroner's investigation of
30 abuse, neglect, exploitation or abandonment of the older

1 adult.

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

6 (4) The older adult who is the subject of a report or
7 the older adult's guardian may receive, upon written request,
8 all information contained in the report of need except
9 information that would identify the person who made a report
10 of suspected abuse, neglect, exploitation or abandonment or
11 persons who cooperated in a subsequent investigation.

12 (5) A person who made a report of suspected abuse,
13 neglect, exploitation or abandonment may receive, upon
14 written request, confirmation that the report was received
15 and the area agency on aging is acting in accordance with
16 this subchapter.

17 (6) For the purposes of monitoring agency performance or
18 conducting other official duties, appropriate staff of the
19 department, as designated by the Secretary of Aging, may
20 access protective services records.

21 (7) The department or the area agency on aging may
22 collaborate or share information included in protective
23 services records with Commonwealth agencies for purposes of
24 official Commonwealth business.

25 (8) The department or the area agency on aging may share
26 protective services records with another area agency on aging
27 that is performing responsibilities under this subchapter
28 relevant to older adults within their jurisdictions.

29 (9) An employee of an agency of another state who
30 performs older adult protective services similar to those

1 under this subchapter may access protective services records
2 relevant to older adults within their jurisdiction.

3 (10) Protective services records may be provided to a
4 health care provider who is examining or treating the older
5 adult and who suspects that the older adult is in need of
6 protection under this subchapter.

7 (11) Protective services records may be provided to the
8 director, or an individual specifically designated in writing
9 by the director, of any hospital or other medical institution
10 where the older adult is being treated if the director or
11 designee suspects that the recipient is in need of protection
12 under this chapter.

13 (12) Protective services records may be provided to a
14 financial institution or fiduciary as necessary to exercise
15 the authority to prohibit disbursement of money and
16 transactions provided under section 6952 (relating to
17 authority to prohibit disbursement of money and
18 transactions).

19 SUBCHAPTER E

20 REPORTING

21 Sec.

22 6940. Voluntary reporting.

23 6941. Mandatory reporting.

24 6942. Mandatory reporting to law enforcement officials and
25 department.

26 6943. Contents of reports.

27 6944. Mandatory reporter training.

28 6945. Coroner.

29 6946. Protecting identity of reporter and cooperating
30 witnesses.

1 § 6940. Voluntary reporting.

2 Any person having reasonable cause to suspect that an older
3 adult may be a victim of suspicious death, serious bodily
4 injury, sexual abuse or financial exploitation may report the
5 information to the area agency on aging.

6 § 6941. Mandatory reporting.

7 A mandatory reporter who has reasonable cause to suspect that
8 an older adult may be a victim of abuse, neglect, exploitation
9 or abandonment shall immediately make an oral report to the area
10 agency on aging. If applicable, the area agency on aging shall
11 advise the mandatory reporter of additional reporting
12 requirements that may apply under section 6942 (relating to
13 mandatory reporting to law enforcement officials and
14 department). Within 48 hours of making the oral report, the
15 mandatory reporter shall make a written report to the area
16 agency on aging.

17 § 6942. Mandatory reporting to law enforcement officials and
18 department.

19 In addition to the report under section 6941 (relating to
20 mandatory reporting), a mandatory reporter who has reasonable
21 cause to suspect that an older adult may be a victim of
22 suspicious death, serious bodily injury, sexual abuse or
23 financial exploitation shall immediately contact law enforcement
24 officials and the department to make an oral report. Within 48
25 hours of making the oral report, the mandatory reporter shall
26 make a written report to appropriate law enforcement officials
27 and to the area agency on aging. The area agency on aging shall
28 forward the report to the department within 48 hours of receipt.

29 § 6943. Contents of reports.

30 A written mandatory report under this section shall be in a

1 manner and on forms prescribed by the department. At a minimum,
2 the report shall include the following information, as well as
3 anything additional required by regulation:

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

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

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

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

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

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

18 § 6944. Mandatory reporter training.

19 Mandatory reporters shall be trained on the requirements to
20 report identified within this subchapter.

21 § 6945. Coroner.

22 For a report under this section that concerns the death of an
23 older adult, if there is reasonable cause to suspect that the
24 older adult died as a result of abuse, neglect, exploitation or
25 abandonment, the area agency on aging shall give the oral report
26 and forward a copy of the written report to the appropriate
27 coroner within 24 hours.

28 § 6946. Protecting identity of reporter and cooperating
29 witnesses.

30 (a) Prohibition.--Except for disclosures to law enforcement

1 officials, the release of records that would identify the
2 individual who made a report under this subchapter or an
3 individual who cooperated in a subsequent investigation is
4 prohibited.

5 (b) Identity protection.--If records are provided pursuant
6 to court order, the identity of the reporter and cooperating
7 witnesses shall be deleted, unless otherwise ordered by the
8 court after an in-camera review.

9 SUBCHAPTER F

10 FINANCIAL INSTITUTIONS AND FIDUCIARIES

11 Sec.

12 6950. Financial institution employee training.

13 6951. Regulated financial institutions.

14 6952. Authority to prohibit disbursement of money and
15 transactions.

16 6953. Immunity.

17 6954. Release of nonpublic personal information.

18 § 6950. Financial institution employee training.

19 Each financial institution with employees in this
20 Commonwealth, or with employees regularly engaging in financial
21 transactions with, or on behalf of, older adults in this
22 Commonwealth, shall adopt and implement a training program
23 developed by the department for the employees of the financial
24 institution to:

25 (1) identify activities that constitute the financial
26 exploitation of older adults;

27 (2) recognize financial exploitation of older adults;

28 (3) prevent and deter the financial exploitation of
29 older adults; and

30 (4) respond to suspected cases of financial exploitation

1 of older adults.

2 § 6951. Regulated financial institutions.

3 A financial institution subject to visitorial examination by
4 a regulatory authority that incorporates the training activities
5 required by section 6950 (relating to financial institution
6 employee training) into its employee training program to control
7 fraud and money laundering shall be deemed to be in compliance
8 with section 6950.

9 § 6952. Authority to prohibit disbursement of money and
10 transactions.

11 The following apply:

12 (1) If a financial institution or fiduciary reasonably
13 believes that financial exploitation of an older adult may
14 have occurred, may have been attempted, or is being
15 attempted, pending an investigation by the financial
16 institution or fiduciary, the area agency on aging or a law
17 enforcement official, the financial institution or fiduciary
18 may, but is not required to, refuse to disburse money or
19 engage in a transaction as appropriate to prevent financial
20 exploitation of an older adult with respect to the account:

21 (i) of the older adult;

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

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

26 (2) A financial institution or fiduciary may, but is not
27 required to, refuse to disburse money or engage in a
28 transaction under this section if the area agency on aging or
29 a law enforcement official requests the financial institution
30 to do so or provides information to the financial institution

1 demonstrating that it is reasonable to believe that financial
2 exploitation of an older adult may have occurred, may have
3 been attempted or is being attempted.

4 (3) A financial institution or fiduciary is not required
5 to refuse to disburse money or engage in a transaction when
6 provided with information alleging that financial
7 exploitation of an older adult may have occurred, may have
8 been attempted or is being attempted, but may use its
9 discretion to determine whether or not to refuse to disburse
10 money or engage in a transaction based on the information
11 available to the financial institution or fiduciary.

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

18 (i) Make a reasonable effort to notify all parties
19 authorized to transact business on the account.

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

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

28 (i) fifteen business days after the date on which
29 the financial institution or fiduciary first refused to
30 disburse the money or engage in a transaction, unless

1 sooner terminated or extended by an order of a court of
2 competent jurisdiction, a law enforcement official, the
3 department, or the area agency on aging. An additional 30
4 business days shall be permitted, if requested by a law
5 enforcement official, the department or the area agency
6 on aging, or following the submission of an application
7 for a court order further extending the time period; or
8 (ii) the time when the financial institution or
9 fiduciary is satisfied that the disbursement will not
10 result in financial harm of an older adult.

11 (6) A court of competent jurisdiction may enter an order
12 extending the refusal by the financial institution to
13 disburse money based on a reasonable belief that financial
14 exploitation of an older adult may have occurred, may have
15 been attempted or is being attempted. A court of competent
16 jurisdiction may also order other protective relief as
17 authorized.

18 § 6953. Immunity.

19 (a) Damages.--Except as provided by subsection (c), a
20 financial institution or fiduciary, and its directors, officers,
21 employees or agents shall not be subject to a claim for damages
22 or other civil or criminal liability for:

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

25 (2) A decision on whether to make a report under section
26 6940 (relating to voluntary reporting).

27 (3) A refusal to disburse money or engage in a
28 transaction under section 6952 (relating to authority to
29 prohibit disbursement of money and transactions) or a
30 decision to allow the disbursement of money or the conduct of

1 a transaction under section 6952.

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

5 (b) Additional immunities and defense.--Notwithstanding any
6 other law to the contrary:

7 (1) The refusal by a financial institution to engage in
8 a transaction authorized under this subsection shall not
9 constitute the wrongful dishonor of an item under 13 Pa.C.S.
10 § 4402 (relating to liability of bank to customer for
11 wrongful dishonor; time of determining insufficiency of
12 account).

13 (2) A reasonable belief that payment of a check will
14 facilitate the financial exploitation of an older adult shall
15 constitute reasonable grounds to doubt the collectibility of
16 the item for purposes of the Expedited Funds Availability Act
17 (Public Law 100-86, 12 U.S.C. § 4001 et seq.), the Check
18 Clearing for the 21st Century Act (Public Law 108-100, 12
19 U.S.C. § 5001 et seq.) and 12 CFR Pt. 229 (relating to
20 availability of funds and collection of checks (Regulation
21 CC)).

22 (c) Limitation.--The immunities and defenses provided under
23 this section shall not apply to a director, officer, employee or
24 agent of a financial institution or fiduciary who has been found
25 to have engaged in financial exploitation of an older adult.

26 (d) Standing.--A financial institution, fiduciary or
27 mandatory reporter may initiate a proceeding in a court of
28 competent jurisdiction to obtain protective services for an
29 older adult in need of protective services, prohibit the
30 disbursement of money or transactions that may result in the

1 financial exploitation of an older adult or request the review
2 of an order issued under this chapter or other law to protect an
3 older adult from suspected financial exploitation.

4 (e) Suspicious activity reports.--The department shall use
5 its best efforts to enter into a cooperative agreement with the
6 United States Department of the Treasury to receive or access
7 suspicious activity reports filed by financial institutions with
8 the United States Department of the Treasury. Except as
9 prohibited by Federal law, any other Commonwealth agency which
10 receives or is granted access to the reports from the United
11 States Department of the Treasury shall make the reports or
12 access to the reports available to the department to facilitate
13 the discharge of the department's duties under this chapter.
14 § 6954. Release of nonpublic personal information.

15 A financial institution may release nonpublic personal
16 information when reporting a known or suspected instance of
17 financial exploitation of an older adult or when cooperating
18 with an area agency on aging or law enforcement official
19 investigation of known or suspected financial exploitation of an
20 older adult.

21 SUBCHAPTER G

22 CRIMINAL HISTORY

23 Sec.

24 6960. Criminal history.

25 § 6960. Criminal history.

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

30 (1) Under 18 Pa.C.S. Ch. 91 (relating to criminal

1 history record information), a report of criminal history
2 record information from the Pennsylvania State Police or a
3 statement from the Pennsylvania State Police that its central
4 repository contains no information relating to the applicant.

5 (2) Federal criminal history record information pursuant
6 to applicable Federal law. The following apply:

7 (i) The department shall serve as the intermediary
8 under this section. The applicant shall submit a full set
9 of fingerprints to the Federal Bureau of Investigation in
10 a manner designated by the department.

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

17 (3) Additional applicant information from a court or
18 other authority as required by the department and within the
19 time frame designated by the department. Failure to provide
20 the requested information within the time frame designated by
21 the department may result in employment ineligibility.

22 (b) Applicability.--The provisions of 18 Pa.C.S. § 9121(b)
23 (2) (relating to general regulations) shall not apply to
24 criminal history information or other criminal history record
25 information requested or received under subsection (a).

26 (c) Prohibited offenses.--The following offenses and Federal
27 or out-of-State offenses similar in nature are prohibited, as
28 follows:

29 (1) Fifteen-year employment restriction. A facility may
30 not hire or engage an applicant required to submit

1 information required under this chapter for a period of 15
2 years following the date of conviction if the applicant's
3 criminal history record information indicates the applicant
4 has been convicted of an offense or attempt, solicitation or
5 conspiracy to commit an offense under one of the following
6 provisions of 18 Pa.C.S. (relating to crimes and offenses):

7 Chapter 25 (relating to criminal homicide).

8 Chapter 26 (relating to crimes against unborn child).

9 Section 2702 (relating to aggravated assault).

10 Section 2713 (relating to neglect of care-dependent
11 person).

12 Section 2715 (relating to threat to use weapons of
13 mass destruction).

14 Section 2716 (relating to weapons of mass
15 destruction).

16 Section 2717 (relating to terrorism).

17 Section 2901 (relating to kidnapping).

18 Section 3121 (relating to rape).

19 Section 3122.1 (relating to statutory sexual
20 assault).

21 Section 3123 (relating to involuntary deviate sexual
22 intercourse).

23 Section 3124.1 (relating to sexual assault).

24 Section 3125 (relating to aggravated indecent
25 assault).

26 Section 3126 (relating to indecent assault).

27 Section 3212 (relating to infanticide).

28 Section 4302 (relating to incest).

29 Section 4303 (relating to concealing death of child).

30 Section 4304 (relating to endangering welfare of

1 children).

2 Section 4305 (relating to dealing in infant
3 children).

4 Section 5510 (relating to abuse of corpse).

5 Section 6312 (relating to sexual abuse of children).

6 (2) Ten-year employment restriction. A facility shall
7 not hire or engage an applicant required to submit criminal
8 history information required under this chapter for a period
9 of 10 years from the date of conviction if the applicant's
10 criminal history record information indicates that the
11 applicant has been convicted of an offense or attempt,
12 solicitation or conspiracy to commit an offense under one of
13 the following provisions of 18 Pa.C.S.:

14 Two or more misdemeanors under section 2705 (relating
15 to recklessly endangering another person).

16 Section 2902 (relating to unlawful restraint).

17 Section 3127 (relating to indecent exposure).

18 Section 3301 (relating to arson and related
19 offenses).

20 Section 3502 (relating to burglary).

21 Section 3701 (relating to robbery).

22 A felony offense under Chapter 39 (relating to theft
23 and related offenses).

24 Two or more misdemeanors under Chapter 39.

25 Section 4101 (relating to forgery).

26 Section 4106 (relating to access device fraud).

27 Section 4114 (relating to securing execution of
28 documents by deception).

29 Section 4120 (relating to identity theft).

30 Section 4952 (relating to intimidation of witnesses

1 or victims).

2 Section 4953 (relating to retaliation against
3 witness, victim or party).

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

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

8 Section 6301 (relating to corruption of minors).

9 (3) Five-year employment restriction. A facility shall
10 not hire or engage an applicant required to submit criminal
11 history information required under this chapter for a period
12 of five years from the date of conviction if the applicant's
13 criminal history record information indicates that the
14 applicant has been convicted of an offense or attempt,
15 solicitation or conspiracy to commit an offense under one of
16 the following provisions:

17 (i) Any of the following provisions of 75 Pa.C.S.
18 (relating to vehicles):

19 Section 3735 (relating to homicide by vehicle
20 while driving under influence).

21 Section 3735.1 (relating to aggravated assault by
22 vehicle while driving under the influence).

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

25 A misdemeanor graded at the second degree or
26 higher under section 3802 (relating to driving under
27 influence of alcohol or controlled substance).

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

1 (d) Exemptions.--A facility may hire an applicant subject to
2 an employment restriction under subsection (c) prior to the
3 expiration of the restriction period if the facility documents
4 the facility's consideration of information provided by the
5 applicant on an employer discretion form, related to the
6 following:

- 7 (i) nature of the crime;
- 8 (ii) facts surrounding the conviction;
- 9 (iii) time elapsed since the conviction;
- 10 (iv) the evidence of the individual's
11 rehabilitation; and
- 12 (v) the nature and requirements of the job.

13 (e) Penalties.--

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

17 (2) An administrator or employee who willfully fails to
18 disclose a conviction for an offense enumerated under
19 subsection (c) shall be subject to termination and may be
20 subject to criminal prosecution under 18 Pa.C.S. § 4904
21 (relating to unsworn falsification to authorities).

22 (f) Provisional employees for limited periods.--The
23 following apply:

24 (1) An administrator may employ an applicant, other than
25 an applicant who is a direct care worker referred by a home
26 care registry to provide home care services to a consumer, on
27 a provisional basis for a single period not to exceed 90 days
28 if all of the following conditions are met:

- 29 (i) The applicant has applied for a criminal history
30 report required under subsection (a)(1) and (2) and

1 provided the facility with a copy of the completed
2 request forms.

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

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

10 (2) If the information obtained from the criminal
11 history report reveals that the applicant is disqualified
12 from employment, the applicant shall be terminated
13 immediately.

14 (g) Supervision.--The department shall develop guidelines
15 regarding the supervision of provisional employees. Supervision
16 shall include random direct supervision by an employee who has
17 been employed by the facility for a period of at least one year.

18 SUBCHAPTER H

19 REMEDIES

20 Sec.

21 6970. Penalties.

22 6971. Immunity from civil and criminal liability.

23 § 6970. Penalties.

24 (a) Civil penalties.--

25 (1) A mandatory reporter who fails to comply or
26 obstructs compliance with the provisions of this chapter or
27 who intimidates or commits a retaliatory act against an
28 individual who complies in good faith with the provisions of
29 this chapter commits a violation of this chapter and shall be
30 subject to an administrative penalty. The department shall

1 have jurisdiction to determine violations of this chapter and
2 may issue an order assessing a civil penalty of not more than
3 \$5,000. An order under this paragraph is subject to 2 Pa.C.S.
4 Chs. 5 Subch. A (relating to practice and procedure of
5 Commonwealth agencies) and 7 Subch. A (relating to judicial
6 review of Commonwealth agency action).

7 (2) Each Commonwealth agency which licenses a facility
8 shall have jurisdiction regarding violations of section 6960
9 (relating to criminal history) and may issue an order
10 assessing a civil penalty not to exceed \$5,000.

11 (3) An older adult or any person making a report or
12 cooperating with the area agency on aging, including
13 providing testimony in any administrative or judicial
14 proceeding, shall be free from any discriminatory,
15 retaliatory or disciplinary action by an employer or by any
16 other person. Any person who violates this paragraph shall be
17 subject to a civil action by the reporter or the older adult.
18 The reporter or older adult shall recover treble compensatory
19 damages, compensatory and punitive damages or \$5,000,
20 whichever is greater.

21 (4) Any person, including the older adult, with
22 knowledge sufficient to justify making a report or
23 cooperating with the area agency on aging, including
24 providing testimony in any administrative or judicial
25 proceeding, shall be free from any intimidation by an
26 employer or by any other person. Any person who violates this
27 paragraph shall be subject to a civil action by the person
28 intimidated or the older adult. The person intimidated or the
29 older adult shall recover treble compensatory damages,
30 compensatory and punitive damages or \$5,000, whichever is

1 greater.

2 (b) Criminal penalties.--

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

10 (2) A person who makes a false statement or
11 representation of a material fact in a report of need commits
12 a misdemeanor of the first degree and shall, upon conviction,
13 be sentenced to pay a fine of not more than \$10,000 or to
14 imprisonment for not more than five years, or both.

15 (c) Immunity.--

16 (1) Any person participating in the making of a report
17 of need, or who provides testimony in any administrative or
18 judicial proceeding in any court of this Commonwealth arising
19 out of a report, shall be immune from any civil or criminal
20 liability on account of the report or testimony related to
21 good faith compliance with this chapter. This immunity shall
22 not extend to liability for acts of abuse, neglect,
23 exploitation or abandonment, even if the acts are the subject
24 of the report or testimony.

25 (2) An entity that employs a person required or
26 permitted to make a report under this chapter shall not be
27 held civilly liable for any action directly related to good
28 faith compliance with this chapter.

29 (d) Use.--Money collected under this chapter by the
30 department shall be used for department programs to investigate

1 and prevent the abuse, neglect, exploitation and abandonment of
2 older adults.

3 § 6971. Immunity from civil and criminal liability.

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

11 SUBCHAPTER I

12 ADMINISTRATION

13 Sec.

14 6980. Funding.

15 6981. Regulations.

16 § 6980. Funding.

17 Money necessary to administer this chapter shall be provided
18 by an annual appropriation by the General Assembly.

19 § 6981. Regulations.

20 The department shall issue rules and regulations to carry out
21 this chapter and shall annually present to the General Assembly
22 a report on the program and services performed. State agencies
23 with oversight authority over entities impacted by this chapter
24 shall promulgate regulations necessary to assist the department
25 in implementing this chapter.

26 Section 2. Repeals are as follows:

27 (1) The General Assembly declares that the repeal under
28 paragraph (2) is necessary to effectuate the addition of 23
29 Pa.C.S. Ch. 69.

30 (2) The act of November 6, 1987 (P.L.381, No.79), known

1 as the Older Adults Protective Services Act, is repealed.

2 Section 3. This act shall take effect as follows:

3 (1) The addition of 23 Pa.C.S. § 6911 shall take effect
4 in one year.

5 (2) This section shall take effect immediately.

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