

**TESTIMONY PRESENTED TO THE:**

**PENNSYLVANIA HOUSE OF REPRESENTATIVES  
HUMAN SERVICES COMMITTEE**

**REGARDING:**

**ACT 70 OF 2010  
ADULT PROTECTIVE SERVICES**

**SUBMITTED BY:**

**JUDY BANKS, ACTING CHIEF EXECUTIVE OFFICER**

**DISABILITY RIGHTS NETWORK OF PA**

**NOVEMBER 18, 2013  
HEARING ROOM 60, EAST WING**

## TESTIMONY OF JUDY BANKS

Good morning. My name is Judy Banks, and I am the Acting Chief Executive Officer of the Disability Rights Network of PA (DRN). DRN has been designated by the Commonwealth pursuant to federal law to advocate for and protect the rights of individuals with disabilities. On behalf of DRN, I submit this testimony to speak on various continued needs related to implementation of Act 70 of 2010 (Adult Protective Services). I appreciate this opportunity to speak with you today.

For far too many years Pennsylvania was one of five states without a protective services system for vulnerable adults. Outcry by stakeholders for an adult protective services system, horrific reports year after year of crimes of abuse and neglect perpetrated on vulnerable adults across the Commonwealth, and the support of the Pennsylvania Legislature resulted in action. The Governor signed Act 70 of 2010 on October 7, 2010, establishing an Adult Protective Services (APS) system to protect abused, neglected, exploited or abandoned individuals between ages 18 and 59. Act 70 provides protective services similar to those provided by Pennsylvania's Older Adult Protective Services Act for individuals age 60 or

older and by the Child Protective Services Act for individuals up to age 18 years.

Three years after being enacted, Act 70 continues to fall short of realizing and fulfilling its intended charge. I will speak to this Committee about three critical issues that need to be addressed in order to achieve full implementation of an APS system.

ACT 70 is not being fully implemented. Currently, the Department of Public Welfare (DPW) is partially implementing an APS system through an interim process using existing DPW and Department of Aging (DPA) program resources. This interim process relies primarily on already stressed DPW and DPA program office staffs and is designed to respond only to reports defined as priority cases, that is, when the individual would be at imminent risk of death or serious injury or serious bodily injury.

Consequently, reports of abuse and neglect that do not fit the definition of imminent risk of death, serious injury or serious bodily injury, such as sexual harassment and rape, or "the failure to provide...care...essential to

avoid a clear and serious threat to the... mental health of an adult,"<sup>1</sup> are not prioritized for investigation, leaving individuals without the protections that they need. Another huge concern is that the interim process has no independent system review to assure the quality of the investigation and its results, and the appropriateness of any APS intervention outcomes. The interim process relies on the utilization of a county, and in some cases provider staff, to conduct investigations. This process, while only temporary, perpetuates the conflict of interest that language in Act 70 prohibits. Section 301(a)(ii) of the Act states that successful bidders must "be separate from agencies providing direct services to adults and from county mental health and mental retardation programs."

Secondly, in order for APS to be fully operational, DPW must establish contracts with non-conflicted, qualified entities able to carry out the provisions of Act 70 in its entirety. Approximately two weeks ago DPW posted its Request for Proposal (RFP) for APS, with a submission deadline of January 6, 2014. DPW estimated that full implementation could begin around July 2014. DPW must make the RFP process one of its priorities in

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<sup>1</sup> Act 70 of 2010, Pennsylvania Adult Protective Services Act, Ch. 1, Section 103.

order to meet this critical deadline. In addition, DPW must move expeditiously to issue APS regulations, which are also required to ensure not only a fully operational system, but one with strong integrity. DPW, along with other stakeholders, have been working on drafting APS regulations for over two years and only recently the regulation workgroup completed its work. Presently, recommendations of that workgroup are in the hands of DPW personnel for review and consideration. It is imperative that the regulation process, which is known to sometimes take up to 18 months, move forward with deliberate speed.

Lastly, I wish to bring to the Committee's attention the need to adequately fund the APS system. Without an adequately funded system APS cannot help the individuals in need. In 2003, the Legislative Budget and Finance Committee estimated that it would take \$5 million per year to fund a system. Once fully implemented, DPW estimates the cost to be \$4.6 million in state funds and \$6.4 million total funds. It is possible that some additional federal funding may be available to further reduce state cost as well.

Unofficial data from DPW reports that one hundred and forty requests of need were filed with the DPW between January 1, 2013 and July 31, 2013. Forty-two percent were classified as priority and forty-two percent as non-priority cases. About seventy percent involved people living in private homes where only the APS can access them. The cost associated with carrying out the necessary responsibilities needed to ensure the safety of individuals who fell within the forty-two percent classified as a priority is unknown. However, what we do know is that as the APS rolls out and the general public is well informed of its operation, requests of need calls will increase exponentially. DPW must receive adequate funding to be prepared to respond to the need.

For the above stated reasons, I request that the Health and Human Services Committee ensure that DPW transitions to a conflict-free, fully operational system, expeditiously moves forward the RFP and regulations processes, and that the legislature provides the \$4,600,000 or sufficient state funding to support start up and a fully operational system in 2014. The safety of many lives depend on it.