

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 433 Session of
1991

INTRODUCED BY HAGARTY, BLAUM, ARGALL, HALUSKA, NAHILL, KING,
TELEK, J. TAYLOR, CESSAR, PRESTON, MELIO, GODSHALL, MAIALE,
NAILOR, DALEY, FARMER, PHILLIPS, D. W. SNYDER, GANNON,
LAUGHLIN, RITTER, LINTON, CIVERA, HECKLER, BELFANTI, DeLUCA,
LESCOVITZ, SAURMAN, FAIRCHILD, MARSICO, FAJT, MICOZZIE, BUSH,
SEMMELE, COWELL, COY, STAIRS, HARPER, TRELLO, NOYE, MICHLOVIC,
BUNT, GRUPPO, FOX, HERMAN, BILLOW, CORNELL, RICHARDSON,
E. Z. TAYLOR, THOMAS, BATTISTO, GERLACH, ITKIN, SERAFINI,
OLASZ, ADOLPH, McGEEHAN, DAVIES AND VANCE, MARCH 11, 1991

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 11, 1991

AN ACT

1 Amending the act of November 6, 1987 (P.L.381, No.79), entitled
2 "An act relating to the protection of the abused, neglected,
3 exploited or abandoned elderly; establishing a uniform
4 Statewide reporting and investigative system for suspected
5 abuse, neglect, exploitation or abandonment of the elderly;
6 providing protective services; providing for funding; and
7 making repeals," further providing for the protection of the
8 elderly and for the confidentiality of records.

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

11 Section 1. Section 2 of the act of November 6, 1987
12 (P.L.381, No.79), known as the Older Adults Protective Services
13 Act, is amended to read:

14 Section 2. Legislative policy.

15 It is declared the policy of the Commonwealth of Pennsylvania
16 that older adults who lack the capacity to protect themselves
17 and are at imminent risk of abuse, neglect, exploitation or

1 abandonment shall have access to and be provided with services
2 necessary to protect their health, safety and welfare. It is not
3 the purpose of this act to place restrictions upon the personal
4 liberty of incapacitated older adults, but this act should be
5 liberally construed to assure the availability of protective
6 services to all older adults in need of them. Such services
7 shall safeguard the rights of incapacitated older adults while
8 protecting them from abuse, neglect, exploitation and
9 abandonment. It is the intent of the General Assembly to provide
10 for the detection and reduction, correction or elimination of
11 abuse, neglect, exploitation and abandonment, and to establish a
12 program of protective services for older adults in need of them.
13 It is intended that protective services and law enforcement
14 agencies coordinate their efforts to the fullest extent possible
15 to respond to older adult abuse.

16 Section 2. Sections 5(a) and (c) and 9 of the act are
17 amended to read:

18 Section 5. Reporting; protection from retaliation; immunity.

19 (a) Reporting.--Any person having reasonable cause to
20 believe that an older adult is in need of protective services
21 may report such information to the agency which is the local
22 provider of protective services, or to a law enforcement agency.

23 * * *

24 (c) Retaliatory action; penalty.--Any person making a report
25 or cooperating with the agency, including providing testimony in
26 any administrative or judicial proceeding, and the victim shall
27 be free from any discriminatory, intimidating, retaliatory or
28 disciplinary action by an employer or by any other person or
29 entity. Any person who violates this subsection is subject to a
30 civil lawsuit by the reporter or the victim wherein the reporter

1 or victim shall recover treble compensatory and punitive damages
2 or \$5,000, whichever is greater.

3 * * *

4 Section 9. Confidentiality of records.

5 (a) General rule.--Information contained in reports, records
6 of investigation, client assessment and service plans shall be
7 considered confidential and shall be maintained under
8 regulations promulgated by the department to safeguard
9 confidentiality. Except as provided below, this information
10 shall not be disclosed to anyone outside the agency other than
11 to a court of competent jurisdiction or pursuant to a court
12 order or to a law enforcement agency conducting an investigation
13 of any crime against an older adult if such information may be
14 relevant to that investigation.

15 (b) Limited access to the agency's protective services
16 records.--

17 [(1) In the event that an investigation by the agency
18 results in a report of criminal conduct, law enforcement
19 officials shall have access to all relevant records
20 maintained by the agency or the department.]

21 (2) In arranging specific services to carry out service
22 plans, the agency may disclose to appropriate service
23 providers such information as may be necessary to initiate
24 the delivery of services.

25 (3) A subject of a report made under section 5 may
26 receive, upon written request, all information contained in
27 the report except that prohibited from being disclosed by
28 paragraph (4).

29 (4) The release of information that would identify the
30 person who made a report of suspected abuse, neglect,

1 exploitation or abandonment or person who cooperated in a
2 subsequent investigation, is hereby prohibited [unless]
3 except when the information is released to a court of
4 competent jurisdiction, pursuant to a court order, or to law
5 enforcement authorities conducting an investigation of any
6 crime against an older adult or the secretary can determine
7 that such a release will not be detrimental to the safety of
8 such person.

9 (5) When the department is involved in the hearing of an
10 appeal by a subject of a report made under section 5, the
11 appropriate department staff shall have access to all
12 information in the report record relevant to the appeal.

13 (6) For the purposes of monitoring agency performance,
14 appropriate staff of the department may access agency
15 protective services records.

16 Section 3. This act shall take effect in 60 days.