
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2109 Session of
2007

INTRODUCED BY K. SMITH, MUNDY, BELFANTI, BIANCUCCI, BLACKWELL,
BOBACK, CURRY, FABRIZIO, FREEMAN, GEORGE, GIBBONS, GOODMAN,
GRUCELA, HORNAMAN, JAMES, JOSEPHS, KOTIK, KULA, LEACH,
McGEEHAN, McILVAINE SMITH, MOUL, MOYER, M. O'BRIEN, PARKER,
PASHINSKI, PRESTON, SHIMKUS, SIPTROTH, STABACK, WALKO,
WANSACZ, WATSON, WOJNAROSKI, YOUNGBLOOD AND YUDICHAK,
DECEMBER 11, 2007

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,
DECEMBER 11, 2007

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 reporting by
8 employees, for reports to department and coroner and for
9 penalties.

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

12 Section 1. Chapter 7 heading and sections 701, 702 and 706
13 of the act of November 6, 1987 (P.L.381, No.79), known as the
14 Older Adults Protective Services Act, added June 9, 1997
15 (P.L.160, No.13), are amended to read:

16 CHAPTER 7

17 REPORTING SUSPECTED ABUSE AND NEGLECT BY EMPLOYEES

18 Section 701. Reporting by employees.

1 (a) Mandatory reporting to agency.--

2 (1) An employee or an administrator who has reasonable
3 cause to suspect that a recipient is a victim of abuse or
4 neglect shall immediately make an oral report to the agency.
5 Reports of neglect shall include only those instances in
6 which neglect rises to the level where serious physical harm
7 or the threat to life and safety will result. If applicable,
8 the agency shall advise the employee or administrator of
9 additional reporting requirements that may pertain under
10 subsection (b). An employee shall notify the administrator
11 immediately following the report to the agency.

12 (2) Within 48 hours of making the oral report, the
13 employee or administrator shall make a written report to the
14 agency. The agency shall notify the administrator that a
15 report of abuse or neglect has been made with the agency.

16 (3) The employee may request the administrator to make
17 or to assist the employee to make the oral and written
18 reports required by this subsection.

19 (b) Mandatory reports to law enforcement officials.--

20 (1) An employee or an administrator who has reasonable
21 cause to suspect that a recipient is the victim of sexual
22 abuse, serious physical injury or serious bodily injury or
23 that a death is suspicious shall, in addition to contacting
24 the agency and the department, immediately contact law
25 enforcement officials to make an oral report. An employee
26 shall notify the administrator immediately following the
27 report to law enforcement officials.

28 (2) Within 48 hours of making the oral report, the
29 employee and an administrator shall make a written report to
30 appropriate law enforcement officials.

1 (3) The law enforcement officials shall notify the
2 administrator that a report has been made with the law
3 enforcement officials.

4 (4) The employee may request the administrator to make
5 or to assist the employee to make the oral and written
6 reports to law enforcement required by this subsection.

7 (c) Contents of report.--A written report under this section
8 shall be in a manner and on forms prescribed by the department.

9 The report shall include, at a minimum, the following
10 information:

11 (1) Name, age and address of the recipient.

12 (2) Name and address of the recipient's guardian or next
13 of kin.

14 (3) Name and address of the facility.

15 (4) Nature of the alleged offense.

16 (5) Any specific comments or observations that are
17 directly related to the alleged incident and the individual
18 involved.

19 Section 702. Reports to department and coroner.

20 (a) Department.--

21 (1) Within 48 hours of receipt of a written report under
22 section 701(a) involving sexual abuse, serious physical
23 injury, serious bodily injury or suspicious death, the agency
24 shall transmit a written report to the department.

25 Supplemental reports shall be transmitted as they are
26 obtained by the agency.

27 (2) A report under this subsection shall be made in a
28 manner and on forms prescribed by the department. The report
29 shall include, at a minimum, the following information:

30 (i) The name and address of the alleged victim.

- 1 (ii) Where the suspected abuse occurred.
- 2 (iii) The age and sex of the alleged perpetrator and
3 victim.
- 4 (iv) The nature and extent of the suspected abuse or
5 neglect, including any evidence of prior abuse or
6 neglect.
- 7 (v) The name and relationship of the individual
8 responsible for causing the alleged abuse or neglect to
9 the victim, if known, and any evidence of prior abuse or
10 neglect by that individual.
- 11 (vi) The source of the report.
- 12 (vii) The individual making the report and where
13 that individual can be reached.
- 14 (viii) The actions taken by the reporting source,
15 including taking of photographs and x-rays, removal of
16 recipient and notification under subsection (b).
- 17 (ix) Any other information which the department may
18 require by regulation.

19 (b) Coroner.--For a report under section 701(a) which
20 concerns the death of a recipient, if there is reasonable cause
21 to suspect that the recipient died as a result of abuse or
22 neglect, the agency shall give the oral report and forward a
23 copy of the written report to the appropriate coroner within 24
24 hours.

25 Section 706. Penalties.

26 (a) Administrative.--

- 27 (1) An administrator who intentionally or willfully
28 fails to comply or obstructs compliance with the provisions
29 of this chapter or who intimidates or commits a retaliatory
30 act against an employee who complies in good faith with the

1 provisions of this chapter commits a violation of this
2 chapter and shall be subject to an administrative penalty
3 under paragraph (3).

4 (2) A facility owner that intentionally or willfully
5 fails to comply with or obstructs compliance with this
6 chapter or that intimidates or commits a retaliatory act
7 against an employee who complies in good faith with this
8 chapter commits a violation of this chapter and shall be
9 subject to an administrative penalty under paragraph (3).

10 (3) The Commonwealth agency or Commonwealth agencies
11 which regulate the facility have jurisdiction to determine
12 violations of this chapter and may issue an order assessing a
13 civil penalty of not more than \$2,500. An order under this
14 paragraph is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to
15 practice and procedure of Commonwealth agencies) and Ch. 7
16 Subch. A (relating to judicial review of Commonwealth agency
17 action).

18 (b) Criminal.--

19 (1) An administrator who intentionally or willfully
20 fails to comply or obstructs compliance with this chapter
21 commits a misdemeanor of the third degree and shall, upon
22 conviction, be sentenced to pay a fine of \$2,500 or to
23 imprisonment for not more than one year, or both.

24 (2) A facility owner that intentionally or willfully
25 fails to comply with or obstructs compliance with this
26 chapter commits a misdemeanor of the third degree and shall,
27 upon conviction, be sentenced to pay a fine of \$2,500 or to
28 imprisonment for not more than one year, or both.

29 (c) Penalties for failure to report.--A person required
30 under this chapter to report a case of suspected abuse or

1 neglect who willfully fails to do so commits a summary offense
2 for the first violation and a misdemeanor of the third degree
3 for a second or subsequent violation.

4 Section 2. This act shall take effect in 60 days.