

## 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, YUDICHAK,  
CALTAGIRONE AND VULAKOVICH, DECEMBER 11, 2007

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
MAY 7, 2008

## 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 DEFINING "FACILITY"; AND further <—  
8 providing for reporting by employees, for reports to  
9 department and coroner and for 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 SECTION 1. THE DEFINITION OF "FACILITY" IN SECTION 103 OF <—  
17 THE ACT OF NOVEMBER 6, 1987 (P.L.381, NO.79), KNOWN AS THE OLDER  
18 ADULTS PROTECTIVE SERVICES ACT, AMENDED DECEMBER 18, 1996

1 (P.L.1125, NO.169), IS AMENDED TO READ:

2 SECTION 103. DEFINITIONS.

3 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL  
4 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
5 CONTEXT CLEARLY INDICATES OTHERWISE:

6 \* \* \*

7 "FACILITY." ANY OF THE FOLLOWING:

8 (1) A DOMICILIARY CARE HOME AS DEFINED IN SECTION 2202-A  
9 OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE  
10 ADMINISTRATIVE CODE OF 1929.

11 (2) A HOME HEALTH CARE AGENCY.

12 (3) A LONG-TERM CARE NURSING FACILITY AS DEFINED IN  
13 SECTION 802.1 OF THE ACT OF JULY 19, 1979 (P.L.130, NO.48),  
14 KNOWN AS THE HEALTH CARE FACILITIES ACT.

15 (4) AN OLDER ADULT DAILY LIVING CENTER AS DEFINED IN  
16 SECTION 2 OF THE ACT OF JULY 11, 1990 (P.L.499, NO.118),  
17 KNOWN AS THE OLDER ADULT DAILY LIVING CENTERS LICENSING ACT.

18 (5) A PERSONAL CARE HOME AS DEFINED IN SECTION 1001 OF  
19 THE ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE PUBLIC  
20 WELFARE CODE.

21 (6) AN ASSISTED LIVING RESIDENCE AS DEFINED IN SECTION  
22 1001 OF THE ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS  
23 THE PUBLIC WELFARE CODE.

24 \* \* \*

25 SECTION 2. CHAPTER 7 HEADING AND SECTIONS 701, 702 AND 706  
26 OF THE ACT, ADDED JUNE 9, 1997 (P.L.160, NO.13), ARE AMENDED TO  
27 READ:

28 CHAPTER 7

29 REPORTING SUSPECTED ABUSE AND NEGLECT BY EMPLOYEES

30 Section 701. Reporting by employees.

(a) Mandatory reporting to agency.--

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

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

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

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

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

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

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

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

(c) Contents of report.--A written report under this section shall be in a manner and on forms prescribed by the department. The report shall include, at a minimum, the following information:

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

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

(3) Name and address of the facility.

(4) Nature of the alleged offense.

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

Section 702. Reports to department and coroner.

(a) Department.--

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

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

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

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

(ii) Where the suspected abuse occurred.

(iii) The age and sex of the alleged perpetrator and victim.

(iv) The nature and extent of the suspected abuse or neglect, including any evidence of prior abuse or neglect.

(v) The name and relationship of the individual responsible for causing the alleged abuse or neglect to the victim, if known, and any evidence of prior abuse or neglect by that individual.

(vi) The source of the report.

(vii) The individual making the report and where that individual can be reached.

(viii) The actions taken by the reporting source, including taking of photographs and x-rays, removal of recipient and notification under subsection (b).

(ix) Any other information which the department may require by regulation.

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

#### Section 706. Penalties.

(a) Administrative.--

(1) An administrator who intentionally or willfully fails to comply or obstructs compliance with the provisions of this chapter or who intimidates or commits a retaliatory 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 3. This act shall take effect in 60 days.

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