

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 56 Session of
2009

INTRODUCED BY K. SMITH, BELFANTI, CARROLL, CONKLIN, DONATUCCI,
FRANKEL, GEORGE, GIBBONS, GOODMAN, GROVE, GRUCELA, HARKINS,
HARPER, HESS, KOTIK, KULA, LONGIETTI, MAHONEY, MANN,
McILVAINE SMITH, MELIO, MOUL, MURPHY, M. O'BRIEN, PASHINSKI,
PEIFER, READSHAW, REICHLEY, ROAE, SIPTROTH, SOLOBAY, STABACK,
VULAKOVICH, WATSON AND MUNDY, JANUARY 26, 2009

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES, JANUARY
26, 2009

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. The definition of "facility" in section 103 of
13 the act of November 6, 1987 (P.L.381, No.79), known as the Older
14 Adults Protective Services Act, amended December 18, 1996 (P.L.
15 1125, No.169), is amended to read:

16 Section 103. Definitions.

17 The following words and phrases when used in this act shall
18 have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

1 * * *

2 "Facility." Any of the following:

3 (1) A domiciliary care home as defined in section 2202-A
4 of the act of April 9, 1929 (P.L.177, No.175), known as The
5 Administrative Code of 1929.

6 (2) A home health care agency.

7 (3) A long-term care nursing facility as defined in
8 section 802.1 of the act of July 19, 1979 (P.L.130, No.48),
9 known as the Health Care Facilities Act.

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

13 (5) A personal care home as defined in section 1001 of
14 the act of June 13, 1967 (P.L.31, No.21), known as the Public
15 Welfare Code.

16 (6) An assisted living residence as defined in section
17 1001 of the act of June 13, 1967 (P.L.31, No.21), known as
18 the Public Welfare Code.

19 * * *

20 Section 2. Chapter 7 heading and sections 701, 702 and 706
21 of the act, added June 9, 1997 (P.L.160, No.13), are amended to
22 read:

23 CHAPTER 7

24 REPORTING SUSPECTED ABUSE AND NEGLECT BY EMPLOYEES

25 Section 701. Reporting by employees.

26 (a) Mandatory reporting to agency.--

27 (1) An employee or an administrator who has reasonable
28 cause to suspect that a recipient is a victim of abuse or
29 neglect shall immediately make an oral report to the agency.
30 Reports of neglect shall include only those instances in

1 which neglect rises to the level where serious physical
2 injury or the threat to life and safety will result. If
3 applicable, the agency shall advise the employee or
4 administrator of additional reporting requirements that may
5 pertain under subsection (b). An employee shall notify the
6 administrator immediately following the report to the agency.

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

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

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

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

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

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

29 (4) The employee may request the administrator to make
30 or to assist the employee to make the oral and written

1 reports to law enforcement required by this subsection.

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

4 The report shall include, at a minimum, the following
5 information:

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

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

9 (3) Name and address of the facility.

10 (4) Nature of the alleged offense.

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

14 Section 702. Reports to department and coroner.

15 (a) Department.--

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

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

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

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

26 (ii) Where the suspected abuse occurred.

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

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

1 neglect.

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

6 (vi) The source of the report.

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

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

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

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

20 Section 706. Penalties.

21 (a) Administrative.--

22 (1) An administrator who intentionally or willfully
23 fails to comply or obstructs compliance with the provisions
24 of this chapter or who intimidates or commits a retaliatory
25 act against an employee who complies in good faith with the
26 provisions of this chapter commits a violation of this
27 chapter and shall be subject to an administrative penalty
28 under paragraph (3).

29 (2) A facility owner that intentionally or willfully
30 fails to comply with or obstructs compliance with this

1 chapter or that intimidates or commits a retaliatory act
2 against an employee who complies in good faith with this
3 chapter commits a violation of this chapter and shall be
4 subject to an administrative penalty under paragraph (3).

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

13 (b) Criminal.--

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

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

24 (c) Penalties for failure to report.--A person required
25 under this chapter to report a case of suspected abuse or
26 neglect who willfully fails to do so commits a summary offense
27 for the first violation and a misdemeanor of the third degree
28 for a second or subsequent violation.

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