

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, MUNDY, WANSACZ, EACHUS, FABRIZIO, WALKO, MYERS, MURT, HENNESSEY, EVERETT, KORTZ, FREEMAN AND HORNAMAN, JANUARY 26, 2009

AS REPORTED FROM COMMITTEE ON AGING AND OLDER ADULT SERVICES, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 23, 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

1 context clearly indicates otherwise:

2 * * *

3 "Facility." Any of the following:

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

7 (2) A home health care agency.

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

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

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

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

20 * * *

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

24 CHAPTER 7

25 REPORTING SUSPECTED ABUSE AND NEGLECT BY EMPLOYEES

26 Section 701. Reporting by employees.

27 (a) Mandatory reporting to agency.--

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

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

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

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

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

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

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

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

30 (4) The employee may request the administrator to make

1 or to assist the employee to make the oral and written
2 reports to law enforcement required by this subsection.

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

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

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

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

10 (3) Name and address of the facility.

11 (4) Nature of the alleged offense.

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

15 Section 702. Reports to department and coroner.

16 (a) Department.--

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

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

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

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

27 (ii) Where the suspected abuse OR NEGLECT occurred. ←

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

30 (iv) The nature and extent of the suspected abuse or

1 neglect, including any evidence of prior abuse or
2 neglect.

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

7 (vi) The source of the report.

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

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

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

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

21 Section 706. Penalties.

22 (a) Administrative.--

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

30 (2) A facility owner that intentionally or willfully

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

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

14 (b) Criminal.--

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

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

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

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