
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2072 Session of
2018

INTRODUCED BY GILLEN, DAVIS, JOZWIAK, MILLARD, B. MILLER, ROZZI,
RYAN, SCHLOSSBERG, WARD, MASSER, HARPER, KNOWLES, MALONEY,
ROTHMAN, MURT, MARSICO AND BENNINGHOFF, MARCH 13, 2018

REFERRED TO COMMITTEE ON HEALTH, MARCH 13, 2018

AN ACT

1 Providing for maintenance of data collected during
2 investigations of certain caretakers; and imposing duties on
3 the Department of Aging, the Department of Health and the
4 Department of Human Services.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Caretaker
9 Investigation Data Management Act.

10 Section 2. Definitions.

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

14 "Care-dependent person." As defined in 18 Pa.C.S. § 2713
15 (relating to neglect of care-dependent person).

16 "Caretaker." As defined in 18 Pa.C.S. § 2713.

17 "Department." The Department of Aging of the Commonwealth,
18 the Department of Health of the Commonwealth and the Department

1 of Human Services of the Commonwealth.

2 "Report." The report required to be made by a department
3 under 18 Pa.C.S. § 2713(c).

4 Section 3. Data management requirements.

5 (a) Investigation memorandum.--

6 (1) If in the course of conducting any regulatory or
7 investigatory responsibility a department is required to make
8 a report, a department shall manage the data in the report
9 consistent with the requirements of this section. The
10 identity of the reporter may only be disclosed as provided in
11 paragraph (3), and the data shall be stored for three
12 calendar years after date of receipt. After that date, the
13 data shall be maintained as required by Federal law.

14 (2) A department shall prepare an investigation
15 memorandum for each report alleging a violation of 18 Pa.C.S.
16 § 2713 (relating to neglect of care-dependent person). During
17 the investigation by a department, data collected under this
18 section on individuals shall be confidential. Upon completion
19 of the investigation:

20 (i) If the investigation memorandum contains
21 findings that abuse or neglect was substantiated and the
22 caretaker is convicted of violating 18 Pa.C.S. § 2713
23 only, the following information shall be publicly
24 disclosed:

25 (A) The name of the caretaker investigated,
26 unless disclosure of the caretaker's name would
27 likely cause disclosure of the care-dependent's name
28 or identity.

29 (B) A statement of the nature of the alleged
30 violation.

1 (C) Pertinent information obtained from medical
2 or other records reviewed.

3 (D) A summary of the investigation's findings.

4 (E) A statement that the report was found to be
5 substantiated.

6 (F) A statement of any action taken by the
7 caretaker in response to the investigation, including
8 action to prevent further abuse of care-dependent
9 persons.

10 (G) A statement of any action taken by a
11 department.

12 (H) If a department's determination has
13 substantiated a violation, a statement of whether an
14 individual, individuals or a facility were
15 responsible for the substantiated violation, if
16 known.

17 (ii) If the investigation memorandum contains
18 findings that no abuse or neglect was substantiated, none
19 of the information shall be publicly disclosed.

20 (3) After the assessment or investigation is completed,
21 the name of the reporter shall be confidential. The subject
22 of the report may compel disclosure of the name of the
23 reporter only with the consent of the reporter or upon a
24 written finding by a court that the report was false and
25 there is evidence that the report was made in bad faith.

26 (4) Notwithstanding any other provision of law to the
27 contrary, data maintained under this section by a department
28 shall be maintained under the following schedule and then
29 destroyed unless otherwise required by Federal law:

30 (i) Data from reports determined to be false,

1 maintained for three years after the finding was made.

2 (ii) Data from reports determined to be
3 inconclusive, maintained for four years after the finding
4 was made.

5 (iii) Data from reports determined to be
6 substantiated, maintained for seven years after the
7 finding was made.

8 (iv) Data from reports not investigated by a
9 department and for which there is no final disposition,
10 maintained for three years from the date of the report.

11 (5) Each department shall publish on the department's
12 publicly accessible Internet website the number and type of
13 substantiated reports of alleged violations involving
14 caretakers reported under 18 Pa.C.S. § 2713, the number of
15 those requiring investigation under 18 Pa.C.S. § 2713 and the
16 resolution of those investigations. The information published
17 on the Internet website shall be updated as frequently as
18 possible. On a biennial basis, the departments shall jointly
19 report the following information to the Governor and the
20 General Assembly:

21 (i) The number and type of reports of alleged
22 violations involving caretakers reported under 18 Pa.C.S.
23 § 2713, the number of those requiring investigations
24 under 18 Pa.C.S. § 2713, the resolution of those
25 investigations and which of the departments was
26 responsible.

27 (ii) Trends about types of substantiated
28 maltreatment found in the reporting period.

29 (iii) If there are upward trends for types of
30 violations substantiated, recommendations for addressing

1 and responding to them.

2 (iv) Efforts undertaken or recommended to improve
3 the protection of care-dependent persons.

4 (v) Whether and where backlogs of cases result in a
5 failure to conform with statutory time frames and
6 recommendations for reducing backlogs, if applicable.

7 (vi) Recommended changes to statutes affecting the
8 protection of care-dependent persons.

9 (vii) Any other information that is relevant to the
10 report trends and findings.

11 (6) Each department shall establish and implement a
12 record retention policy.

13 (7) The departments, the Attorney General, district
14 attorneys and law enforcement agencies may exchange data if
15 the agency requesting the data determines that the data is
16 pertinent and necessary to the requesting agency in
17 initiating, furthering or completing an investigation under
18 18 Pa.C.S. § 2713. Data collected under this section shall be
19 made available to the Attorney General, district attorneys
20 and law enforcement officials investigating the alleged
21 violations under 18 Pa.C.S. § 2713.

22 (8) Each department shall keep records of the length of
23 time it takes to complete its investigation.

24 (9) A department may notify other affected parties and
25 their authorized representative if a department has reason to
26 believe a violation has occurred and determines the
27 information will safeguard the well-being of the affected
28 parties or dispel widespread rumor or unrest on the premises
29 of the caregiver.

30 (10) Under any notification provision of this section,

1 where Federal law specifically prohibits the disclosure of
2 patient identifying information, a department may not provide
3 any notice unless the care-dependent person has consented to
4 disclosure in a manner which conforms to Federal
5 requirements.

6 (b) (Reserved).

7 Section 4. Effective date.

8 This act shall take effect in 60 days.