

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 899 Session of 2017

INTRODUCED BY MENSCH, BROWNE, BAKER, VULAKOVICH, RAFFERTY, VOGEL, WARD, KILLION, COSTA, HAYWOOD, YUDICHAK, BREWSTER, BOSCOLA AND YAW, SEPTEMBER 26, 2017

SENATOR BROOKS, AGING AND YOUTH, AS AMENDED, JUNE 21, 2018

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, providing for older adult ADULTS <--
3 protective services and imposing penalties; and making a
4 related repeal.

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

7 Section 1. Title 23 of the Pennsylvania Consolidated <--
8 Statutes is amended by adding a chapter to read:

CHAPTER 69

OLDER ADULT PROTECTIVE SERVICES

Subchapter

A. Preliminary Provisions

B. Duties of Department

C. Duties of Area Agencies on Aging

D. Protective Services

E. Reporting

F. Financial Institutions and Fiduciaries

G. Criminal History

1 ~~H. Remedies~~

2 ~~I. Administration~~

3 ~~SUBCHAPTER A~~

4 ~~PRELIMINARY PROVISIONS~~

5 ~~Sec.~~

6 ~~6901. Scope of chapter.~~

7 ~~6902. Definitions.~~

8 ~~6903. Intent.~~

9 ~~§ 6901. Scope of chapter.~~

10 ~~This chapter relates to older adult protective services.~~

11 ~~§ 6902. Definitions.~~

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

15 ~~"Abandonment." The desertion of an older adult by a~~
16 ~~caretaker.~~

17 ~~"Abuse." Intentionally, willfully, knowingly or recklessly~~
18 ~~causing or attempting to cause:~~

19 ~~(1) Infliction of injury or unreasonable confinement~~
20 ~~resulting in physical harm or pain.~~

21 ~~(2) Intimidation or punishment resulting in mental~~
22 ~~anguish.~~

23 ~~(3) The deprivation by a caretaker of goods or services~~
24 ~~which are necessary to maintain physical or mental health.~~

25 ~~(4) Sexual abuse, including rape, involuntary deviate~~
26 ~~sexual intercourse, sexual assault, aggravated indecent~~
27 ~~assault, indecent assault or incest.~~

28 ~~(5) Sexual harassment, including unwelcome sexual~~
29 ~~advances, requests for sexual favors and other unwelcome~~
30 ~~verbal or physical conduct of a sexual nature.~~

1 ~~"Administrator." The person responsible for the management~~
2 ~~of a facility. The term includes a person responsible for~~
3 ~~employment decisions or an independent contractor responsible~~
4 ~~for administration of a facility.~~

5 ~~"Applicant." An individual seeking employment or engagement~~
6 ~~as an employee.~~

7 ~~"Area agency on aging." The single local agency designated~~
8 ~~by the department within each planning and service area to~~
9 ~~administer the delivery of protective services.~~

10 ~~"Assessment." The evaluation of an older adult's social,~~
11 ~~physical and psychological well being, along with a description~~
12 ~~of the older adult's current resources and needs.~~

13 ~~"Care." Services provided to meet an older adult's need for~~
14 ~~personal care or health care which require interaction with the~~
15 ~~older adult.~~

16 ~~"Care dependent individual." An adult who, due to physical~~
17 ~~or cognitive disability or impairment, requires assistance to~~
18 ~~meet needs for food, shelter, clothing, personal care or health~~
19 ~~care.~~

20 ~~"Caretaker." A person that has assumed the responsibility~~
21 ~~for the provision of care needed to maintain the physical or~~
22 ~~mental health of an older adult. This responsibility may arise~~
23 ~~voluntarily, by contract, by receipt of payment for care, as a~~
24 ~~result of familial relationship, or by order of a court of~~
25 ~~competent jurisdiction.~~

26 ~~"Case record." The complete record of the information~~
27 ~~received and the actions taken by the area agency on aging on~~
28 ~~each report of need.~~

29 ~~"Consent." Authorization or approval, which, when feasible,~~
30 ~~shall be obtained in writing.~~

1 ~~"Department." The Department of Aging of the Commonwealth.~~

2 ~~"Direct care worker." The individual employed by a home care~~
3 ~~agency or referred by a home care registry to provide home care~~
4 ~~services to a customer.~~

5 ~~"Employee." An individual who:~~

6 ~~(1) either:~~

7 ~~(i) is employed by a facility; or~~

8 ~~(ii) enters into a contractual relationship with a~~
9 ~~facility to provide care to an older adult; and~~

10 ~~(2) has unsupervised access to the older adult or the~~
11 ~~older adult's living quarters, resources or personal records,~~
12 ~~including employees of affiliated corporate entities.~~

13 ~~"Exploitation." An act or course of conduct by a caretaker~~
14 ~~or other person against an older adult or an older adult's~~
15 ~~resources, which, through misrepresentation, coercion or threats~~
16 ~~of force, results in monetary, personal or other benefit, gain~~
17 ~~or profit for that caretaker or person, or monetary or personal~~
18 ~~loss to the older adult.~~

19 ~~"Facility."~~

20 ~~(1) Any of the following:~~

21 ~~(i) Domiciliary care as defined in section 2202 A of~~
22 ~~the act of April 9, 1929 (P.L.177, No.175), known as The~~
23 ~~Administrative Code of 1929.~~

24 ~~(ii) An assisted living residence as defined in~~
25 ~~section 1001 of the act of June 13, 1967 (P.L.31, No.21),~~
26 ~~known as the Human Services Code.~~

27 ~~(iii) A personal care home as defined in section~~
28 ~~1001 of the Human Services Code.~~

29 ~~(iv) The following entities as defined in section~~
30 ~~802.1 of the act of July 19, 1979 (P.L.130, No.48), known~~

1 ~~as the Health Care Facilities Act:~~

2 ~~(A) A home care agency.~~

3 ~~(B) A home care registry.~~

4 ~~(C) A home health care agency.~~

5 ~~(D) A hospice.~~

6 ~~(E) A long term care nursing facility.~~

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

11 ~~(vi) A PACE provider as defined in section 1894 of~~
12 ~~the Social Security Act (49 Stat. 620, 42 U.S.C. §~~
13 ~~1395eee) and licensed under the Older Adult Daily Living~~
14 ~~Centers Licensing Act.~~

15 ~~(vii) Any other public or private organization or~~
16 ~~entity, or part of an organization or entity, that uses~~
17 ~~public funds and is paid, in part, to provide care to~~
18 ~~care dependent individuals.~~

19 ~~(2) The term does not include an entity licensed by the~~
20 ~~Department of Drug and Alcohol Programs or the Department of~~
21 ~~Health to provide drug and alcohol addiction treatment~~
22 ~~services or an entity licensed by the Department of Human~~
23 ~~Services Office of Developmental Programs.~~

24 ~~"Fiduciary." A guardian, custodian, trustee, agent, personal~~
25 ~~representative or other person authorized or required to act on~~
26 ~~behalf of an older adult.~~

27 ~~"Financial exploitation." Exploitation involving the illegal~~
28 ~~taking, misuse or concealment of money, property or assets of an~~
29 ~~older adult in the custody or control of a financial~~
30 ~~institution.~~

1 ~~"Financial institution." Any of the following:~~

2 ~~(1) An insured bank as defined in section 3(h) of the~~
3 ~~Federal Deposit Insurance Act (64 Stat. 873, 12 U.S.C. §~~
4 ~~1813(h)).~~

5 ~~(2) A commercial bank or trust company.~~

6 ~~(3) A private banker.~~

7 ~~(4) An agency or branch of a foreign bank in the United~~
8 ~~States.~~

9 ~~(5) A credit union.~~

10 ~~(6) A thrift institution.~~

11 ~~(7) A broker or dealer registered with the Securities~~
12 ~~and Exchange Commission under the Securities Exchange Act of~~
13 ~~1934 (48 Stat. 881, 15 U.S.C. § 78A et seq.).~~

14 ~~(8) A broker or dealer in securities or commodities.~~

15 ~~(9) An investment banker or investment company.~~

16 ~~(10) A currency exchange.~~

17 ~~(11) An issuer, redeemer or cashier of travelers'~~
18 ~~checks, checks, money orders or similar instruments.~~

19 ~~(12) An operator of a credit card system.~~

20 ~~(13) A loan or finance company.~~

21 ~~(14) A licensed sender of money or any other person who~~
22 ~~engages as a business in the transmission of money, including~~
23 ~~any person who engages as a business in an informal money~~
24 ~~transfer system or any network of people who engage as a~~
25 ~~business in facilitating the transfer of money domestically~~
26 ~~or internationally outside of the conventional financial~~
27 ~~institution system.~~

28 ~~(15) Any business or agency which engages in any~~
29 ~~activity which the department determines, by regulation, to~~
30 ~~be an activity which is similar to, related to or a~~

~~substitute for any activity conducted by a business described in paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13) and (14).~~

~~"Health care provider." A licensed hospital or health care facility or person who is licensed, certified or otherwise regulated to provide health care services under the laws of this Commonwealth, including a physician, podiatrist, optometrist, psychologist, physical therapist, certified nurse practitioner, registered nurse, nurse midwife, physician's assistant, chiropractor, dentist, pharmacist or an individual accredited or certified to provide behavioral health services.~~

~~"Intimidation." An act or omission by a person toward another person that obstructs, impedes, impairs, prevents or interferes with the administration of this chapter or any other law intended to protect older adults from mistreatment.~~

~~"Law enforcement official." Any of the following:~~

~~(1) A police officer of a municipality.~~

~~(2) A peace officer, as defined in 18 Pa.C.S. § 501 (relating to definitions).~~

~~(3) A district attorney.~~

~~(4) A Pennsylvania State Police officer.~~

~~(5) The Attorney General.~~

~~(6) An agent of the Department of Justice and other Federal law enforcement agencies, who possesses law enforcement powers and duties.~~

~~(7) Law enforcement authorities in other states.~~

~~"Mandatory reporter." Any of the following:~~

~~(1) Administrators and employees of a facility.~~

~~(2) Health care providers.~~

~~(3) A law enforcement official.~~

1 ~~"Neglect." The failure to provide for oneself or the failure~~
2 ~~of a caretaker to provide goods or services essential to avoid a~~
3 ~~clear and serious threat to physical or mental health.~~

4 ~~"Older adult." An individual residing within this~~
5 ~~Commonwealth who is 60 years of age or older.~~

6 ~~"Older adult in need of protective services." An older adult~~
7 ~~who is unable to perform or obtain services that are necessary~~
8 ~~to maintain physical or mental health, for whom there is no~~
9 ~~responsible caretaker and who is at risk of danger to self or~~
10 ~~property.~~

11 ~~"Protective services." Those activities, resources and~~
12 ~~supports provided to older adults under this chapter to detect,~~
13 ~~prevent, reduce or eliminate abuse, neglect, exploitation and~~
14 ~~abandonment.~~

15 ~~"Serious bodily injury." Injury which creates a substantial~~
16 ~~risk of death or which causes serious disfigurement of a body~~
17 ~~part or organ or protracted loss or impairment of the function~~
18 ~~of a body member or organ.~~

19 ~~"Service plan." As follows:~~

20 ~~(1) A written plan developed by an area agency on aging~~
21 ~~on the basis of a comprehensive assessment of an older adult~~
22 ~~that describes identified needs and specific services~~
23 ~~designed to support goal attainment, which includes regular~~
24 ~~follow up appointments and predetermined reassessment of~~
25 ~~progress.~~

26 ~~(2) As used in this definition, specific services~~
27 ~~designed to support goal attainment may include homemaker~~
28 ~~services, home delivered meals, personal care, other in home~~
29 ~~services, emergency shelter or food, legal aid services and~~
30 ~~transportation services.~~

1 ~~(3) Service plans shall be cooperatively developed by~~
2 ~~area agency on aging staff, the older adult or the older~~
3 ~~adult's legal representative, and other family members, if~~
4 ~~appropriate.~~

5 ~~(4) The service plan shall address special needs of~~
6 ~~other members of the household unit if they affect the older~~
7 ~~adult's need for protective services.~~

8 ~~"Suspicious death." A death which is unexpected with~~
9 ~~unexplained circumstances or cause.~~

10 ~~§ 6903. Intent.~~

11 ~~It is not the intent of this chapter to impose responsibility~~
12 ~~on any individual if the responsibility would not otherwise~~
13 ~~exist in law.~~

14 SUBCHAPTER B

15 DUTIES OF DEPARTMENT

16 Sec.

17 6910. Public education.

18 6911. Interdepartmental consultation.

19 6912. Training required.

20 6913. Confidentiality.

21 6914. Schedule.

22 6915. Employee disclosure.

23 6916. Disclosure form.

24 6917. Disclosure reporting.

25 6918. Supervision.

26 § 6910. Public education.

27 ~~The department shall conduct an ongoing campaign designed to~~
28 ~~inform and educate older adults, professionals and the general~~
29 ~~public about the need for and the availability of protective~~
30 ~~services under this chapter.~~

1 ~~§ 6911. Interdepartmental consultation.~~

2 ~~The following apply:~~

3 ~~(1) The department shall consult with other Commonwealth~~
4 ~~agencies on the design and implementation of the ongoing~~
5 ~~public awareness campaign.~~

6 ~~(2) The department shall consider the concerns of area~~
7 ~~agencies on aging on the design and implementation of the~~
8 ~~ongoing public awareness campaign.~~

9 ~~§ 6912. Training required.~~

10 ~~(a) Standards. The department shall establish minimum~~
11 ~~standards of experience and training that protective services~~
12 ~~providers receiving money from the department shall be required~~
13 ~~to follow in the selection and assignment of employees for the~~
14 ~~provision of protective services.~~

15 ~~(b) Mandatory reporters. The department shall establish a~~
16 ~~training program for mandatory reporters to inform employees~~
17 ~~about the requirement to report under this chapter.~~

18 ~~(c) Financial exploitation prevention. The department shall~~
19 ~~develop and provide training programs for the personnel of area~~
20 ~~agencies on aging regarding the identification and prevention of~~
21 ~~financial exploitation of older adults and on procedures to~~
22 ~~provide relief to older adults from financial exploitation.~~

23 ~~(d) Model training program.~~

24 ~~(1) The department shall establish a model training~~
25 ~~program for personnel of financial institutions regarding the~~
26 ~~identification and prevention of financial exploitation of~~
27 ~~older adults and on procedures to provide relief to older~~
28 ~~adults from financial exploitation, including guidelines~~
29 ~~regarding:~~

30 ~~(i) when to report suspected financial exploitation;~~

1 ~~(ii) to whom suspected financial exploitation should~~
2 ~~be reported;~~
3 ~~(iii) information that should be included in a~~
4 ~~report; and~~
5 ~~(iv) applicable laws, rules and regulations that~~
6 ~~must be followed while reporting suspected financial~~
7 ~~exploitation.~~

8 ~~(2) The department may adopt a national organization's~~
9 ~~training program as its model training program so long as the~~
10 ~~training is certified or accredited.~~

11 ~~§ 6913. Confidentiality.~~

12 ~~The department shall establish methods which shall be used by~~
13 ~~an area agency on aging, its designees and its service providers~~
14 ~~to ensure the privacy of older adults receiving services and the~~
15 ~~confidentiality of all records.~~

16 ~~§ 6914. Schedule.~~

17 ~~The department shall establish a schedule for the submission~~
18 ~~and approval of the plans associated with the development of~~
19 ~~training provided in section 6912 (relating to training~~
20 ~~required).~~

21 ~~§ 6915. Employee disclosure.~~

22 ~~The department shall develop a standardized form to be used~~
23 ~~by facilities for the written reporting by administrators and~~
24 ~~employees of any conviction for an offense enumerated under~~
25 ~~section 6960(c) (relating to criminal history). The form shall~~
26 ~~be published on the department's publicly accessible Internet~~
27 ~~website and in the Pennsylvania Bulletin.~~

28 ~~§ 6916. Disclosure form.~~

29 ~~(a) Form. The disclosure form shall contain a list of the~~
30 ~~prohibited offenses under section 6960(c) (relating to criminal~~

1 ~~history) and a space for the employee to indicate convictions.~~
2 ~~Administrators and employees who have not been convicted of any~~
3 ~~enumerated offense shall respond "no conviction."~~

4 ~~(b) Failure to report. The disclosure form shall state that~~
5 ~~administrators and employees who fail to accurately report any~~
6 ~~conviction for an offense enumerated under section 6960(b) shall~~
7 ~~subject the employee to criminal prosecution under 18 Pa.C.S. §~~
8 ~~4904 (relating to unsworn falsification to authorities).~~
9 ~~§ 6917. Disclosure reporting.~~

10 ~~The department shall require the following reporting:~~

11 ~~(1) Facilities shall require administrators and~~
12 ~~employees to complete and submit the disclosure form under~~
13 ~~section 6916 (relating to disclosure form) not later than 72~~
14 ~~hours after a conviction.~~

15 ~~(2) If an administrator or employee refuses to submit~~
16 ~~the disclosure form, the facility shall immediately require~~
17 ~~the administrator or employee to submit a current report of~~
18 ~~criminal history record information as required under section~~
19 ~~6960(a) (relating to criminal history).~~

20 ~~§ 6918. Supervision.~~

21 ~~The department shall develop guidelines regarding the~~
22 ~~supervision of applicants. Supervision shall include random~~
23 ~~direct supervision by an employee who has been employed by the~~
24 ~~facility for a period of at least one year.~~

25 ~~SUBCHAPTER C~~

26 ~~DUTIES OF AREA AGENCIES ON AGING~~

27 ~~Sec.~~

28 ~~6920. Receipt of reports.~~

29 ~~6921. Investigations.~~

30 ~~6922. Investigations involving facilities.~~

1 ~~6923. Investigations involving law enforcement officials.~~

2 ~~6924. Access to older adults.~~

3 ~~6925. Access to records.~~

4 ~~6926. Rights of older adults.~~

5 ~~6927. Confidentiality standards required.~~

6 ~~6928. Availability of protective services.~~

7 ~~§ 6920. Receipt of reports.~~

8 ~~The area agency on aging must be capable of electronically~~
9 ~~receiving reports of older adults in need of protective services~~
10 ~~at all times. This capability may include the use of a local~~
11 ~~emergency response system or a crisis intervention agency, if~~
12 ~~access can be made to a protective services caseworker in~~
13 ~~appropriate emergency situations, as set forth in regulations~~
14 ~~issued by the department. All reports received orally shall be~~
15 ~~documented in a manner set forth by the department.~~

16 ~~§ 6921. Investigations.~~

17 ~~An area agency on aging shall investigate each report in~~
18 ~~accordance with regulations issued by the department. The~~
19 ~~investigation shall be initiated within 72 hours after the~~
20 ~~receipt of the report and shall be carried out under regulations~~
21 ~~issued by the department. The regulations shall provide for the~~
22 ~~methods of conducting investigations and shall assure that steps~~
23 ~~are taken to avoid any conflict of interest. Consent of the~~
24 ~~older adult is not required in order to investigate reports of~~
25 ~~abuse, neglect, exploitation or abandonment.~~

26 ~~§ 6922. Investigations involving facilities.~~

27 ~~If the report concerns a facility, the area agency on aging~~
28 ~~shall notify the local ombudsman and the licensing agency.~~
29 ~~Investigations concerning facilities shall be conducted under~~
30 ~~procedures developed by the department in consultation with the~~

1 ~~Commonwealth agency with oversight authority for the facility.~~
2 ~~The department and any other Commonwealth agency shall share~~
3 ~~information with each other and with mandatory reporters,~~
4 ~~fiduciaries and financial institutions as necessary to ensure~~
5 ~~the health, safety and welfare of the older adult and to assist~~
6 ~~financial institutions and fiduciaries in exercising the~~
7 ~~financial institution's and fiduciaries' authority to prohibit~~
8 ~~disbursement of money and transactions as provided by section~~
9 ~~6952 (relating to authority to prohibit disbursement of money~~
10 ~~and transactions). Facilities shall take reasonable steps to~~
11 ~~protect older adults following receipt of a report of suspected~~
12 ~~abuse, neglect, exploitation or abandonment involving an~~
13 ~~employee, including a plan of supervision or suspension.~~
14 ~~§ 6923. Investigations involving law enforcement officials.~~

15 ~~The following shall apply:~~

16 ~~(1) To the extent possible, law enforcement officials,~~
17 ~~the area agency on aging and other mandatory reporters shall~~
18 ~~coordinate respective investigations and shall advise each~~
19 ~~other and provide applicable additional information on an~~
20 ~~ongoing basis.~~

21 ~~(2) Upon receiving a report of any of the following, the~~
22 ~~area agency on aging shall immediately notify a law~~
23 ~~enforcement official:~~

24 ~~(i) Suspicious death.~~

25 ~~(ii) Serious bodily injury.~~

26 ~~(iii) Sexual abuse.~~

27 ~~(iv) Financial exploitation.~~

28 ~~(3) (i) Following a referral to a law enforcement~~
29 ~~official, the area agency on aging shall contact a law~~
30 ~~enforcement official to obtain information about actions~~

1 ~~taken and the outcomes, including any decisions regarding~~
2 ~~criminal charges, and the law enforcement official shall~~
3 ~~provide the information to the extent that the~~
4 ~~information is available.~~

5 ~~(ii) To the extent a law enforcement agency~~
6 ~~exercises its discretion to not pursue, or to defer, a~~
7 ~~criminal investigation or prosecution, the area agency on~~
8 ~~aging may initiate civil proceedings to obtain a~~
9 ~~protective order, seek injunctive relief or seek~~
10 ~~compensation or restitution for damages from a person~~
11 ~~that abuses, neglects, abandons or exploits an older~~
12 ~~adult.~~

13 ~~(iii) The area agency on aging shall report the~~
14 ~~information under subparagraph (i) to the department in a~~
15 ~~manner prescribed by the department.~~

16 ~~§ 6924. Access to older adults.~~

17 ~~The following apply:~~

18 ~~(1) The area agency on aging shall have direct access to~~
19 ~~older adults who have been reported to be in need of~~
20 ~~protective services in order to:~~

21 ~~(i) Investigate reports.~~

22 ~~(ii) Assess needs of the older adult and develop a~~
23 ~~service plan for addressing those needs.~~

24 ~~(iii) Provide for the delivery of services by the~~
25 ~~area agency on aging or other service provider as~~
26 ~~provided for under the service plan.~~

27 ~~(2) If the area agency on aging is denied access to an~~
28 ~~older adult reported to be in need of protective services,~~
29 ~~the area agency on aging may petition the court for an order~~
30 ~~to require any of the following:~~

1 ~~(i) Access to the older adult.~~

2 ~~(ii) A medical evaluation of the older adult.~~

3 ~~(iii) A psychiatric evaluation of the older adult.~~

4 ~~§ 6925. Access to records.~~

5 ~~(a) Area agency on aging access. The area agency on aging~~
6 ~~shall, subject to the consent of the older adult, have access to~~
7 ~~all records for the purposes of:~~

8 ~~(1) Assessing an older adult's need for services.~~

9 ~~(2) Planning and delivery of services.~~

10 ~~(3) Investigating reports.~~

11 ~~(b) Refusal. The following apply:~~

12 ~~(1) If an older adult refuses to provide consent, the~~
13 ~~department or the area agency on aging may file a petition~~
14 ~~with the court of common pleas in the county where the older~~
15 ~~adult resides for an order compelling the production of~~
16 ~~records. Upon the issuance of the order, the department or~~
17 ~~the area agency on aging shall have access to all records~~
18 ~~reasonably necessary for the purposes of investigating~~
19 ~~reports.~~

20 ~~(2) If a record custodian refuses to comply with an~~
21 ~~order, the area agency on aging may file a petition with the~~
22 ~~court of common pleas in the county where the older adult~~
23 ~~resides for an order compelling the production of records.~~
24 ~~The area agency on aging or the department shall compensate~~
25 ~~the record custodian for actual costs of producing records,~~
26 ~~or amounts as set forth by regulations adopted by the~~
27 ~~department.~~

28 ~~(3) If any other entity or individual denies access to~~
29 ~~the older adult's records, the area agency on aging may~~
30 ~~petition the court for an order to require access.~~

1 ~~(c) Request of certain records. Records of State agencies,~~
2 ~~private organizations, financial institutions, fiduciaries,~~
3 ~~medical institutions and practitioners and persons reasonably~~
4 ~~suspected of engaging in or facilitating the abuse, neglect,~~
5 ~~exploitation or abandonment of an older adult, which the area~~
6 ~~agency on aging reasonably believes to be necessary to complete~~
7 ~~an investigation or assessment and service plan, shall be~~
8 ~~requested in written form and be made available to the area~~
9 ~~agency on aging unless the disclosure would be prohibited by any~~
10 ~~other provision of Federal or State law. Except as provided by a~~
11 ~~court order, access to financial records shall be limited to~~
12 ~~records relating to the most recent transaction or transactions~~
13 ~~that may comprise financial exploitation, not to exceed 30~~
14 ~~calendar days prior to the first transaction that was reported~~
15 ~~or 30 calendar days after the last transaction that was~~
16 ~~reported.~~

17 ~~(d) Involuntary denial. If the area agency on aging can~~
18 ~~demonstrate that the older adult has denied access to the older~~
19 ~~adult's records because of incompetence, coercion, extortion or~~
20 ~~justifiable fear, the area agency on aging shall have access to~~
21 ~~all records reasonably necessary for the purposes of~~
22 ~~investigating reports. If the older adult denying access to~~
23 ~~records is competent, the area agency on aging may petition the~~
24 ~~court for an order to require access.~~

25 ~~(e) Compensation. The area agency on aging or the~~
26 ~~department shall compensate any person requested or ordered to~~
27 ~~provide records to the area agency on aging for the reasonable~~
28 ~~costs of producing records in a manner consistent with the~~
29 ~~requirements of section 1115(a) of the Right to Financial~~
30 ~~Privacy Act (Public Law 95-630, 12 U.S.C. § 3415).~~

1 ~~§ 6926. Rights of older adults.~~

2 ~~(a) Notification. The area agency on aging shall discreetly~~
3 ~~notify the older adult during the investigation that a report~~
4 ~~has been made and shall provide the older adult with a brief~~
5 ~~summary of the nature of the report.~~

6 ~~(b) Information. As provided in section 6934 (relating to~~
7 ~~confidentiality of records), the older adult who is the subject~~
8 ~~of a report, or the older adult's guardian, if the guardian is~~
9 ~~not named in the report, may receive, upon written request, all~~
10 ~~information contained in the report of need except information~~
11 ~~that would identify the person who made a report of suspected~~
12 ~~abuse, neglect, exploitation or abandonment or persons who~~
13 ~~cooperated in a subsequent investigation.~~

14 ~~(c) Appeal. Any denial of services by the department or an~~
15 ~~area agency on aging under this subchapter may be appealed~~
16 ~~according to the provisions of the rules and regulations issued~~
17 ~~by the department under Article XXII A of the act of April 9,~~
18 ~~1929 (P.L.177, No.175), known as The Administrative Code of~~
19 ~~1929.~~

20 ~~§ 6927. Confidentiality standards required.~~

21 ~~The area agencies on aging shall utilize the department's~~
22 ~~confidentiality standards established under section 6913~~
23 ~~(relating to confidentiality).~~

24 ~~§ 6928. Availability of protective services.~~

25 ~~The area agency on aging shall offer protective services~~
26 ~~under any of the following conditions:~~

27 ~~(1) An older adult requests the services.~~

28 ~~(2) Another interested person requests the services on~~
29 ~~behalf of an older adult.~~

30 ~~(3) After investigation of a report, the area agency on~~

~~aging determines the older adult is in need of the services.~~

~~SUBCHAPTER D~~

~~PROTECTIVE SERVICES~~

~~Sec.~~

~~6930. Consent by request.~~

~~6931. Interference with services.~~

~~6932. Financial obligations, liabilities and payments.~~

~~6933. Involuntary intervention by emergency court order.~~

~~6934. Confidentiality of records.~~

~~§ 6930. Consent by request.~~

~~An individual shall receive protective services voluntarily unless the services are ordered by a court of competent jurisdiction or requested by the older adult's legal representative.~~

~~§ 6931. Interference with services.~~

~~If any person interferes with the provision of services or interferes with the right of an older adult to consent to provision of services, the area agency on aging may petition the court for an order enjoining the interference.~~

~~§ 6932. Financial obligations, liabilities and payments.~~

~~All older adults receiving services and all agencies providing services under this subchapter shall comply with the following provisions regarding liability for the payment of services:~~

~~(1) Funding to provide or make available protective services under this subchapter shall not be used in place of any public or private entitlements or benefits for which the older adult receiving protective services under this subchapter is or may be eligible.~~

~~(2) Funding available to local protective services~~

~~1 agencies under this subchapter may be used to cover the costs
2 of activities, including, but not limited to:~~

~~3 (i) Administering protective services plans.~~

~~4 (ii) Receiving and maintaining records of reports of
5 abuse, neglect, exploitation and abandonment.~~

~~6 (iii) Conducting investigations of reported abuse,
7 neglect, exploitation and abandonment.~~

~~8 (iv) Carrying out assessments and developing service
9 plans.~~

~~10 (v) Petitioning the court.~~

~~11 (vi) Providing for emergency involuntary
12 intervention.~~

~~13 (vii) Arranging for available services needed to
14 carry out service plans, which may include arranging for
15 services for other persons in order to reduce, correct or
16 eliminate abuse, neglect, exploitation or abandonment of
17 an older adult.~~

~~18 (viii) Purchasing, on a temporary basis, services
19 determined by a service plan to be necessary to reduce,
20 correct or eliminate abuse, neglect, exploitation or
21 abandonment of an older adult when the services are not
22 available within the existing resources of the area
23 agency on aging or other appropriate provider. Purchase
24 of services under this provision is limited to a 30 day
25 period which may be renewed with adequate justification
26 under regulations issued by the department.~~

~~27 (3) Older adults receiving protective services shall not
28 be required to pay a fee for any services received by other
29 older adults when the receipt of the services by others is
30 not subject to cost sharing.~~

1 ~~§ 6933. Involuntary intervention by emergency court order.~~

2 ~~(a) Emergency petition. An area agency on aging may~~
3 ~~petition a court of common pleas for an emergency order to~~
4 ~~provide protective services to an older adult who is at imminent~~
5 ~~risk of death, sexual abuse, serious bodily injury or financial~~
6 ~~exploitation. The court of common pleas shall grant the area~~
7 ~~agency on aging's petition if it finds, by clear and convincing~~
8 ~~evidence, that failure to provide protective services will place~~
9 ~~the older adult at imminent risk of death, sexual abuse, serious~~
10 ~~bodily injury or financial exploitation. The courts of common~~
11 ~~pleas of each judicial district shall ensure that a judge or~~
12 ~~magisterial district judge is available at all times to accept~~
13 ~~and rule on petitions for emergency court orders under this~~
14 ~~section whenever the area agency on aging determines that a~~
15 ~~delay until normal court hours may significantly increase danger~~
16 ~~to the older adult.~~

17 ~~(b) Limited order. The court, after finding clear and~~
18 ~~convincing evidence of the need for an emergency order, shall~~
19 ~~order only services necessary to remove the conditions creating~~
20 ~~the established need.~~

21 ~~(c) Right to counsel. In order to protect the rights of an~~
22 ~~older adult for whom protective services are being ordered, an~~
23 ~~emergency court order under this section shall provide that the~~
24 ~~older adult has the right to legal counsel. If the older adult~~
25 ~~is unable to provide for counsel, counsel shall be appointed by~~
26 ~~the court.~~

27 ~~(d) Forcible entry. If it is necessary to forcibly enter~~
28 ~~premises after obtaining a court order, a law enforcement~~
29 ~~official may do so, accompanied by a representative of the area~~
30 ~~agency on aging.~~

1 ~~(e) Health and safety requirements. The area agency on~~
2 ~~aging shall take reasonable steps to ensure that while the older~~
3 ~~adult is receiving services under an emergency court order, the~~
4 ~~health and safety needs of any of the older adult's dependents~~
5 ~~are met and that the personal property and dwelling of the older~~
6 ~~adult are secure.~~

7 ~~§ 6934. Confidentiality of records.~~

8 ~~(a) Requirement. Information contained in reports, records~~
9 ~~of investigation, assessments and service plans created under~~
10 ~~this subchapter shall be considered confidential and shall be~~
11 ~~maintained under regulations issued by the department. Except as~~
12 ~~provided below, this information shall be disclosed by area~~
13 ~~agency on aging staff for the purposes of development and~~
14 ~~implementation of protective services. The department or the~~
15 ~~area agency on aging may not release information that could be~~
16 ~~detrimental to the older adult except that the information shall~~
17 ~~be released to a law enforcement official under subsection (b)~~
18 ~~(2) and may be used by the department in civil proceedings,~~
19 ~~subject to protective orders. All information contained in~~
20 ~~protective service records is subject to other Federal and State~~
21 ~~confidentiality and security laws.~~

22 ~~(b) Release of protective services records. Protective~~
23 ~~services records may be provided as follows:~~

24 ~~(1) Protective services records may be provided to a~~
25 ~~court of competent jurisdiction or to another party pursuant~~
26 ~~to court order. A subpoena, other than a grand jury subpoena,~~
27 ~~shall not be a court order for purposes of this section.~~

28 ~~(2) Protective services records may be provided to law~~
29 ~~enforcement officials or a coroner if the information is~~
30 ~~relevant to the official's or coroner's investigation of~~

1 ~~abuse, neglect, exploitation or abandonment of the older~~
2 ~~adult.~~

3 ~~(3) In arranging specific services to carry out service~~
4 ~~plans, the area agency on aging may disclose information to~~
5 ~~appropriate service providers as may be necessary to initiate~~
6 ~~the delivery of services.~~

7 ~~(4) The older adult who is the subject of a report or~~
8 ~~the older adult's guardian may receive, upon written request,~~
9 ~~all information contained in the report of need except~~
10 ~~information that would identify the person who made a report~~
11 ~~of suspected abuse, neglect, exploitation or abandonment or~~
12 ~~persons who cooperated in a subsequent investigation.~~

13 ~~(5) A person who made a report of suspected abuse,~~
14 ~~neglect, exploitation or abandonment may receive, upon~~
15 ~~written request, confirmation that the report was received~~
16 ~~and the area agency on aging is acting in accordance with~~
17 ~~this subchapter.~~

18 ~~(6) For the purposes of monitoring agency performance or~~
19 ~~conducting other official duties, appropriate staff of the~~
20 ~~department, as designated by the Secretary of Aging, may~~
21 ~~access protective services records.~~

22 ~~(7) The department or the area agency on aging may~~
23 ~~collaborate or share information included in protective~~
24 ~~services records with Commonwealth agencies for purposes of~~
25 ~~official Commonwealth business.~~

26 ~~(8) The department or the area agency on aging may share~~
27 ~~protective services records with another area agency on aging~~
28 ~~that is performing responsibilities under this subchapter~~
29 ~~relevant to older adults within their jurisdictions.~~

30 ~~(9) An employee of an agency of another state who~~

1 ~~performs older adult protective services similar to those~~
2 ~~under this subchapter may access protective services records~~
3 ~~relevant to older adults within their jurisdiction.~~

4 ~~(10) Protective services records may be provided to a~~
5 ~~health care provider who is examining or treating the older~~
6 ~~adult and who suspects that the older adult is in need of~~
7 ~~protection under this subchapter.~~

8 ~~(11) Protective services records may be provided to the~~
9 ~~director, or an individual specifically designated in writing~~
10 ~~by the director, of any hospital or other medical institution~~
11 ~~where the older adult is being treated if the director or~~
12 ~~designee suspects that the recipient is in need of protection~~
13 ~~under this chapter.~~

14 ~~(12) Protective services records may be provided to a~~
15 ~~financial institution or fiduciary as necessary to exercise~~
16 ~~the authority to prohibit disbursement of money and~~
17 ~~transactions provided under section 6952 (relating to~~
18 ~~authority to prohibit disbursement of money and~~
19 ~~transactions).~~

20 SUBCHAPTER E

21 REPORTING

22 ~~Sec.~~

23 ~~6940. Voluntary reporting.~~

24 ~~6941. Mandatory reporting.~~

25 ~~6942. Mandatory reporting to law enforcement officials and~~
26 ~~department.~~

27 ~~6943. Contents of reports.~~

28 ~~6944. Mandatory reporter training.~~

29 ~~6945. Coroner.~~

30 ~~6946. Protecting identity of reporter and cooperating~~

1 witnesses.

2 § 6940. Voluntary reporting.

3 Any person having reasonable cause to suspect that an older
4 adult may be a victim of suspicious death, serious bodily
5 injury, sexual abuse or financial exploitation may report the
6 information to the area agency on aging.

7 § 6941. Mandatory reporting.

8 A mandatory reporter who has reasonable cause to suspect that
9 an older adult may be a victim of abuse, neglect, exploitation
10 or abandonment shall immediately make an oral report to the area
11 agency on aging. If applicable, the area agency on aging shall
12 advise the mandatory reporter of additional reporting
13 requirements that may apply under section 6942 (relating to
14 mandatory reporting to law enforcement officials and
15 department). Within 48 hours of making the oral report, the
16 mandatory reporter shall make a written report to the area
17 agency on aging.

18 § 6942. Mandatory reporting to law enforcement officials and
19 department.

20 In addition to the report under section 6941 (relating to
21 mandatory reporting), a mandatory reporter who has reasonable
22 cause to suspect that an older adult may be a victim of
23 suspicious death, serious bodily injury, sexual abuse or
24 financial exploitation shall immediately contact law enforcement
25 officials and the department to make an oral report. Within 48
26 hours of making the oral report, the mandatory reporter shall
27 make a written report to appropriate law enforcement officials
28 and to the area agency on aging. The area agency on aging shall
29 forward the report to the department within 48 hours of receipt.

30 § 6943. Contents of reports.

1 ~~A written mandatory report under this section shall be in a~~
2 ~~manner and on forms prescribed by the department. At a minimum,~~
3 ~~the report shall include the following information, as well as~~
4 ~~anything additional required by regulation:~~

5 ~~(1) Name, age, sex and address of the older adult.~~

6 ~~(2) Name and address of the older adult's legal~~
7 ~~representative or next of kin.~~

8 ~~(3) Name and address of the facility, if applicable.~~

9 ~~(4) Nature and location of the reported incident and any~~
10 ~~specific comments or observations that are directly related~~
11 ~~to the alleged incident and the older adult involved.~~

12 ~~(5) Any relevant information known related to the~~
13 ~~identity of the alleged perpetrator, including, but not~~
14 ~~limited to, name, age, sex and relationship to the older~~
15 ~~adult.~~

16 ~~(6) Name of the individual making the report, contact~~
17 ~~information for the reporter and information regarding any~~
18 ~~actions taken by the reporter in response to the incident.~~

19 ~~§ 6944. Mandatory reporter training.~~

20 ~~Mandatory reporters shall be trained on the requirements to~~
21 ~~report identified within this subchapter.~~

22 ~~§ 6945. Coroner.~~

23 ~~For a report under this section that concerns the death of an~~
24 ~~older adult, if there is reasonable cause to suspect that the~~
25 ~~older adult died as a result of abuse, neglect, exploitation or~~
26 ~~abandonment, the area agency on aging shall give the oral report~~
27 ~~and forward a copy of the written report to the appropriate~~
28 ~~coroner within 24 hours.~~

29 ~~§ 6946. Protecting identity of reporter and cooperating~~
30 ~~witnesses.~~

1 ~~(a) Prohibition. Except for disclosures to law enforcement~~
2 ~~officials, the release of records that would identify the~~
3 ~~individual who made a report under this subchapter or an~~
4 ~~individual who cooperated in a subsequent investigation is~~
5 ~~prohibited.~~

6 ~~(b) Identity protection. If records are provided pursuant~~
7 ~~to court order, the identity of the reporter and cooperating~~
8 ~~witnesses shall be deleted, unless otherwise ordered by the~~
9 ~~court after an in camera review.~~

10 SUBCHAPTER F

11 FINANCIAL INSTITUTIONS AND FIDUCIARIES

12 Sec.

13 6950. Financial institution employee training.

14 6951. Regulated financial institutions.

15 6952. Authority to prohibit disbursement of money and
16 transactions.

17 6953. Immunity.

18 6954. Release of nonpublic personal information.

19 § 6950. Financial institution employee training.

20 Each financial institution with employees in this
21 Commonwealth, or with employees regularly engaging in financial
22 transactions with, or on behalf of, older adults in this
23 Commonwealth, shall adopt and implement a training program
24 developed by the department for the employees of the financial
25 institution to:

26 (1) identify activities that constitute the financial
27 exploitation of older adults;

28 (2) recognize financial exploitation of older adults;

29 (3) prevent and deter the financial exploitation of
30 older adults; and

~~(4) respond to suspected cases of financial exploitation of older adults.~~

~~§ 6951. Regulated financial institutions.~~

~~A financial institution subject to visitorial examination by a regulatory authority that incorporates the training activities required by section 6950 (relating to financial institution employee training) into its employee training program to control fraud and money laundering shall be deemed to be in compliance with section 6950.~~

~~§ 6952. Authority to prohibit disbursement of money and transactions.~~

~~The following apply:~~

~~(1) If a financial institution or fiduciary reasonably believes that financial exploitation of an older adult may have occurred, may have been attempted, or is being attempted, pending an investigation by the financial institution or fiduciary, the area agency on aging or a law enforcement official, the financial institution or fiduciary may, but is not required to, refuse to disburse money or engage in a transaction as appropriate to prevent financial exploitation of an older adult with respect to the account:~~

~~(i) of the older adult;~~

~~(ii) on which the older adult is a beneficiary, including a trust or guardianship account; or~~

~~(iii) of a person suspected of perpetrating financial exploitation of an older adult.~~

~~(2) A financial institution or fiduciary may, but is not required to, refuse to disburse money or engage in a transaction under this section if the area agency on aging or a law enforcement official requests the financial institution~~

~~to do so or provides information to the financial institution demonstrating that it is reasonable to believe that financial exploitation of an older adult may have occurred, may have been attempted or is being attempted.~~

~~(3) A financial institution or fiduciary is not required to refuse to disburse money or engage in a transaction when provided with information alleging that financial exploitation of an older adult may have occurred, may have been attempted or is being attempted, but may use its discretion to determine whether or not to refuse to disburse money or engage in a transaction based on the information available to the financial institution or fiduciary.~~

~~(4) Except as prohibited by Federal or State law, a financial institution or fiduciary that refuses to disburse money or engage in a transaction based on a reasonable belief that financial exploitation of an older adult may have occurred, may have been attempted, or is being attempted shall:~~

~~(i) Make a reasonable effort to notify all parties authorized to transact business on the account.~~

~~(ii) Report the incident to the area agency on aging or law enforcement officials.~~

~~(5) Any refusal to disburse money or engage in a transaction as authorized by this section based on the reasonable belief of a financial institution or fiduciary that financial exploitation of an older adult may have occurred, may have been attempted or is being attempted shall expire upon the sooner of:~~

~~(i) fifteen business days after the date on which the financial institution or fiduciary first refused to~~

1 ~~disburse the money or engage in a transaction, unless~~
2 ~~sooner terminated or extended by an order of a court of~~
3 ~~competent jurisdiction, a law enforcement official, the~~
4 ~~department, or the area agency on aging. An additional 30~~
5 ~~business days shall be permitted, if requested by a law~~
6 ~~enforcement official, the department or the area agency~~
7 ~~on aging, or following the submission of an application~~
8 ~~for a court order further extending the time period; or~~
9 ~~(ii) the time when the financial institution or~~
10 ~~fiduciary is satisfied that the disbursement will not~~
11 ~~result in financial harm of an older adult.~~

12 ~~(6) A court of competent jurisdiction may enter an order~~
13 ~~extending the refusal by the financial institution to~~
14 ~~disburse money based on a reasonable belief that financial~~
15 ~~exploitation of an older adult may have occurred, may have~~
16 ~~been attempted or is being attempted. A court of competent~~
17 ~~jurisdiction may also order other protective relief as~~
18 ~~authorized.~~

19 ~~§ 6953. Immunity.~~

20 ~~(a) Damages. Except as provided by subsection (c), a~~
21 ~~financial institution or fiduciary, and its directors, officers,~~
22 ~~employees or agents shall not be subject to a claim for damages~~
23 ~~or other civil or criminal liability for:~~

24 ~~(1) The identification of or failure to identify the~~
25 ~~financial exploitation of an older adult.~~

26 ~~(2) A decision on whether to make a report under section~~
27 ~~6940 (relating to voluntary reporting).~~

28 ~~(3) A refusal to disburse money or engage in a~~
29 ~~transaction under section 6952 (relating to authority to~~
30 ~~prohibit disbursement of money and transactions) or a~~

~~1 decision to allow the disbursement of money or the conduct of
2 a transaction under section 6952.~~

~~3 (4) The release of information to a law enforcement
4 agency, the department or the area agency on aging as
5 authorized by this chapter.~~

~~6 (b) Additional immunities and defense. Notwithstanding any
7 other law to the contrary:~~

~~8 (1) The refusal by a financial institution to engage in
9 a transaction authorized under this subsection shall not
10 constitute the wrongful dishonor of an item under 13 Pa.C.S.
11 § 4402 (relating to liability of bank to customer for
12 wrongful dishonor; time of determining insufficiency of
13 account).~~

~~14 (2) A reasonable belief that payment of a check will
15 facilitate the financial exploitation of an older adult shall
16 constitute reasonable grounds to doubt the collectibility of
17 the item for purposes of the Expedited Funds Availability Act
18 (Public Law 100-86, 12 U.S.C. § 4001 et seq.), the Check
19 Clearing for the 21st Century Act (Public Law 108-100, 12
20 U.S.C. § 5001 et seq.) and 12 CFR Pt. 229 (relating to
21 availability of funds and collection of checks (Regulation
22 CC)).~~

~~23 (c) Limitation. The immunities and defenses provided under
24 this section shall not apply to a director, officer, employee or
25 agent of a financial institution or fiduciary who has been found
26 to have engaged in financial exploitation of an older adult.~~

~~27 (d) Standing. A financial institution, fiduciary or
28 mandatory reporter may initiate a proceeding in a court of
29 competent jurisdiction to obtain protective services for an
30 older adult in need of protective services, prohibit the~~

~~1 disbursement of money or transactions that may result in the
2 financial exploitation of an older adult or request the review
3 of an order issued under this chapter or other law to protect an
4 older adult from suspected financial exploitation.~~

~~5 (c) Suspicious activity reports. The department shall use
6 its best efforts to enter into a cooperative agreement with the
7 United States Department of the Treasury to receive or access
8 suspicious activity reports filed by financial institutions with
9 the United States Department of the Treasury. Except as
10 prohibited by Federal law, any other Commonwealth agency which
11 receives or is granted access to the reports from the United
12 States Department of the Treasury shall make the reports or
13 access to the reports available to the department to facilitate
14 the discharge of the department's duties under this chapter.
15 § 6954. Release of nonpublic personal information.~~

~~16 A financial institution may release nonpublic personal
17 information when reporting a known or suspected instance of
18 financial exploitation of an older adult or when cooperating
19 with an area agency on aging or law enforcement official
20 investigation of known or suspected financial exploitation of an
21 older adult.~~

~~22 SUBCHAPTER G~~

~~23 CRIMINAL HISTORY~~

~~24 Sec.~~

~~25 6960. Criminal history.~~

~~26 § 6960. Criminal history.~~

~~27 (a) General rule. Prior to hiring or engaging an applicant,
28 a facility shall require the applicant, owner or operator to
29 submit the following information obtained within the preceding
30 one year period:~~

1 ~~(1) Under 18 Pa.C.S. Ch. 91 (relating to criminal~~
2 ~~history record information), a report of criminal history~~
3 ~~record information from the Pennsylvania State Police or a~~
4 ~~statement from the Pennsylvania State Police that its central~~
5 ~~repository contains no information relating to the applicant.~~

6 ~~(2) Federal criminal history record information pursuant~~
7 ~~to applicable Federal law. The following apply:~~

8 ~~(i) The department shall serve as the intermediary~~
9 ~~under this section. The applicant shall submit a full set~~
10 ~~of fingerprints to the Federal Bureau of Investigation in~~
11 ~~a manner designated by the department.~~

12 ~~(ii) Criminal history information shall be used by~~
13 ~~the department to determine the applicant's eligibility~~
14 ~~for employment with a facility. The employment~~
15 ~~determination shall be provided to the facility and the~~
16 ~~applicant prior to commencement of employment. The~~
17 ~~facility shall ensure confidentiality of the information.~~

18 ~~(3) Additional applicant information from a court or~~
19 ~~other authority as required by the department and within the~~
20 ~~time frame designated by the department. Failure to provide~~
21 ~~the requested information within the time frame designated by~~
22 ~~the department may result in employment ineligibility.~~

23 ~~(b) Applicability. The provisions of 18 Pa.C.S. § 9121(b)~~
24 ~~(2) (relating to general regulations) shall not apply to~~
25 ~~criminal history information or other criminal history record~~
26 ~~information requested or received under subsection (a).~~

27 ~~(c) Prohibited offenses. The following offenses and Federal~~
28 ~~or out of State offenses similar in nature are prohibited, as~~
29 ~~follows:~~

30 ~~(1) Fifteen year employment restriction. A facility may~~

1 ~~not hire or engage an applicant required to submit~~
2 ~~information required under this chapter for a period of 15-~~
3 ~~years following the date of conviction if the applicant's~~
4 ~~criminal history record information indicates the applicant~~
5 ~~has been convicted of an offense or attempt, solicitation or~~
6 ~~conspiracy to commit an offense under one of the following~~
7 ~~provisions of 18 Pa.C.S. (relating to crimes and offenses):~~

8 ~~Chapter 25 (relating to criminal homicide).~~

9 ~~Chapter 26 (relating to crimes against unborn child).~~

10 ~~Section 2702 (relating to aggravated assault).~~

11 ~~Section 2713 (relating to neglect of care dependent~~
12 ~~person).~~

13 ~~Section 2715 (relating to threat to use weapons of~~
14 ~~mass destruction).~~

15 ~~Section 2716 (relating to weapons of mass~~
16 ~~destruction).~~

17 ~~Section 2717 (relating to terrorism).~~

18 ~~Section 2901 (relating to kidnapping).~~

19 ~~Section 3121 (relating to rape).~~

20 ~~Section 3122.1 (relating to statutory sexual~~
21 ~~assault).~~

22 ~~Section 3123 (relating to involuntary deviate sexual~~
23 ~~intercourse).~~

24 ~~Section 3124.1 (relating to sexual assault).~~

25 ~~Section 3125 (relating to aggravated indecent~~
26 ~~assault).~~

27 ~~Section 3126 (relating to indecent assault).~~

28 ~~Section 3212 (relating to infanticide).~~

29 ~~Section 4302 (relating to incest).~~

30 ~~Section 4303 (relating to concealing death of child).~~

1 ~~Section 4304 (relating to endangering welfare of~~
2 ~~children).~~

3 ~~Section 4305 (relating to dealing in infant~~
4 ~~children).~~

5 ~~Section 5510 (relating to abuse of corpse).~~

6 ~~Section 6312 (relating to sexual abuse of children).~~

7 ~~(2) Ten year employment restriction. A facility shall~~
8 ~~not hire or engage an applicant required to submit criminal~~
9 ~~history information required under this chapter for a period~~
10 ~~of 10 years from the date of conviction if the applicant's~~
11 ~~criminal history record information indicates that the~~
12 ~~applicant has been convicted of an offense or attempt,~~
13 ~~solicitation or conspiracy to commit an offense under one of~~
14 ~~the following provisions of 18 Pa.C.S.:~~

15 ~~Two or more misdemeanors under section 2705 (relating~~
16 ~~to recklessly endangering another person).~~

17 ~~Section 2902 (relating to unlawful restraint).~~

18 ~~Section 3127 (relating to indecent exposure).~~

19 ~~Section 3301 (relating to arson and related~~
20 ~~offenses).~~

21 ~~Section 3502 (relating to burglary).~~

22 ~~Section 3701 (relating to robbery).~~

23 ~~A felony offense under Chapter 39 (relating to theft~~
24 ~~and related offenses).~~

25 ~~Two or more misdemeanors under Chapter 39.~~

26 ~~Section 4101 (relating to forgery).~~

27 ~~Section 4106 (relating to access device fraud).~~

28 ~~Section 4114 (relating to securing execution of~~
29 ~~documents by deception).~~

30 ~~Section 4120 (relating to identity theft).~~

~~Section 4952 (relating to intimidation of witnesses or victims).~~

~~Section 4953 (relating to retaliation against witness, victim or party).~~

~~A felony offense under section 5902(b) (relating to prostitution and related offenses).~~

~~Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).~~

~~Section 6301 (relating to corruption of minors).~~

~~(3) Five year employment restriction. A facility shall not hire or engage an applicant required to submit criminal history information required under this chapter for a period of five years from the date of conviction if the applicant's criminal history record information indicates that the applicant has been convicted of an offense or attempt, solicitation or conspiracy to commit an offense under one of the following provisions:~~

~~(i) Any of the following provisions of 75 Pa.C.S. (relating to vehicles):~~

~~Section 3735 (relating to homicide by vehicle while driving under influence).~~

~~Section 3735.1 (relating to aggravated assault by vehicle while driving under the influence).~~

~~Section 3742 (relating to accidents involving death or personal injury).~~

~~A misdemeanor graded at the second degree or higher under section 3802 (relating to driving under influence of alcohol or controlled substance).~~

~~(ii) An offense designated as a felony under the act of April 14, 1972 (P.L.233, No.64), known as The~~

~~Controlled Substance, Drug, Device and Cosmetic Act.~~

~~(d) Exemptions. A facility may hire an applicant subject to an employment restriction under subsection (c) prior to the expiration of the restriction period if the facility documents the facility's consideration of information provided by the applicant on an employer discretion form, related to the following:~~

- ~~(i) nature of the crime;~~
- ~~(ii) facts surrounding the conviction;~~
- ~~(iii) time elapsed since the conviction;~~
- ~~(iv) the evidence of the individual's rehabilitation; and~~
- ~~(v) the nature and requirements of the job.~~

~~(e) Penalties.~~

~~(1) An administrator or employee who discloses a conviction for an offense enumerated under subsection (c) shall be subject to termination.~~

~~(2) An administrator or employee who willfully fails to disclose a conviction for an offense enumerated under subsection (c) shall be subject to termination and may be subject to criminal prosecution under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).~~

~~(f) Provisional employees for limited periods. The following apply:~~

~~(1) An administrator may employ an applicant, other than an applicant who is a direct care worker referred by a home care registry to provide home care services to a consumer, on a provisional basis for a single period not to exceed 90 days if all of the following conditions are met:~~

- ~~(i) The applicant has applied for a criminal history~~

1 ~~report required under subsection (a) (1) and (2) and~~
2 ~~provided the facility with a copy of the completed~~
3 ~~request forms.~~

4 ~~(ii) The facility has no knowledge about the~~
5 ~~applicant that would disqualify the applicant from~~
6 ~~provisional employment under 18 Pa.C.S. § 4911 (relating~~
7 ~~to tampering with public records or information).~~

8 ~~(iii) The applicant swears or affirms in writing~~
9 ~~that the applicant is not disqualified from employment~~
10 ~~under this subchapter.~~

11 ~~(2) If the information obtained from the criminal~~
12 ~~history report reveals that the applicant is disqualified~~
13 ~~from employment, the applicant shall be terminated~~
14 ~~immediately.~~

15 ~~(g) Supervision. The department shall develop guidelines~~
16 ~~regarding the supervision of provisional employees. Supervision~~
17 ~~shall include random direct supervision by an employee who has~~
18 ~~been employed by the facility for a period of at least one year.~~

19 SUBCHAPTER H

20 REMEDIES

21 Sec.

22 6970. Penalties.

23 6971. Immunity from civil and criminal liability.

24 § 6970. Penalties.

25 (a) Civil penalties.

26 (1) A mandatory reporter who fails to comply or
27 obstructs compliance with the provisions of this chapter or
28 who intimidates or commits a retaliatory act against an
29 individual who complies in good faith with the provisions of
30 this chapter commits a violation of this chapter and shall be

1 ~~subject to an administrative penalty. The department shall~~
2 ~~have jurisdiction to determine violations of this chapter and~~
3 ~~may issue an order assessing a civil penalty of not more than~~
4 ~~\$5,000. An order under this paragraph is subject to 2 Pa.C.S.~~
5 ~~Chs. 5 Subch. A (relating to practice and procedure of~~
6 ~~Commonwealth agencies) and 7 Subch. A (relating to judicial~~
7 ~~review of Commonwealth agency action).~~

8 ~~(2) Each Commonwealth agency which licenses a facility~~
9 ~~shall have jurisdiction regarding violations of section 6960~~
10 ~~(relating to criminal history) and may issue an order~~
11 ~~assessing a civil penalty not to exceed \$5,000.~~

12 ~~(3) An older adult or any person making a report or~~
13 ~~cooperating with the area agency on aging, including~~
14 ~~providing testimony in any administrative or judicial~~
15 ~~proceeding, shall be free from any discriminatory,~~
16 ~~retaliatory or disciplinary action by an employer or by any~~
17 ~~other person. Any person who violates this paragraph shall be~~
18 ~~subject to a civil action by the reporter or the older adult.~~
19 ~~The reporter or older adult shall recover treble compensatory~~
20 ~~damages, compensatory and punitive damages or \$5,000,~~
21 ~~whichever is greater.~~

22 ~~(4) Any person, including the older adult, with~~
23 ~~knowledge sufficient to justify making a report or~~
24 ~~cooperating with the area agency on aging, including~~
25 ~~providing testimony in any administrative or judicial~~
26 ~~proceeding, shall be free from any intimidation by an~~
27 ~~employer or by any other person. Any person who violates this~~
28 ~~paragraph shall be subject to a civil action by the person~~
29 ~~intimidated or the older adult. The person intimidated or the~~
30 ~~older adult shall recover treble compensatory damages,~~

1 ~~compensatory and punitive damages or \$5,000, whichever is~~
2 ~~greater.~~

3 ~~(b) Criminal penalties.—~~

4 ~~(1) A mandatory reporter under this chapter who~~
5 ~~intentionally fails to report suspected abuse, neglect,~~
6 ~~exploitation or abandonment commits a summary offense for the~~
7 ~~first violation and a misdemeanor of the second degree for a~~
8 ~~second or subsequent violation and shall, upon conviction, be~~
9 ~~sentenced to pay a fine of \$5,000 or to imprisonment for not~~
10 ~~more than one year, or both.~~

11 ~~(2) A person who makes a false statement or~~
12 ~~representation of a material fact in a report of need commits~~
13 ~~a misdemeanor of the first degree and shall, upon conviction,~~
14 ~~be sentenced to pay a fine of not more than \$10,000 or to~~
15 ~~imprisonment for not more than five years, or both.~~

16 ~~(c) Immunity.—~~

17 ~~(1) Any person participating in the making of a report~~
18 ~~of need, or who provides testimony in any administrative or~~
19 ~~judicial proceeding in any court of this Commonwealth arising~~
20 ~~out of a report, shall be immune from any civil or criminal~~
21 ~~liability on account of the report or testimony related to~~
22 ~~good faith compliance with this chapter. This immunity shall~~
23 ~~not extend to liability for acts of abuse, neglect,~~
24 ~~exploitation or abandonment, even if the acts are the subject~~
25 ~~of the report or testimony.~~

26 ~~(2) An entity that employs a person required or~~
27 ~~permitted to make a report under this chapter shall not be~~
28 ~~held civilly liable for any action directly related to good~~
29 ~~faith compliance with this chapter.~~

30 ~~(d) Use. Money collected under this chapter by the~~

~~1 department shall be used for department programs to investigate
2 and prevent the abuse, neglect, exploitation and abandonment of
3 elder adults.~~

~~4 § 6971. Immunity from civil and criminal liability.~~

~~5 In the absence of willful misconduct or gross negligence, the
6 area agency on aging, the director, employees of the area agency
7 on aging, protective services workers or employees of the
8 department shall not be civilly or criminally liable for any
9 decision or action or resulting consequence of decisions or
10 action when acting under and according to the provisions of this
11 chapter.~~

~~12 SUBCHAPTER I~~

~~13 ADMINISTRATION~~

~~14 Sec.~~

~~15 6980. Funding.~~

~~16 6981. Regulations.~~

~~17 § 6980. Funding.~~

~~18 Money necessary to administer this chapter shall be provided
19 by an annual appropriation by the General Assembly.~~

~~20 § 6981. Regulations.~~

~~21 The department shall issue rules and regulations to carry out
22 this chapter and shall annually present to the General Assembly
23 a report on the program and services performed. State agencies
24 with oversight authority over entities impacted by this chapter
25 shall promulgate regulations necessary to assist the department
26 in implementing this chapter.~~

~~27 Section 2. Repeals are as follows:~~

~~28 (1) The General Assembly declares that the repeal under
29 paragraph (2) is necessary to effectuate the addition of 23-~~

~~30 Pa.C.S. Ch. 69.~~

~~(2) The act of November 6, 1987 (P.L.381, No.79), known as the Older Adults Protective Services Act, is repealed.~~

~~Section 3. This act shall take effect as follows:~~

~~(1) The addition of 23 Pa.C.S. § 6911 shall take effect in one year.~~

~~(2) This section shall take effect immediately.~~

~~(3) The remainder of this act shall take effect in 180 days.~~

SECTION 1. TITLE 23 OF THE PENNSYLVANIA CONSOLIDATED
STATUTES IS AMENDED BY ADDING A CHAPTER TO READ:

CHAPTER 69

OLDER ADULTS PROTECTIVE SERVICES

SUBCHAPTER

A. PRELIMINARY PROVISIONS

B. DUTIES OF DEPARTMENT

C. DUTIES OF AREA AGENCIES ON AGING

D. PROTECTIVE SERVICES

E. REPORTING

F. FINANCIAL INSTITUTIONS AND FIDUCIARIES

G. CRIMINAL HISTORY

H. REMEDIES

I. ADMINISTRATION

SUBCHAPTER A

PRELIMINARY PROVISIONS

SEC.

6901. SCOPE OF CHAPTER.

6902. DEFINITIONS.

6903. INTENT.

§ 6901. SCOPE OF CHAPTER.

THIS CHAPTER RELATES TO OLDER ADULT PROTECTIVE SERVICES.

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1 § 6902. DEFINITIONS.

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

5 "ABANDONMENT." THE DESERTION OF AN OLDER ADULT BY A
6 CARETAKER.

7 "ABUSE." THE OCCURRENCE OF ONE OR MORE OF THE FOLLOWING
8 ACTS:

9 (1) INFLECTION OF INJURY, UNREASONABLE CONFINEMENT,
10 INTIMIDATION OR PUNISHMENT RESULTING IN PHYSICAL HARM, PAIN
11 OR MENTAL ANGUISH.

12 (2) THE WILLFUL DEPRIVATION BY A CARETAKER OF GOODS OR
13 SERVICES WHICH ARE NECESSARY TO MAINTAIN PHYSICAL OR MENTAL
14 HEALTH.

15 (3) SEXUAL ABUSE, INCLUDING RAPE, INVOLUNTARY DEVIATE
16 SEXUAL INTERCOURSE, SEXUAL ASSAULT, AGGRAVATED INDECENT
17 ASSAULT, INDECENT ASSAULT OR INCEST.

18 (4) SEXUAL HARASSMENT, INCLUDING UNWELCOME SEXUAL
19 ADVANCES, REQUESTS FOR SEXUAL FAVORS AND OTHER UNWELCOME
20 VERBAL OR PHYSICAL CONDUCT OF A SEXUAL NATURE.

21 "ADMINISTRATOR." THE PERSON RESPONSIBLE FOR THE MANAGEMENT
22 OF A FACILITY. THE TERM INCLUDES A PERSON RESPONSIBLE FOR
23 EMPLOYMENT DECISIONS OR AN INDEPENDENT CONTRACTOR RESPONSIBLE
24 FOR ADMINISTRATION OF A FACILITY.

25 "APPLICANT." AN INDIVIDUAL WHO SUBMITS AN APPLICATION WHICH
26 IS BEING CONSIDERED FOR EMPLOYMENT TO A FACILITY.

27 "AREA AGENCY ON AGING." THE SINGLE LOCAL AGENCY OR THE LOCAL
28 AGENCY'S AGENT DESIGNATED BY THE DEPARTMENT WITHIN EACH PLANNING
29 AND SERVICE AREA TO ADMINISTER THE DELIVERY OF PROTECTIVE
30 SERVICES.

1 "ASSESSMENT." A DETERMINATION BASED UPON A COMPREHENSIVE
2 REVIEW OF AN OLDER ADULT'S SOCIAL, PHYSICAL AND PSYCHOLOGICAL
3 STATUS ALONG WITH A DESCRIPTION OF THE PERSON'S CURRENT
4 RESOURCES AND NEEDS USING THE INSTRUMENTS AND PROCEDURES
5 ESTABLISHED BY THE DEPARTMENT.

6 "CARE." SERVICES PROVIDED TO MEET AN OLDER ADULT'S NEED FOR
7 PERSONAL CARE OR HEALTH CARE WHICH REQUIRE INTERACTION WITH THE
8 OLDER ADULT.

9 "CARE-DEPENDENT INDIVIDUAL." AN ADULT WHO, DUE TO PHYSICAL
10 OR COGNITIVE DISABILITY OR IMPAIRMENT, REQUIRES ASSISTANCE TO
11 MEET NEEDS FOR FOOD, SHELTER, CLOTHING, PERSONAL CARE OR HEALTH
12 CARE.

13 "CARETAKER." A PERSON THAT HAS ASSUMED THE RESPONSIBILITY
14 FOR THE PROVISION OF CARE NEEDED TO MAINTAIN THE PHYSICAL OR
15 MENTAL HEALTH OF AN OLDER ADULT. THIS RESPONSIBILITY MAY ARISE
16 VOLUNTARILY, BY CONTRACT, BY RECEIPT OF PAYMENT FOR CARE, AS A
17 RESULT OF FAMILIAL RELATIONSHIP, OR BY ORDER OF A COURT OF
18 COMPETENT JURISDICTION.

19 "DEPARTMENT." THE DEPARTMENT OF AGING OF THE COMMONWEALTH.

20 "EMPLOYEE." AN INDIVIDUAL WHO:

21 (1) ANY OF THE FOLLOWING:

22 (I) IS EMPLOYED BY A FACILITY;

23 (II) ENTERS INTO A CONTRACTUAL RELATIONSHIP WITH A
24 FACILITY, CONSUMER, CONSUMER'S FAMILY OR LEGAL
25 REPRESENTATIVE TO PROVIDE CARE TO AN OLDER ADULT; OR

26 (III) IS A STUDENT DOING AN INTERNSHIP OR CLINICAL
27 ROTATION OR ANY OTHER INDIVIDUAL WHO HAS BEEN GRANTED
28 ACCESS TO THE FACILITY TO PERFORM A CLINICAL SERVICE FOR
29 A FEE; AND

30 (2) HAS UNSUPERVISED ACCESS TO THE OLDER ADULT OR THE

1 OLDER ADULT'S LIVING QUARTERS, RESOURCES OR PERSONAL RECORDS,
2 INCLUDING EMPLOYEES OF AFFILIATED CORPORATE ENTITIES.
3 "EXPLOITATION." AN ACT OR COURSE OF CONDUCT BY A CARETAKER
4 OR OTHER PERSON AGAINST AN OLDER ADULT OR AN OLDER ADULT'S
5 RESOURCES WITHOUT THE INFORMED CONSENT OF THE OLDER ADULT OR
6 WITH CONSENT OBTAINED THROUGH MISREPRESENTATION, COERCION OR
7 THREATS OF FORCE, RESULTS IN MONETARY, PERSONAL OR OTHER
8 BENEFIT, GAIN OR PROFIT FOR THAT CARETAKER OR PERSON, OR
9 MONETARY OR PERSONAL LOSS TO THE OLDER ADULT.

10 "FACILITY." ANY OF THE FOLLOWING:

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

14 (2) AN ASSISTED LIVING RESIDENCE AS DEFINED IN SECTION
15 1001 OF THE ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS
16 THE HUMAN SERVICES CODE.

17 (3) A PERSONAL CARE HOME AS DEFINED IN SECTION 1001 OF
18 THE HUMAN SERVICES CODE.

19 (4) THE FOLLOWING ENTITIES AS DEFINED IN SECTION 802.1
20 OF THE ACT OF JULY 19, 1979 (P.L.130, NO.48), KNOWN AS THE
21 HEALTH CARE FACILITIES ACT:

22 (I) A HOME CARE AGENCY.

23 (II) A HOME CARE REGISTRY.

24 (III) A HOME HEALTH CARE AGENCY.

25 (IV) A HOSPICE.

26 (V) A LONG-TERM CARE NURSING FACILITY.

27 (5) AN OLDER ADULT DAILY LIVING CENTER AS DEFINED IN
28 SECTION 2 OF THE ACT OF JULY 11, 1990 (P.L.499, NO.118),
29 KNOWN AS THE OLDER ADULT DAILY LIVING CENTERS LICENSING ACT.

30 (6) A PACE PROVIDER AS DEFINED IN SECTION 1894 OF THE

1 SOCIAL SECURITY ACT (49 STAT. 620, 42 U.S.C. § 1395EEE).

2 (7) ANY OTHER PUBLIC OR PRIVATE ORGANIZATION OR ENTITY,
3 OR PART OF AN ORGANIZATION OR ENTITY, THAT USES PUBLIC FUNDS
4 AND IS PAID, IN PART, TO PROVIDE CARE TO CARE-DEPENDENT
5 INDIVIDUALS.

6 "FIDUCIARY." A GUARDIAN, CUSTODIAN, TRUSTEE, AGENT, PERSONAL
7 REPRESENTATIVE OR OTHER PERSON AUTHORIZED OR REQUIRED TO ACT ON
8 BEHALF OF AN OLDER ADULT.

9 "FINANCIAL EXPLOITATION." ANY OF THE FOLLOWING:

10 (1) THE WRONGFUL OR UNAUTHORIZED TAKING, WITHHOLDING,
11 APPROPRIATION OR USE OF MONEY, ASSETS OR PROPERTY OF AN OLDER
12 ADULT.

13 (2) AN ACT OR OMISSION TAKEN BY A PERSON, INCLUDING
14 THROUGH THE USE OF A POWER OF ATTORNEY, GUARDIANSHIP OR
15 CONSERVATORSHIP OF AN OLDER ADULT, TO:

16 (I) OBTAIN CONTROL, THROUGH DECEPTION, INTIMIDATION
17 OR UNDUE INFLUENCE, OVER THE OLDER ADULT'S MONEY, ASSETS
18 OR PROPERTY TO DEPRIVE THE OLDER ADULT OF THE OWNERSHIP,
19 USE, BENEFIT OR POSSESSION OF THE OLDER ADULT'S MONEY,
20 ASSETS OR PROPERTY; OR

21 (II) UNLAWFULLY CONVERT MONEY, ASSETS OR PROPERTY OF
22 THE OLDER ADULT TO DEPRIVE THE OLDER ADULT OF THE
23 OWNERSHIP, USE, BENEFIT OR POSSESSION OF THE OLDER
24 ADULT'S MONEY, ASSETS OR PROPERTY.

25 "FINANCIAL SERVICES PROVIDER." ANY OF THE FOLLOWING:

26 (1) A DEPOSITORY INSTITUTION OR AFFILIATE OF A
27 DEPOSITORY INSTITUTION AS THOSE TERMS ARE DEFINED IN SECTION
28 3 OF THE FEDERAL DEPOSIT INSURANCE ACT (64 STAT. 873, 12
29 U.S.C. § 1813).

30 (2) A CREDIT UNION ELIGIBLE FOR INSURANCE OF MEMBER

1 ACCOUNTS UNDER THE FEDERAL CREDIT UNION ACT (48 STAT. 1216,
2 12 U.S.C. § 1751 ET SEQ.).

3 (3) A BROKER-DEALER AS DEFINED IN SECTION 102(E) OF THE
4 ACT OF DECEMBER 5, 1972 (P.L.1280, NO.284), KNOWN AS THE
5 PENNSYLVANIA SECURITIES ACT OF 1972.

6 (4) AN INVESTMENT ADVISER AS DEFINED IN SECTION 102(J)
7 OF THE PENNSYLVANIA SECURITIES ACT OF 1972.

8 (5) AN AGENT AS DEFINED IN SECTION 102(C) OF THE
9 PENNSYLVANIA SECURITIES ACT OF 1972.

10 (6) AN INVESTMENT ADVISOR REPRESENTATIVE AS DEFINED IN
11 SECTION 102(J.1) OF THE PENNSYLVANIA SECURITIES ACT OF 1972.

12 (7) A LICENSEE AS DEFINED IN SECTION 2 OF THE ACT OF MAY
13 15, 1933 (P.L.565, NO.111), KNOWN AS THE DEPARTMENT OF
14 BANKING AND SECURITIES CODE, OR A SIMILAR ENTITY.

15 (8) A BUSINESS OR AGENCY THAT ENGAGES IN AN ACTIVITY
16 WHICH THE DEPARTMENT DETERMINES, BY REGULATION, TO BE AN
17 ACTIVITY THAT IS SIMILAR TO, RELATED TO OR A SUBSTITUTE FOR
18 AN ACTIVITY CONDUCTED BY A BUSINESS DESCRIBED IN PARAGRAPH
19 (1), (2), (3), (4), (5), (6) OR (7).

20 "HEALTH CARE PROVIDER." A LICENSED HOSPITAL OR HEALTH CARE
21 FACILITY OR PERSON WHO IS LICENSED, CERTIFIED OR OTHERWISE
22 REGULATED TO PROVIDE HEALTH CARE SERVICES UNDER THE LAWS OF THIS
23 COMMONWEALTH, INCLUDING A PHYSICIAN, PODIATRIST, OPTOMETRIST,
24 PSYCHOLOGIST, PHYSICAL THERAPIST, CERTIFIED NURSE PRACTITIONER,
25 REGISTERED NURSE, NURSE MIDWIFE, PHYSICIAN'S ASSISTANT,
26 CHIROPRACTOR, DENTIST, PHARMACIST OR AN INDIVIDUAL ACCREDITED OR
27 CERTIFIED TO PROVIDE BEHAVIORAL HEALTH SERVICES.

28 "HOME CARE WORKER." AN INDIVIDUAL EMPLOYED BY A HOME CARE
29 AGENCY, REFERRED BY A HOME CARE REGISTRY OR LISTED ON THE HOME
30 CARE WORKER DIRECTORY TO PROVIDE ANY OF THE FOLLOWING SERVICES:

1 (1) PERSONAL CARE.

2 (2) ASSISTANCE WITH INSTRUMENTAL ACTIVITIES OF DAILY
3 LIVING.

4 (3) COMPANIONSHIP SERVICES FOR THE LIMITED PURPOSES OF
5 PROVIDING SUPERVISION AND MINIMAL ASSISTANCE THAT IS FOCUSED
6 SOLELY ON THE HEALTH AND SAFETY OF THE INDIVIDUAL.

7 (4) RESPITE CARE TO SUPPORT AN INDIVIDUAL ON A SHORT-
8 TERM BASIS.

9 (5) ACTIVITIES TO SUPPORT AN INDIVIDUAL WITH ACQUIRING,
10 MAINTAINING OR IMPROVING SKILLS IN HOME-BASED AND COMMUNITY-
11 BASED SETTINGS, INCLUDING WITH EMPLOYMENT.

12 "INTIMIDATION." AN ACT OR OMISSION BY A PERSON TOWARD
13 ANOTHER PERSON THAT OBSTRUCTS, IMPEDES, IMPAIRS, PREVENTS OR
14 INTERFERES WITH THE ADMINISTRATION OF THIS CHAPTER OR OTHER LAW
15 INTENDED TO PROTECT OLDER ADULTS FROM MISTREATMENT.

16 "LAW ENFORCEMENT OFFICIAL." ANY OF THE FOLLOWING:

17 (1) A POLICE OFFICER OF A MUNICIPALITY.

18 (2) A DISTRICT ATTORNEY.

19 (3) A PENNSYLVANIA STATE POLICE OFFICER.

20 (4) THE ATTORNEY GENERAL.

21 (5) AN AGENT OF THE DEPARTMENT OF JUSTICE AND OTHER
22 FEDERAL LAW ENFORCEMENT AGENCIES, WHO POSSESSES LAW
23 ENFORCEMENT POWERS AND DUTIES.

24 "MANDATORY REPORTER." ANY OF THE FOLLOWING:

25 (1) ADMINISTRATORS AND EMPLOYEES OF A FACILITY.

26 (2) HEALTH CARE PROVIDERS.

27 (3) A LAW ENFORCEMENT OFFICIAL.

28 "NEGLECT." THE FAILURE TO PROVIDE FOR ONESELF OR THE FAILURE
29 OF A CARETAKER TO PROVIDE GOODS OR SERVICES ESSENTIAL TO AVOID A
30 CLEAR AND SERIOUS THREAT TO PHYSICAL OR MENTAL HEALTH. AN OLDER

1 ADULT WHO DOES NOT CONSENT TO THE PROVISION OF PROTECTIVE
2 SERVICES MAY NOT BE FOUND TO BE NEGLECTED SOLELY ON THE GROUNDS
3 OF ENVIRONMENTAL FACTORS WHICH ARE BEYOND THE CONTROL OF THE
4 OLDER ADULT OR THE CARETAKER, SUCH AS INADEQUATE HOUSING,
5 FURNISHINGS, INCOME, CLOTHING OR MEDICAL CARE.

6 "OLDER ADULT." AN INDIVIDUAL WITHIN THE JURISDICTION OF THE
7 COMMONWEALTH WHO IS 60 YEARS OF AGE OR OLDER.

8 "OLDER ADULT IN NEED OF PROTECTIVE SERVICES." AN
9 INCAPACITATED OLDER ADULT WHO IS UNABLE TO PERFORM OR OBTAIN
10 SERVICES THAT ARE NECESSARY TO MAINTAIN PHYSICAL OR MENTAL
11 HEALTH, FOR WHOM THERE IS NO RESPONSIBLE CARETAKER AND WHO IS AT
12 IMMINENT RISK OF DANGER TO SELF OR PROPERTY.

13 "PROTECTIVE SERVICES." THOSE ACTIVITIES, RESOURCES AND
14 SUPPORTS PROVIDED TO OLDER ADULTS UNDER THIS CHAPTER TO DETECT,
15 PREVENT, REDUCE OR ELIMINATE ABUSE, NEGLECT, EXPLOITATION AND
16 ABANDONMENT.

17 "RECIPIENT." AN INDIVIDUAL WHO RECEIVES CARE, SERVICES OR
18 TREATMENT IN OR FROM A FACILITY.

19 "SERIOUS BODILY INJURY." INJURY WHICH CREATES A SUBSTANTIAL
20 RISK OF DEATH OR WHICH CAUSES SERIOUS DISFIGUREMENT OF A BODY
21 PART OR ORGAN, PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION OF
22 A BODY MEMBER OR ORGAN OR SEVERE PAIN. THE TERM DOES NOT INCLUDE
23 AN ISOLATED ACCIDENTAL INJURY SELF-INFLICTED BY AN OLDER ADULT.

24 "SERVICE PLAN." AS FOLLOWS:

25 (1) A WRITTEN PLAN DEVELOPED BY AN AREA AGENCY ON AGING
26 ON THE BASIS OF A COMPREHENSIVE ASSESSMENT OF AN OLDER ADULT
27 THAT DESCRIBES IDENTIFIED NEEDS, GOALS TO BE ACHIEVED AND
28 SPECIFIC SERVICES DESIGNED TO SUPPORT GOAL ATTAINMENT, WHICH
29 INCLUDES REGULAR FOLLOW-UP AND PREDETERMINED REASSESSMENT OF
30 PROGRESS.

1 (2) AS USED IN THIS DEFINITION, SPECIFIC SERVICES
2 DESIGNED TO SUPPORT GOAL ATTAINMENT MAY INCLUDE HOMEMAKER
3 SERVICES, HOME-DELIVERED MEALS, PERSONAL CARE, OTHER IN-HOME
4 SERVICES, EMERGENCY SHELTER OR FOOD, LEGAL AID SERVICES AND
5 TRANSPORTATION SERVICES.

6 (3) SERVICE PLANS SHALL BE COOPERATIVELY DEVELOPED BY
7 AREA AGENCY ON AGING STAFF, THE OLDER ADULT OR THE OLDER
8 ADULT'S LEGAL REPRESENTATIVE AND OTHER FAMILY MEMBERS, IF
9 APPROPRIATE.

10 (4) THE SERVICE PLAN SHALL ADDRESS SPECIAL NEEDS OF
11 OTHER MEMBERS OF THE HOUSEHOLD UNIT IF THEY AFFECT THE OLDER
12 ADULT'S NEED FOR PROTECTIVE SERVICES.

13 "SUSPICIOUS DEATH." A DEATH WHICH IS UNEXPECTED WITH
14 UNEXPLAINED CIRCUMSTANCES OR CAUSE.

15 § 6903. INTENT.

16 IT IS NOT THE INTENT OF THIS CHAPTER TO IMPOSE RESPONSIBILITY
17 ON AN INDIVIDUAL IF THE RESPONSIBILITY WOULD NOT OTHERWISE EXIST
18 IN LAW.

19 SUBCHAPTER B

20 DUTIES OF DEPARTMENT

21 SEC.

22 6910. PUBLIC EDUCATION.

23 6911. INTERDEPARTMENTAL CONSULTATION.

24 6912. TRAINING REQUIRED.

25 6913. CONFIDENTIALITY.

26 6914. SCHEDULE AND ANNUAL PLAN.

27 § 6910. PUBLIC EDUCATION.

28 THE DEPARTMENT SHALL CONDUCT AN ONGOING CAMPAIGN DESIGNED TO
29 INFORM AND EDUCATE OLDER ADULTS, PROFESSIONALS AND THE GENERAL
30 PUBLIC ABOUT THE NEED FOR AND THE AVAILABILITY OF PROTECTIVE

1 SERVICES UNDER THIS CHAPTER.

2 § 6911. INTERDEPARTMENTAL CONSULTATION.

3 THE FOLLOWING APPLY:

4 (1) THE DEPARTMENT SHALL CONSULT WITH OTHER COMMONWEALTH
5 AGENCIES ON THE DESIGN AND IMPLEMENTATION OF THE ONGOING
6 PUBLIC AWARENESS CAMPAIGN.

7 (2) THE DEPARTMENT SHALL CONSIDER THE CONCERNS OF AREA
8 AGENCIES ON AGING ON THE DESIGN AND IMPLEMENTATION OF THE
9 ONGOING PUBLIC AWARENESS CAMPAIGN.

10 § 6912. TRAINING REQUIRED.

11 (A) STANDARDS.--THE DEPARTMENT SHALL ESTABLISH MINIMUM
12 STANDARDS OF EXPERIENCE AND TRAINING THAT PROTECTIVE SERVICES
13 PROVIDERS RECEIVING MONEY FROM THE DEPARTMENT SHALL BE REQUIRED
14 TO FOLLOW IN THE SELECTION AND ASSIGNMENT OF EMPLOYEES FOR THE
15 PROVISION OF PROTECTIVE SERVICES.

16 (B) MANDATORY REPORTERS.--THE DEPARTMENT SHALL ESTABLISH A
17 TRAINING PROGRAM FOR MANDATORY REPORTERS TO INFORM EMPLOYEES
18 ABOUT THE REQUIREMENT TO REPORT UNDER THIS CHAPTER.

19 § 6913. CONFIDENTIALITY.

20 THE DEPARTMENT SHALL ESTABLISH METHODS WHICH SHALL BE USED BY
21 AN AREA AGENCY ON AGING, ITS DESIGNEES AND ITS SERVICE PROVIDERS
22 TO ENSURE THE PRIVACY OF OLDER ADULTS RECEIVING SERVICES AND THE
23 CONFIDENTIALITY OF ALL RECORDS.

24 § 6914. SCHEDULE AND ANNUAL PLAN.

25 (A) ESTABLISHMENT.--THE DEPARTMENT SHALL ESTABLISH A
26 SCHEDULE FOR THE SUBMISSION AND APPROVAL OF THE PLANS ASSOCIATED
27 WITH THE DEVELOPMENT OF TRAINING PROVIDED IN SECTION 6912
28 (RELATING TO TRAINING REQUIRED).

29 (B) PROTECTIVE SERVICES PLAN.--EACH AREA AGENCY ON AGING
30 SHALL INCLUDE A PROTECTIVE SERVICES PLAN AS PART OF ITS ANNUAL

1 PLAN. THE PLAN SHALL DESCRIBE THE LOCAL IMPLEMENTATION OF THIS
2 CHAPTER, INCLUDING THE ORGANIZATION, STAFFING, MODE OF
3 OPERATIONS AND FINANCING OF PROTECTIVE SERVICES AND THE
4 PROVISIONS MADE FOR THE PURCHASE OF SERVICES, INTERAGENCY
5 RELATIONS, INTERAGENCY AGREEMENTS, SERVICE REFERRAL MECHANISMS
6 AND LOCUS OF RESPONSIBILITY FOR CASES WITH MULTISERVICE AGENCY
7 NEEDS. THE PLAN SHALL INCLUDE A LIST OF EACH PUBLIC OR PRIVATE
8 ENTITY THAT HAS BEEN IDENTIFIED BY THE AREA AGENCY ON AGING AS
9 HAVING SUBSTANTIAL CONTACT WITH POTENTIAL VICTIMS OR
10 PERPETRATORS OF ABUSE, NEGLECT, EXPLOITATION AND ABANDONMENT.
11 THE LIST SHALL BE SUBMITTED TO THE DEPARTMENT FOR PURPOSES OF
12 THE PUBLIC EDUCATION CAMPAIGN UNDER SECTION 6910 (RELATING TO
13 PUBLIC EDUCATION).

14 SUBCHAPTER C

15 DUTIES OF AREA AGENCIES ON AGING

16 SEC.

17 6920. RECEIPT OF REPORTS.

18 6921. INVESTIGATIONS.

19 6922. INVESTIGATIONS INVOLVING FACILITIES.

20 6923. INVESTIGATIONS INVOLVING LAW ENFORCEMENT OFFICIALS.

21 6924. ACCESS TO OLDER ADULTS.

22 6925. ACCESS TO RECORDS.

23 6926. RIGHTS OF OLDER ADULTS.

24 6927. CONFIDENTIALITY STANDARDS REQUIRED.

25 6928. AVAILABILITY OF PROTECTIVE SERVICES.

26 § 6920. RECEIPT OF REPORTS.

27 THE AREA AGENCY ON AGING MUST BE CAPABLE OF RECEIVING REPORTS
28 OF OLDER ADULTS IN NEED OF PROTECTIVE SERVICES AT ALL TIMES.
29 THIS CAPABILITY MAY INCLUDE THE USE OF A LOCAL EMERGENCY
30 RESPONSE SYSTEM OR A CRISIS INTERVENTION AGENCY, IF ACCESS CAN

1 BE MADE TO A PROTECTIVE SERVICES CASEWORKER IN APPROPRIATE
2 EMERGENCY SITUATIONS, AS SET FORTH IN REGULATIONS ISSUED BY THE
3 DEPARTMENT. ALL REPORTS RECEIVED ORALLY SHALL BE DOCUMENTED IN A
4 MANNER SET FORTH BY THE DEPARTMENT.

5 § 6921. INVESTIGATIONS.

6 (A) DUTY.--AN AREA AGENCY ON AGING SHALL INVESTIGATE EACH
7 REPORT IN ACCORDANCE WITH REGULATIONS ISSUED BY THE DEPARTMENT.
8 THE INVESTIGATION SHALL BE INITIATED WITHIN 72 HOURS AFTER THE
9 RECEIPT OF THE REPORT AND SHALL BE CARRIED OUT UNDER REGULATIONS
10 ISSUED BY THE DEPARTMENT. THE REGULATIONS SHALL PROVIDE FOR THE
11 METHODS OF CONDUCTING INVESTIGATIONS AND SHALL ENSURE THAT STEPS
12 ARE TAKEN TO AVOID A CONFLICT OF INTEREST. CONSENT OF THE OLDER
13 ADULT IS NOT REQUIRED IN ORDER TO BEGIN TO INVESTIGATE REPORTS
14 OF ABUSE, NEGLECT, EXPLOITATION OR ABANDONMENT. THE DEPARTMENT
15 AND ANY OTHER COMMONWEALTH AGENCY SHALL SHARE INFORMATION WITH
16 EACH OTHER AND WITH MANDATORY REPORTERS, FIDUCIARIES AND
17 FINANCIAL INSTITUTIONS AS NECESSARY TO ENSURE THE HEALTH, SAFETY
18 AND WELFARE OF THE OLDER ADULT AND TO ASSIST FINANCIAL
19 INSTITUTIONS AND FIDUCIARIES IN EXERCISING THE FINANCIAL
20 INSTITUTION'S AND FIDUCIARIES' AUTHORITY TO PROHIBIT
21 DISBURSEMENT OF FUNDS AND TRANSACTIONS AS PROVIDED BY SECTION
22 6952 (RELATING TO DISBURSEMENT OF FUNDS AND TRANSACTIONS).

23 (B) CLOSURE.--IF AFTER INVESTIGATION BY THE AREA AGENCY ON
24 AGING THE REPORT IS UNSUBSTANTIATED, THE CASE SHALL BE CLOSED
25 AND ALL INFORMATION IDENTIFYING THE REPORTER AND THE ALLEGED
26 PERPETRATOR SHALL BE IMMEDIATELY DELETED FROM ALL RECORDS. FOR
27 PURPOSES OF SUBSTANTIATING A PATTERN OF ABUSE, NEGLECT,
28 EXPLOITATION OR ABANDONMENT, THE NAME OF THE ALLEGED VICTIM AND
29 ANY INFORMATION DESCRIBING THE ALLEGED ACT OF ABUSE, NEGLECT,
30 EXPLOITATION OR ABANDONMENT MAY BE MAINTAINED FOR A PERIOD OF

1 SIX MONTHS UNDER PROCEDURES ESTABLISHED BY THE DEPARTMENT.

2 (C) TIMELY ASSESSMENT.--IF THE REPORT IS SUBSTANTIATED BY
3 THE AREA AGENCY ON AGING OR IF AN ASSESSMENT IS NECESSARY IN
4 ORDER TO DETERMINE WHETHER OR NOT THE REPORT IS SUBSTANTIATED,
5 THE AREA AGENCY ON AGING SHALL PROVIDE FOR A TIMELY ASSESSMENT
6 IF THE OLDER ADULT CONSENTS TO AN ASSESSMENT. UPON COMPLETION OF
7 THE ASSESSMENT, WRITTEN FINDINGS SHALL BE PREPARED WHICH SHALL
8 INCLUDE RECOMMENDED ACTION. THE SERVICE PLAN SHALL PROVIDE FOR
9 THE LEAST RESTRICTIVE ALTERNATIVE, ENCOURAGING SELF-
10 DETERMINATION AND CONTINUITY OF CARE, SHALL BE IN WRITING AND
11 SHALL INCLUDE A RECOMMENDED COURSE OF ACTION, WHICH MAY INCLUDE
12 THE PURSUIT OF CIVIL OR CRIMINAL REMEDIES. IF AN OLDER ADULT
13 FOUND TO BE IN NEED OF PROTECTIVE SERVICES DOES NOT CONSENT TO
14 AN ASSESSMENT OR THE DEVELOPMENT OF A SERVICE PLAN, THE AREA
15 AGENCY ON AGING MAY APPLY THE PROVISIONS OF SECTION 6933
16 (RELATING TO INVOLUNTARY INTERVENTION BY EMERGENCY COURT ORDER)
17 TO THE CASE.

18 (D) ENVIRONMENTAL FACTORS.--AN OLDER ADULT MAY NOT BE FOUND
19 TO BE ABUSED SOLELY ON THE GROUNDS OF ENVIRONMENTAL FACTORS THAT
20 ARE BEYOND THE CONTROL OF THE OLDER ADULT OR THE CARETAKER, SUCH
21 AS INADEQUATE HOUSING, FURNISHINGS, INCOME, CLOTHING OR MEDICAL
22 CARE.

23 § 6922. INVESTIGATIONS INVOLVING FACILITIES.

24 IF THE REPORT CONCERNS A FACILITY, THE AREA AGENCY ON AGING
25 SHALL NOTIFY THE LOCAL OMBUDSMAN AND THE LICENSING AGENCY.
26 INVESTIGATIONS CONCERNING FACILITIES SHALL BE CONDUCTED UNDER
27 PROCEDURES DEVELOPED BY THE DEPARTMENT IN CONSULTATION WITH THE
28 COMMONWEALTH AGENCY WITH OVERSIGHT AUTHORITY FOR THE FACILITY.
29 THE DEPARTMENT AND ANY OTHER COMMONWEALTH AGENCY SHALL SHARE
30 INFORMATION WITH EACH OTHER AND WITH MANDATORY REPORTERS,

1 FIDUCIARIES AND FINANCIAL INSTITUTIONS AS NECESSARY TO ENSURE
2 THE HEALTH, SAFETY AND WELFARE OF THE OLDER ADULT AND TO ASSIST
3 FINANCIAL INSTITUTIONS AND FIDUCIARIES IN EXERCISING THE
4 FINANCIAL INSTITUTION'S AND FIDUCIARIES' AUTHORITY TO PROHIBIT
5 DISBURSEMENT OF FUNDS AND TRANSACTIONS AS PROVIDED BY SECTION
6 6952 (RELATING TO DISBURSEMENT OF FUNDS AND TRANSACTIONS).
7 FACILITIES SHALL TAKE REASONABLE STEPS TO PROTECT OLDER ADULTS
8 FOLLOWING RECEIPT OF A REPORT OF SUSPECTED ABUSE, NEGLECT,
9 EXPLOITATION OR ABANDONMENT INVOLVING AN EMPLOYEE, INCLUDING A
10 PLAN OF SUPERVISION OR SUSPENSION.

11 § 6923. INVESTIGATIONS INVOLVING LAW ENFORCEMENT OFFICIALS.

12 THE FOLLOWING SHALL APPLY:

13 (1) TO THE EXTENT POSSIBLE, LAW ENFORCEMENT OFFICIALS,
14 THE AREA AGENCY ON AGING AND OTHER MANDATORY REPORTERS SHALL
15 COORDINATE RESPECTIVE INVESTIGATIONS AND SHALL ADVISE EACH
16 OTHER AND PROVIDE APPLICABLE ADDITIONAL INFORMATION ON AN
17 ONGOING BASIS.

18 (2) UPON RECEIVING A REPORT OF ANY OF THE FOLLOWING, THE
19 AREA AGENCY ON AGING SHALL IMMEDIATELY NOTIFY A LAW
20 ENFORCEMENT OFFICIAL:

21 (I) SUSPICIOUS DEATH.

22 (II) SERIOUS BODILY INJURY.

23 (III) SEXUAL ABUSE.

24 (3) (I) FOLLOWING A REFERRAL TO A LAW ENFORCEMENT
25 OFFICIAL, THE AREA AGENCY ON AGING SHALL CONTACT A LAW
26 ENFORCEMENT OFFICIAL TO OBTAIN INFORMATION ABOUT ACTIONS
27 TAKEN AND THE OUTCOMES, INCLUDING ANY DECISIONS REGARDING
28 CRIMINAL CHARGES, AND THE LAW ENFORCEMENT OFFICIAL SHALL
29 PROVIDE THE INFORMATION TO THE EXTENT THAT THE
30 INFORMATION IS AVAILABLE.

1 (II) THE AREA AGENCY ON AGING SHALL REPORT THE
2 INFORMATION UNDER SUBPARAGRAPH (I) TO THE DEPARTMENT IN A
3 MANNER PRESCRIBED BY THE DEPARTMENT.

4 § 6924. ACCESS TO OLDER ADULTS.

5 (A) GENERAL RULE.--THE FOLLOWING APPLY:

6 (1) THE AREA AGENCY ON AGING SHALL HAVE ACCESS TO OLDER
7 ADULTS WHO HAVE BEEN REPORTED TO BE IN NEED OF PROTECTIVE
8 SERVICES IN ORDER TO:

9 (I) INVESTIGATE REPORTS.

10 (II) ASSESS NEEDS OF THE OLDER ADULT AND DEVELOP A
11 SERVICE PLAN FOR ADDRESSING THOSE NEEDS.

12 (III) PROVIDE FOR THE DELIVERY OF SERVICES BY THE
13 AREA AGENCY ON AGING OR OTHER SERVICE PROVIDER AS
14 PROVIDED FOR UNDER THE SERVICE PLAN.

15 (2) IF THE AREA AGENCY ON AGING IS DENIED ACCESS TO AN
16 OLDER ADULT REPORTED TO BE IN NEED OF PROTECTIVE SERVICES,
17 THE AREA AGENCY ON AGING MAY PETITION THE COURT FOR AN ORDER
18 TO REQUIRE THE APPROPRIATE ACCESS WHEN EITHER OF THE
19 FOLLOWING CONDITIONS APPLY:

20 (I) THE CARETAKER OR A THIRD PARTY HAS INTERFERED
21 WITH THE COMPLETION OF THE INVESTIGATION, THE ASSESSMENT
22 AND SERVICE PLAN OR THE DELIVERY OF SERVICES.

23 (II) THE AREA AGENCY ON AGING CAN DEMONSTRATE THAT
24 THE OLDER ADULT REPORTED TO BE IN NEED OF PROTECTIVE
25 SERVICES IS DENYING ACCESS BECAUSE OF COERCION, EXTORTION
26 OR JUSTIFIABLE FEAR OF FUTURE ABUSE, NEGLECT,
27 EXPLOITATION OR ABANDONMENT.

28 (B) PETITION.--THE AREA AGENCY ON AGING MAY PETITION THE
29 COURT FOR AN ORDER TO REQUIRE ANY OF THE FOLLOWING:

30 (1) ACCESS TO THE OLDER ADULT.

1 (2) A PHYSICAL HEALTH EVALUATION OF THE OLDER ADULT.

2 (3) A BEHAVIORAL HEALTH EVALUATION OF THE OLDER ADULT.

3 § 6925. ACCESS TO RECORDS.

4 (A) AREA AGENCY ON AGING ACCESS.--THE AREA AGENCY ON AGING
5 SHALL, SUBJECT TO THE CONSENT OF THE OLDER ADULT, HAVE ACCESS TO
6 ALL RECORDS FOR THE PURPOSES OF:

7 (1) ASSESSING AN OLDER ADULT'S NEED FOR SERVICES.

8 (2) PLANNING AND DELIVERY OF SERVICES.

9 (3) INVESTIGATING REPORTS.

10 (B) REFUSAL.--IF THE AREA AGENCY ON AGING IS DENIED ACCESS
11 TO RECORDS NECESSARY FOR THE COMPLETION OF A PROPER
12 INVESTIGATION OF A REPORT, ASSESSMENT OR SERVICE PLAN, OR THE
13 DELIVERY OF NEEDED SERVICES IN ORDER TO PREVENT FURTHER ABUSE,
14 NEGLECT, EXPLOITATION OR ABANDONMENT OF THE OLDER ADULT REPORTED
15 TO BE IN NEED OF PROTECTIVE SERVICES, THE AGENCY MAY PETITION
16 THE COURT OF COMMON PLEAS FOR AN ORDER REQUIRING THE APPROPRIATE
17 ACCESS WHEN EITHER OF THE FOLLOWING CONDITIONS APPLY:

18 (1) THE OLDER ADULT HAS PROVIDED WRITTEN CONSENT FOR ANY
19 CONFIDENTIAL RECORDS TO BE DISCLOSED AND THE KEEPER OF THE
20 RECORDS DENIES ACCESS.

21 (2) THE AGENCY CAN DEMONSTRATE THAT THE OLDER ADULT IS
22 DENYING ACCESS TO RECORDS BECAUSE OF INCOMPETENCE, COERCION,
23 EXTORTION OR JUSTIFIABLE FEAR OF FUTURE ABUSE, NEGLECT,
24 EXPLOITATION OR ABANDONMENT.

25 (C) REQUEST OF CERTAIN RECORDS.--RECORDS OF STATE AGENCIES,
26 PRIVATE ORGANIZATIONS, FINANCIAL INSTITUTIONS, FIDUCIARIES,
27 MEDICAL INSTITUTIONS AND PRACTITIONERS AND PERSONS REASONABLY
28 SUSPECTED OF ENGAGING IN OR FACILITATING THE ABUSE, NEGLECT,
29 EXPLOITATION OR ABANDONMENT OF AN OLDER ADULT, WHICH THE AREA
30 AGENCY ON AGING REASONABLY BELIEVES TO BE NECESSARY TO COMPLETE

1 AN INVESTIGATION OR ASSESSMENT AND SERVICE PLAN, SHALL BE
2 REQUESTED IN WRITTEN FORM AND MADE AVAILABLE TO THE AREA AGENCY
3 ON AGING UNLESS THE DISCLOSURE IS PROHIBITED BY ANY OTHER
4 PROVISION OF FEDERAL OR STATE LAW. EXCEPT AS PROVIDED BY A COURT
5 ORDER, ACCESS TO FINANCIAL RECORDS SHALL BE LIMITED TO RECORDS
6 RELATING TO THE MOST RECENT TRANSACTION OR TRANSACTIONS THAT MAY
7 COMPRISE FINANCIAL EXPLOITATION, NOT TO EXCEED 60 CALENDAR DAYS
8 PRIOR TO THE FIRST TRANSACTION THAT WAS REPORTED OR 60 CALENDAR
9 DAYS AFTER THE LAST TRANSACTION THAT WAS REPORTED.

10 (D) COMPENSATION.--THE AREA AGENCY ON AGING OR THE
11 DEPARTMENT MAY COMPENSATE A PERSON REQUESTED OR ORDERED TO
12 PROVIDE RECORDS TO THE AREA AGENCY ON AGING FOR THE REASONABLE
13 COSTS OF PRODUCING RECORDS IN A MANNER CONSISTENT WITH THE
14 REQUIREMENTS OF SECTION 1115(A) OF THE RIGHT TO FINANCIAL
15 PRIVACY ACT OF 1978 (PUBLIC LAW 95-630, 12 U.S.C. § 3415).
16 § 6926. RIGHTS OF OLDER ADULTS.

17 (A) NOTIFICATION.--THE AREA AGENCY ON AGING SHALL DISCREETLY
18 NOTIFY THE OLDER ADULT DURING THE INVESTIGATION THAT A REPORT
19 HAS BEEN MADE AND SHALL PROVIDE THE OLDER ADULT WITH A BRIEF
20 SUMMARY OF THE NATURE OF THE REPORT.

21 (B) INFORMATION.--AS PROVIDED IN SECTION 6934 (RELATING TO
22 CONFIDENTIALITY OF RECORDS), THE OLDER ADULT WHO IS THE SUBJECT
23 OF A REPORT, OR THE OLDER ADULT'S GUARDIAN IF THE GUARDIAN IS
24 NOT NAMED AS A PERPETRATOR IN THE REPORT, MAY RECEIVE, UPON
25 WRITTEN REQUEST, A SUMMARY OF THE REPORT OF NEED EXCEPT
26 INFORMATION THAT WOULD IDENTIFY THE PERSON WHO MADE A REPORT OF
27 SUSPECTED ABUSE, NEGLECT, EXPLOITATION OR ABANDONMENT OR PERSONS
28 WHO COOPERATED IN A SUBSEQUENT INVESTIGATION.

29 (C) APPEAL.--A DENIAL OF SERVICES BY THE DEPARTMENT OR AN
30 AREA AGENCY ON AGING UNDER THIS SUBCHAPTER MAY BE APPEALED

1 ACCORDING TO THE PROVISIONS OF THE RULES AND REGULATIONS ISSUED
2 BY THE DEPARTMENT UNDER ARTICLE XXII-A OF THE ACT OF APRIL 9,
3 1929 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF
4 1929.

5 § 6927. CONFIDENTIALITY STANDARDS REQUIRED.

6 AREA AGENCIES ON AGING SHALL UTILIZE THE DEPARTMENT'S
7 CONFIDENTIALITY STANDARDS ESTABLISHED UNDER SECTION 6913
8 (RELATING TO CONFIDENTIALITY).

9 § 6928. AVAILABILITY OF PROTECTIVE SERVICES.

10 THE AREA AGENCY ON AGING SHALL OFFER PROTECTIVE SERVICES
11 UNDER ANY OF THE FOLLOWING CONDITIONS:

12 (1) AN OLDER ADULT REQUESTS THE SERVICES.

13 (2) ANOTHER INTERESTED PERSON REQUESTS THE SERVICES ON
14 BEHALF OF AN OLDER ADULT.

15 (3) AFTER INVESTIGATION OF A REPORT, THE AREA AGENCY ON
16 AGING DETERMINES THE OLDER ADULT IS IN NEED OF THE SERVICES.

17 SUBCHAPTER D

18 PROTECTIVE SERVICES

19 SEC.

20 6930. CONSENT BY REQUEST.

21 6931. INTERFERENCE WITH SERVICES.

22 6932. FINANCIAL OBLIGATIONS, LIABILITIES AND PAYMENTS.

23 6933. INVOLUNTARY INTERVENTION BY EMERGENCY COURT ORDER.

24 6934. CONFIDENTIALITY OF RECORDS.

25 § 6930. CONSENT BY REQUEST.

26 AN OLDER ADULT SHALL RECEIVE PROTECTIVE SERVICES VOLUNTARILY
27 UNLESS THE SERVICES ARE ORDERED BY A COURT OF COMPETENT
28 JURISDICTION.

29 § 6931. INTERFERENCE WITH SERVICES.

30 IF A PERSON INTERFERES WITH THE PROVISION OF SERVICES OR

1 INTERFERES WITH THE RIGHT OF AN OLDER ADULT TO CONSENT TO
2 PROVISION OF SERVICES, THE AREA AGENCY ON AGING MAY PETITION THE
3 COURT FOR AN ORDER ENJOINING THE INTERFERENCE.

4 § 6932. FINANCIAL OBLIGATIONS, LIABILITIES AND PAYMENTS.

5 ALL OLDER ADULTS RECEIVING PROTECTIVE SERVICES AND ALL
6 AGENCIES PROVIDING SERVICES UNDER THIS SUBCHAPTER SHALL COMPLY
7 WITH THE FOLLOWING PROVISIONS REGARDING LIABILITY FOR THE
8 PAYMENT OF SERVICES:

9 (1) FUNDING TO PROVIDE OR MAKE AVAILABLE PROTECTIVE
10 SERVICES UNDER THIS SUBCHAPTER SHALL NOT BE USED IN PLACE OF
11 ANY PUBLIC OR PRIVATE ENTITLEMENTS OR BENEFITS FOR WHICH THE
12 OLDER ADULT RECEIVING PROTECTIVE SERVICES UNDER THIS
13 SUBCHAPTER IS OR MAY BE ELIGIBLE.

14 (1.1) FUNDING TO PROVIDE OR MAKE AVAILABLE PROTECTIVE
15 SERVICES SHALL NOT BE AVAILABLE UNTIL ELIGIBILITY AND RECEIPT
16 OF BENEFITS UNDER PUBLIC AND PRIVATE ENTITLEMENTS OR
17 RESOURCES HAVE BEEN EXHAUSTED.

18 (2) FUNDING AVAILABLE TO LOCAL PROTECTIVE SERVICES
19 AGENCIES UNDER THIS SUBCHAPTER MAY BE USED TO COVER THE COSTS
20 OF ACTIVITIES, INCLUDING, BUT NOT LIMITED TO:

21 (I) ADMINISTERING PROTECTIVE SERVICES PLANS.

22 (II) RECEIVING AND MAINTAINING RECORDS OF REPORTS OF
23 ABUSE, NEGLECT, EXPLOITATION AND ABANDONMENT.

24 (III) CONDUCTING INVESTIGATIONS OF REPORTED ABUSE,
25 NEGLECT, EXPLOITATION AND ABANDONMENT.

26 (IV) CARRYING OUT ASSESSMENTS AND DEVELOPING SERVICE
27 PLANS.

28 (V) PETITIONING THE COURT.

29 (VI) PROVIDING FOR EMERGENCY INVOLUNTARY
30 INTERVENTION.

1 (VII) ARRANGING FOR AVAILABLE SERVICES NEEDED TO
2 CARRY OUT SERVICE PLANS, WHICH MAY INCLUDE, AS
3 APPROPRIATE, ARRANGING FOR SERVICES FOR OTHER PERSONS IN
4 THE HOUSEHOLD UNIT IN ORDER TO REDUCE, CORRECT OR
5 ELIMINATE ABUSE, NEGLECT, EXPLOITATION OR ABANDONMENT OF
6 AN OLDER ADULT.

7 (VIII) PURCHASING, ON A TEMPORARY BASIS, SERVICES
8 DETERMINED BY A SERVICE PLAN TO BE NECESSARY TO REDUCE,
9 CORRECT OR ELIMINATE ABUSE, NEGLECT, EXPLOITATION OR
10 ABANDONMENT OF AN OLDER ADULT WHEN THE SERVICES ARE NOT
11 AVAILABLE WITHIN THE EXISTING RESOURCES OF THE AREA
12 AGENCY ON AGING OR OTHER APPROPRIATE PROVIDER. PURCHASE
13 OF SERVICES UNDER THIS PROVISION IS LIMITED TO A 30-DAY
14 PERIOD WHICH MAY BE RENEWED WITH ADEQUATE JUSTIFICATION
15 UNDER REGULATIONS ISSUED BY THE DEPARTMENT.

16 (3) OLDER ADULTS RECEIVING PROTECTIVE SERVICES SHALL NOT
17 BE REQUIRED TO PAY A FEE FOR SERVICES RECEIVED BY OTHER OLDER
18 ADULTS WHEN THE RECEIPT OF THE SERVICES BY OTHERS IS NOT
19 SUBJECT TO COST SHARING.

20 § 6933. INVOLUNTARY INTERVENTION BY EMERGENCY COURT ORDER.

21 (A) EMERGENCY PETITION.--AN AREA AGENCY ON AGING MAY
22 PETITION A COURT OF COMMON PLEAS FOR AN EMERGENCY ORDER TO
23 PROVIDE PROTECTIVE SERVICES TO AN OLDER ADULT WHO IS AT IMMINENT
24 RISK OF DEATH, SEXUAL ABUSE, SERIOUS BODILY INJURY OR FINANCIAL
25 EXPLOITATION. THE COURT OF COMMON PLEAS SHALL GRANT THE AREA
26 AGENCY ON AGING'S PETITION IF THE COURT FINDS, BY CLEAR AND
27 CONVINCING EVIDENCE, THAT FAILURE TO PROVIDE PROTECTIVE SERVICES
28 WILL PLACE THE OLDER ADULT AT IMMINENT RISK OF DEATH, SEXUAL
29 ABUSE, SERIOUS BODILY INJURY OR FINANCIAL EXPLOITATION. THE
30 COURTS OF COMMON PLEAS OF EACH JUDICIAL DISTRICT SHALL ENSURE

1 THAT A JUDGE OR MAGISTERIAL DISTRICT JUDGE IS AVAILABLE AT ALL
2 TIMES TO ACCEPT AND RULE ON PETITIONS FOR EMERGENCY COURT ORDERS
3 UNDER THIS SECTION WHENEVER THE AREA AGENCY ON AGING DETERMINES
4 THAT A DELAY UNTIL NORMAL COURT HOURS MAY SIGNIFICANTLY INCREASE
5 DANGER TO THE OLDER ADULT.

6 (B) LIMITED ORDER.--THE COURT, AFTER FINDING CLEAR AND
7 CONVINCING EVIDENCE OF THE NEED FOR AN EMERGENCY ORDER, SHALL
8 ORDER ONLY SERVICES NECESSARY TO REMOVE THE CONDITIONS CREATING
9 THE ESTABLISHED NEED.

10 (C) RIGHT TO COUNSEL.--IN ORDER TO PROTECT THE RIGHTS OF AN
11 OLDER ADULT FOR WHOM PROTECTIVE SERVICES ARE BEING ORDERED, AN
12 EMERGENCY COURT ORDER UNDER THIS SECTION SHALL PROVIDE THAT THE
13 OLDER ADULT HAS THE RIGHT TO LEGAL COUNSEL. IF THE OLDER ADULT
14 IS UNABLE TO PROVIDE FOR COUNSEL, COUNSEL SHALL BE APPOINTED BY
15 THE COURT.

16 (D) FORCIBLE ENTRY.--IF IT IS NECESSARY TO FORCIBLY ENTER
17 PREMISES AFTER OBTAINING A COURT ORDER, A LAW ENFORCEMENT
18 OFFICIAL MAY DO SO, ACCOMPANIED BY A REPRESENTATIVE OF THE AREA
19 AGENCY ON AGING.

20 (E) HEALTH AND SAFETY REQUIREMENTS.--THE AREA AGENCY ON
21 AGING SHALL TAKE REASONABLE STEPS TO ENSURE THAT WHILE THE OLDER
22 ADULT IS RECEIVING SERVICES UNDER AN EMERGENCY COURT ORDER, THE
23 HEALTH AND SAFETY NEEDS OF ANY OF THE OLDER ADULT'S DEPENDENTS
24 ARE MET AND THAT THE PERSONAL PROPERTY AND DWELLING OF THE OLDER
25 ADULT ARE SECURE.

26 § 6934. CONFIDENTIALITY OF RECORDS.

27 (A) REQUIREMENT.--INFORMATION CONTAINED IN REPORTS, RECORDS
28 OF INVESTIGATION, ASSESSMENTS AND SERVICE PLANS CREATED UNDER
29 THIS SUBCHAPTER SHALL BE CONSIDERED PRIVILEGED AND CONFIDENTIAL
30 AND SHALL BE MAINTAINED UNDER REGULATIONS PROMULGATED BY THE

1 DEPARTMENT. THE DEPARTMENT OR THE AREA AGENCY ON AGING MAY NOT
2 RELEASE INFORMATION THAT COULD BE DETRIMENTAL TO THE OLDER ADULT
3 EXCEPT THAT THE INFORMATION SHALL BE RELEASED TO A LAW
4 ENFORCEMENT OFFICIAL UNDER SUBSECTION (B) (2) AND MAY BE USED BY
5 THE DEPARTMENT IN CIVIL PROCEEDINGS, SUBJECT TO PROTECTIVE
6 ORDERS. ALL INFORMATION CONTAINED IN PROTECTIVE SERVICE RECORDS
7 IS SUBJECT TO OTHER FEDERAL AND STATE CONFIDENTIALITY AND
8 SECURITY LAWS.

9 (B) RELEASE OF PROTECTIVE SERVICES RECORDS.--PROTECTIVE
10 SERVICES RECORDS MAY BE PROVIDED AS FOLLOWS:

11 (1) PROTECTIVE SERVICES RECORDS MAY BE PROVIDED TO A
12 COURT OF COMPETENT JURISDICTION OR TO ANOTHER PARTY PURSUANT
13 TO A COURT ORDER. A SUBPOENA SHALL NOT BE A COURT ORDER FOR
14 PURPOSES OF THIS SECTION.

15 (2) PROTECTIVE SERVICES RECORDS MAY BE PROVIDED TO LAW
16 ENFORCEMENT OFFICIALS OR A CORONER IF THE INFORMATION IS
17 RELEVANT TO THE OFFICIAL'S OR CORONER'S INVESTIGATION OF
18 ABUSE, NEGLIGENCE, EXPLOITATION, ABANDONMENT OR DEATH OF THE
19 OLDER ADULT.

20 (3) IN ARRANGING SPECIFIC SERVICES TO CARRY OUT SERVICE
21 PLANS, THE AREA AGENCY ON AGING MAY DISCLOSE INFORMATION TO
22 APPROPRIATE SERVICE PROVIDERS AS MAY BE NECESSARY TO INITIATE
23 THE DELIVERY OF SERVICES.

24 (4) THE OLDER ADULT WHO IS THE SUBJECT OF A REPORT OR
25 THE OLDER ADULT'S GUARDIAN, IF THE GUARDIAN IS NOT NAMED AS A
26 PERPETRATOR IN THE REPORT, MAY RECEIVE, UPON WRITTEN REQUEST,
27 A SUMMARY OF THE REPORT OF NEED EXCEPT INFORMATION THAT WOULD
28 IDENTIFY THE PERSON WHO MADE A REPORT OF SUSPECTED ABUSE,
29 NEGLECT, EXPLOITATION OR ABANDONMENT OR PERSONS WHO
30 COOPERATED IN A SUBSEQUENT INVESTIGATION.

1 (5) A PERSON WHO MADE A REPORT OF SUSPECTED ABUSE,
2 NEGLECT, EXPLOITATION OR ABANDONMENT MAY RECEIVE, UPON
3 WRITTEN REQUEST, CONFIRMATION FROM THE DEPARTMENT THAT THE
4 REPORT WAS RECEIVED AND THE AREA AGENCY ON AGING IS ACTING IN
5 ACCORDANCE WITH THIS SUBCHAPTER.

6 (6) FOR THE PURPOSES OF MONITORING AGENCY PERFORMANCE OR
7 CONDUCTING OTHER OFFICIAL DUTIES, APPROPRIATE STAFF OF THE
8 DEPARTMENT, AS DESIGNATED BY THE SECRETARY OF AGING, MAY
9 ACCESS PROTECTIVE SERVICES RECORDS.

10 (7) THE DEPARTMENT OR THE AREA AGENCY ON AGING MAY
11 COLLABORATE OR SHARE INFORMATION INCLUDED IN PROTECTIVE
12 SERVICES RECORDS WITH COMMONWEALTH AGENCIES FOR PURPOSES OF
13 OFFICIAL COMMONWEALTH BUSINESS.

14 (8) THE DEPARTMENT OR THE AREA AGENCY ON AGING MAY SHARE
15 A SUMMARY OF PROTECTIVE SERVICES INFORMATION WITH ANOTHER
16 AREA AGENCY ON AGING THAT IS PERFORMING RESPONSIBILITIES
17 UNDER THIS SUBCHAPTER RELEVANT TO OLDER ADULTS WITHIN THE
18 AREA AGENCY ON AGING'S JURISDICTION.

19 (9) AN EMPLOYEE OF AN AGENCY OF ANOTHER STATE WHO
20 PERFORMS OLDER ADULT PROTECTIVE SERVICES SIMILAR TO THOSE
21 UNDER THIS SUBCHAPTER MAY ACCESS A SUMMARY OF PROTECTIVE
22 SERVICES INFORMATION RELEVANT TO OLDER ADULTS WITHIN THE AREA
23 AGENCY ON AGING'S JURISDICTION.

24 (10) PROTECTIVE SERVICES RECORDS MAY BE PROVIDED TO A
25 HEALTH CARE PROVIDER WHO IS EXAMINING OR TREATING THE OLDER
26 ADULT AND WHO SUSPECTS THAT THE OLDER ADULT IS IN NEED OF
27 PROTECTION UNDER THIS SUBCHAPTER.

28 (11) PROTECTIVE SERVICES RECORDS MAY BE PROVIDED TO THE
29 DIRECTOR, OR AN INDIVIDUAL SPECIFICALLY DESIGNATED IN WRITING
30 BY THE DIRECTOR, OF A HOSPITAL OR OTHER MEDICAL INSTITUTION

1 WHERE THE OLDER ADULT IS BEING TREATED IF THE DIRECTOR OR
2 DESIGNEE SUSPECTS THAT THE RECIPIENT IS IN NEED OF PROTECTION
3 UNDER THIS CHAPTER.

4 (12) UNLESS PROHIBITED BY FEDERAL LAW, PROTECTIVE
5 SERVICES RECORDS RELATING TO FINANCIAL EXPLOITATION MAY BE
6 PROVIDED TO A FINANCIAL INSTITUTION OR FIDUCIARY AS NECESSARY
7 TO EXERCISE THE AUTHORITY TO PROHIBIT DISBURSEMENT OF FUNDS
8 AND TRANSACTIONS PROVIDED UNDER SECTION 6952 (RELATING TO
9 DISBURSEMENT OF FUNDS AND TRANSACTIONS).

10 SUBCHAPTER E

11 REPORTING

12 SEC.

13 6940. VOLUNTARY REPORTING.

14 6941. MANDATORY REPORTING.

15 6942. MANDATORY REPORTING TO LAW ENFORCEMENT OFFICIALS AND
16 DEPARTMENT.

17 6943. CONTENTS OF REPORTS.

18 6944. MANDATORY REPORTER TRAINING.

19 6945. CORONER.

20 6946. PROTECTING IDENTITY OF REPORTER AND COOPERATING
21 WITNESSES.

22 § 6940. VOLUNTARY REPORTING.

23 A PERSON HAVING REASONABLE CAUSE TO BELIEVE THAT AN OLDER
24 ADULT MAY BE A VICTIM OF ABUSE, NEGLECT, EXPLOITATION OR
25 ABANDONMENT MAY REPORT THE INFORMATION TO THE AREA AGENCY ON
26 AGING.

27 § 6941. MANDATORY REPORTING.

28 A MANDATORY REPORTER WHO HAS REASONABLE CAUSE TO SUSPECT THAT
29 AN OLDER ADULT MAY BE A VICTIM OF ABUSE, NEGLECT, EXPLOITATION
30 OR ABANDONMENT SHALL IMMEDIATELY MAKE AN ORAL REPORT TO THE AREA

1 AGENCY ON AGING. IF APPLICABLE, THE AREA AGENCY ON AGING SHALL
2 ADVISE THE MANDATORY REPORTER OF ADDITIONAL REPORTING
3 REQUIREMENTS THAT MAY APPLY UNDER SECTION 6942 (RELATING TO
4 MANDATORY REPORTING TO LAW ENFORCEMENT OFFICIALS AND
5 DEPARTMENT). WITHIN 48 HOURS OF MAKING THE ORAL REPORT, THE
6 MANDATORY REPORTER SHALL MAKE A WRITTEN REPORT TO THE AREA
7 AGENCY ON AGING.

8 § 6942. MANDATORY REPORTING TO LAW ENFORCEMENT OFFICIALS AND
9 DEPARTMENT.

10 IN ADDITION TO THE REPORT UNDER SECTION 6941 (RELATING TO
11 MANDATORY REPORTING), A MANDATORY REPORTER WHO HAS REASONABLE
12 CAUSE TO SUSPECT THAT AN OLDER ADULT MAY BE A VICTIM OF
13 SUSPICIOUS DEATH, SERIOUS BODILY INJURY OR SEXUAL ABUSE SHALL
14 IMMEDIATELY CONTACT LAW ENFORCEMENT OFFICIALS AND THE DEPARTMENT
15 TO MAKE AN ORAL REPORT. WITHIN 48 HOURS OF MAKING THE ORAL
16 REPORT, THE MANDATORY REPORTER SHALL MAKE A WRITTEN REPORT TO
17 APPROPRIATE LAW ENFORCEMENT OFFICIALS AND TO THE AREA AGENCY ON
18 AGING. THE AREA AGENCY ON AGING SHALL FORWARD THE REPORT TO THE
19 DEPARTMENT WITHIN 48 HOURS OF RECEIPT.

20 § 6943. CONTENTS OF REPORTS.

21 A WRITTEN MANDATORY REPORT UNDER THIS SECTION SHALL BE IN A
22 MANNER AND ON FORMS PRESCRIBED BY THE DEPARTMENT. AT A MINIMUM,
23 THE REPORT SHALL INCLUDE THE FOLLOWING INFORMATION, AS WELL AS
24 ANYTHING ADDITIONAL REQUIRED BY REGULATION:

25 (1) NAME, AGE, SEX AND ADDRESS OF THE OLDER ADULT.

26 (2) NAME AND ADDRESS OF THE OLDER ADULT'S LEGAL
27 REPRESENTATIVE OR NEXT OF KIN.

28 (3) NAME AND ADDRESS OF THE FACILITY, IF APPLICABLE.

29 (4) NATURE AND LOCATION OF THE REPORTED INCIDENT AND ANY
30 SPECIFIC COMMENTS OR OBSERVATIONS DIRECTLY RELATED TO THE

1 ALLEGED INCIDENT AND THE OLDER ADULT INVOLVED.

2 (5) ANY RELEVANT INFORMATION KNOWN RELATED TO THE
3 IDENTITY OF THE ALLEGED PERPETRATOR, INCLUDING, BUT NOT
4 LIMITED TO, NAME, AGE, SEX AND RELATIONSHIP TO THE OLDER
5 ADULT.

6 (6) NAME OF THE INDIVIDUAL MAKING THE REPORT, CONTACT
7 INFORMATION FOR THE REPORTER AND INFORMATION REGARDING ANY
8 ACTIONS TAKEN BY THE REPORTER IN RESPONSE TO THE INCIDENT.

9 § 6944. MANDATORY REPORTER TRAINING.

10 MANDATORY REPORTERS SHALL BE TRAINED BY EITHER THE DEPARTMENT
11 OR AN AGENT OF THE DEPARTMENT ON THE REQUIREMENTS TO REPORT
12 IDENTIFIED WITHIN THIS SUBCHAPTER.

13 § 6945. CORONER.

14 IF THERE IS REASONABLE CAUSE TO SUSPECT THAT AN OLDER ADULT
15 DIED AS A RESULT OF ABUSE, NEGLECT, EXPLOITATION OR ABANDONMENT,
16 THE AREA AGENCY ON AGING SHALL GIVE THE ORAL REPORT AND FORWARD
17 A COPY OF THE WRITTEN REPORT TO THE APPROPRIATE CORONER WITHIN
18 24 HOURS.

19 § 6946. PROTECTING IDENTITY OF REPORTER AND COOPERATING
20 WITNESSES.

21 (A) PROHIBITION.--EXCEPT FOR DISCLOSURES TO LAW ENFORCEMENT
22 OFFICIALS, THE RELEASE OF RECORDS THAT WOULD IDENTIFY THE
23 INDIVIDUAL WHO MADE A REPORT UNDER THIS SUBCHAPTER OR AN
24 INDIVIDUAL WHO COOPERATED IN A SUBSEQUENT INVESTIGATION IS
25 PROHIBITED.

26 (B) IDENTITY PROTECTION.--IF RECORDS ARE PROVIDED PURSUANT
27 TO A COURT ORDER, THE IDENTITY OF THE REPORTER AND COOPERATING
28 WITNESSES SHALL BE DELETED, UNLESS OTHERWISE ORDERED BY THE
29 COURT AFTER AN IN-CAMERA REVIEW.

30 SUBCHAPTER F

1 FINANCIAL INSTITUTIONS AND FIDUCIARIES

2 SEC.

3 6950. REPORTING FINANCIAL EXPLOITATION.

4 6951. FINANCIAL SERVICES PROVIDER TRAINING.

5 6952. DISBURSEMENT OF FUNDS AND TRANSACTIONS.

6 6953. IMMUNITY AND DEFENSES.

7 § 6950. REPORTING FINANCIAL EXPLOITATION.

8 NOTWITHSTANDING ANY LAW LIMITING OR PROHIBITING DISCLOSURE,

9 EXCEPT AS OTHERWISE PROVIDED BY FEDERAL LAW, A FINANCIAL

10 SERVICES PROVIDER, INCLUDING A DESIGNATED EMPLOYEE OF A

11 FINANCIAL SERVICES PROVIDER, MAY REPORT FINANCIAL EXPLOITATION

12 IF THE EMPLOYEE REASONABLY BELIEVES THAT FINANCIAL EXPLOITATION

13 OF AN OLDER ADULT MAY HAVE OCCURRED, MAY HAVE BEEN ATTEMPTED OR

14 IS BEING ATTEMPTED.

15 § 6951. FINANCIAL SERVICES PROVIDER TRAINING.

16 (A) REQUIREMENT.--A FINANCIAL SERVICES PROVIDER WITH

17 EMPLOYEES IN THIS COMMONWEALTH OR WITH EMPLOYEES REGULARLY

18 ENGAGING IN FINANCIAL TRANSACTIONS WITH OR ON BEHALF OF OLDER

19 ADULTS IN THIS COMMONWEALTH SHALL PROVIDE TRAINING TO EMPLOYEES

20 WHO HAVE DIRECT CONTACT WITH OLDER ADULTS AND CONDUCT FINANCIAL

21 TRANSACTIONS FOR OR ON BEHALF OF OLDER ADULTS.

22 (B) PROGRAM.--THE DEPARTMENT, IN CONSULTATION WITH THE

23 DEPARTMENT OF BANKING AND SECURITIES AND REPRESENTATIVES OF THE

24 FINANCIAL SERVICES INDUSTRY, MAY ESTABLISH A MODEL TRAINING

25 PROGRAM FOR EMPLOYEES OF FINANCIAL SERVICES PROVIDERS REGARDING

26 THE IDENTIFICATION AND PREVENTION OF FINANCIAL EXPLOITATION OF

27 OLDER ADULTS AND ON PROCEDURES TO PROVIDE RELIEF TO OLDER ADULTS

28 FROM FINANCIAL EXPLOITATION, INCLUDING TRAINING REGARDING THE

29 FOLLOWING:

30 (1) WHEN TO REPORT SUSPECTED FINANCIAL EXPLOITATION.

1 (2) TO WHOM SUSPECTED EXPLOITATION SHOULD BE REPORTED.

2 (3) THE INFORMATION TO BE INCLUDED IN A REPORT.

3 (4) THE APPLICABLE LAWS, RULES AND REGULATIONS THAT MUST
4 BE FOLLOWED WHILE REPORTING SUSPECTED FINANCIAL EXPLOITATION.

5 (C) INFORMATION.--THE FINANCIAL SERVICES PROVIDER TRAINING
6 SHALL INCLUDE INFORMATION THAT:

7 (1) ASSISTS EMPLOYEES IN RECOGNIZING SIGNS OF POTENTIAL
8 FINANCIAL ABUSE OF AN OLDER ADULT, INCLUDING, BUT NOT LIMITED
9 TO, THE FOLLOWING:

10 (I) UNUSUAL ACTIVITY IN AN OLDER ADULT'S RETIREMENT
11 ACCOUNT, BROKERAGE ACCOUNT OR OTHER ACCOUNTS MANAGED BY
12 AN AGENT OR INVESTMENT ADVISER REPRESENTATIVE OR DEPOSIT
13 ACCOUNT.

14 (II) AUTOMATED TELLER MACHINE WITHDRAWALS BY AN
15 OLDER ADULT WHO PREVIOUSLY NEVER USED AN AUTOMATED TELLER
16 MACHINE OR DEBIT CARD.

17 (III) SUSPICIOUS SIGNATURES ON CHECKS.

18 (2) INFORMS EMPLOYEES ABOUT THE APPLICABLE PROVISIONS OF
19 THIS CHAPTER AND THE PROCESS THAT EMPLOYEES SHOULD USE IF
20 MAKING AN ABUSE REPORT OR A REPORT OF NEED FOR PROTECTIVE
21 SERVICES.

22 (D) COMPLIANCE.--A FINANCIAL SERVICES PROVIDER SHALL BE
23 DEEMED IN COMPLIANCE WITH THIS SECTION IF THE PROVIDER USES A
24 MODEL TRAINING PROGRAM ESTABLISHED BY THE DEPARTMENT OR IS
25 SUBJECT TO VISITORIAL EXAMINATION BY A REGULATORY AUTHORITY THAT
26 REQUIRES EMPLOYEE TRAINING TO CONTROL FRAUD OR MONEY LAUNDERING
27 AND INCORPORATES THE ACTIVITIES REQUIRED UNDER SUBSECTIONS (B)
28 AND (C) INTO ITS TRAINING PROGRAM.

29 § 6952. DISBURSEMENT OF FUNDS AND TRANSACTIONS.

30 (A) REASONABLE BELIEF.--IF A FINANCIAL SERVICES PROVIDER OR

1 FIDUCIARY REASONABLY BELIEVES, AFTER INITIATING AN INTERNAL
2 REVIEW OF A DISBURSEMENT OR TRANSACTION, THAT FINANCIAL
3 EXPLOITATION OF AN OLDER ADULT MAY HAVE OCCURRED, MAY HAVE BEEN
4 ATTEMPTED OR IS BEING ATTEMPTED, THE FINANCIAL SERVICES PROVIDER
5 OR FIDUCIARY MAY REFUSE TO DISBURSE FUNDS OR ENGAGE IN A
6 TRANSACTION, AS APPROPRIATE, TO PREVENT FINANCIAL EXPLOITATION
7 OF AN OLDER ADULT WITH RESPECT TO THE FOLLOWING ACCOUNTS:

8 (1) AN ACCOUNT OF THE OLDER ADULT.

9 (2) AN ACCOUNT ON WHICH THE OLDER ADULT IS A
10 BENEFICIARY, INCLUDING A TRUST OR GUARDIANSHIP ACCOUNT.

11 (3) AN ACCOUNT OF A PERSON SUSPECTED OF PERPETRATING
12 FINANCIAL EXPLOITATION OF AN OLDER ADULT.

13 (B) AREA AGENCY ON AGING OR LAW ENFORCEMENT.--A FINANCIAL
14 SERVICES PROVIDER OR FIDUCIARY MAY REFUSE TO DISBURSE FUNDS OR
15 ENGAGE IN A TRANSACTION UNDER THIS SECTION IF AN AREA AGENCY ON
16 AGING OR LAW ENFORCEMENT OFFICIAL PROVIDES INFORMATION TO THE
17 FINANCIAL SERVICES PROVIDER OR FIDUCIARY DEMONSTRATING THAT IT
18 IS REASONABLE TO BELIEVE THAT FINANCIAL EXPLOITATION OF AN OLDER
19 ADULT MAY HAVE OCCURRED, MAY HAVE BEEN ATTEMPTED OR IS BEING
20 ATTEMPTED.

21 (C) DISCRETION.--A FINANCIAL SERVICES PROVIDER OR FIDUCIARY
22 SHALL NOT BE REQUIRED TO REFUSE TO DISBURSE FUNDS OR ENGAGE IN A
23 TRANSACTION WHEN PROVIDED WITH INFORMATION ALLEGING THAT
24 FINANCIAL EXPLOITATION MAY HAVE OCCURRED, MAY HAVE BEEN
25 ATTEMPTED OR IS BEING ATTEMPTED, BUT MAY USE ITS DISCRETION TO
26 DETERMINE WHETHER TO REFUSE TO DISBURSE FUNDS BASED ON THE
27 INFORMATION AVAILABLE TO THE FINANCIAL SERVICES PROVIDER OR
28 FIDUCIARY.

29 (D) DUTIES.--EXCEPT AS PROVIDED BY FEDERAL OR STATE LAW, A
30 FINANCIAL SERVICES PROVIDER OR FIDUCIARY THAT REFUSES TO

1 DISBURSE FUNDS OR ENGAGE IN A TRANSACTION BASED ON A REASONABLE
2 BELIEF THAT FINANCIAL EXPLOITATION OF AN OLDER ADULT MAY HAVE
3 OCCURRED, MAY HAVE BEEN ATTEMPTED OR IS BEING ATTEMPTED SHALL:

4 (1) MAKE A REASONABLE EFFORT TO NOTIFY, ORALLY OR IN
5 WRITING, EACH PERSON AUTHORIZED TO TRANSACT BUSINESS ON THE
6 ACCOUNT, THAT IS A BENEFICIARY OF THE ACCOUNT OR THAT HAS
7 BEEN AUTHORIZED BY THE OLDER ADULT TO RECEIVE NOTIFICATIONS
8 REGARDING ACCOUNT ACTIVITY, EXCEPT FOR A PERSON REASONABLY
9 BELIEVED TO HAVE ENGAGED IN SUSPECTED OR ATTEMPTED FINANCIAL
10 EXPLOITATION OF THE OLDER ADULT. A NOTIFICATION SHALL BE
11 SUFFICIENT IF IT PROVIDES THE FOLLOWING:

12 (I) NOTICE THAT THE FINANCIAL INSTITUTION OR
13 FIDUCIARY HAS TEMPORARILY BLOCKED THE DISBURSEMENT OF
14 FUNDS OR DELAYED THE EXECUTION OF TRANSACTIONS AS
15 AUTHORIZED UNDER SECTION 6950 (RELATING TO REPORTING
16 FINANCIAL EXPLOITATION).

17 (II) THE NAME OF THE FINANCIAL INSTITUTION OR
18 FIDUCIARY.

19 (III) THE ACCOUNT OR TRANSACTION TO WHICH THE
20 NOTIFICATION APPLIES.

21 (IV) THE NAME AND PHONE NUMBER OF A CONTACT PERSON
22 REPRESENTING THE FINANCIAL INSTITUTION OR FIDUCIARY.

23 (V) THE PHONE NUMBER OF THE AREA AGENCY ON AGING OR
24 LAW ENFORCEMENT OFFICIAL TO WHICH A REPORT HAS BEEN
25 PROVIDED.

26 (2) IMMEDIATELY MAKE AN ORAL REPORT TO THE AGENCY.
27 WITHIN TWO BUSINESS DAYS OF MAKING AN ORAL REPORT, THE
28 FINANCIAL SERVICES PROVIDER SHALL MAKE A WRITTEN REPORT TO
29 THE AREA AGENCY ON AGING.

30 (E) EXPIRATION.--A REFUSAL TO DISBURSE FUNDS OR ENGAGE IN A

1 TRANSACTION AS AUTHORIZED BY THIS SECTION BASED ON THE
2 REASONABLE BELIEF OF A FINANCIAL SERVICES PROVIDER THAT
3 FINANCIAL EXPLOITATION OF AN OLDER ADULT MAY HAVE OCCURRED, MAY
4 HAVE BEEN ATTEMPTED OR IS BEING ATTEMPTED SHALL EXPIRE UPON THE
5 SOONER OF THE FOLLOWING:

6 (1) FIFTEEN BUSINESS DAYS AFTER THE DATE ON WHICH THE
7 FINANCIAL SERVICES PROVIDER OR FIDUCIARY FIRST REFUSED TO
8 DISBURSE THE FUNDS OR ENGAGE IN THE TRANSACTION, UNLESS
9 TERMINATED OR EXTENDED BY AN ORDER OF A COURT OF COMPETENT
10 JURISDICTION, A LAW ENFORCEMENT OFFICIAL, THE DEPARTMENT OR
11 AN AREA AGENCY ON AGING. AN ADDITIONAL 10 BUSINESS DAYS SHALL
12 BE PERMITTED, IF REQUESTED BY A LAW ENFORCEMENT OFFICIAL, THE
13 DEPARTMENT OR AN AREA AGENCY ON AGING, FOLLOWING THE
14 SUBMISSION OF A PETITION FOR A COURT ORDER FURTHER EXTENDING
15 THE TIME PERIOD.

16 (2) EXCEPT AS PROVIDED UNDER PARAGRAPH (1), THE TIME
17 WHEN THE FINANCIAL SERVICES PROVIDER OR FIDUCIARY IS
18 SATISFIED THAT THE DISBURSEMENT WILL NOT RESULT IN FINANCIAL
19 EXPLOITATION OF AN OLDER ADULT.

20 (F) ORDER.--A COURT OF COMPETENT JURISDICTION MAY ENTER AN
21 ORDER EXTENDING THE REFUSAL BY THE FINANCIAL SERVICES PROVIDER
22 OR FIDUCIARY TO DISBURSE FUNDS OR ENGAGE IN A TRANSACTION BASED
23 ON A REASONABLE BELIEF THAT FINANCIAL EXPLOITATION OF AN OLDER
24 ADULT MAY HAVE OCCURRED, MAY HAVE BEEN ATTEMPTED OR IS BEING
25 ATTEMPTED. A COURT OF COMPETENT JURISDICTION MAY ALSO ORDER
26 OTHER PROTECTIVE RELIEF AS AUTHORIZED.

27 § 6953. IMMUNITY AND DEFENSES.

28 (A) IMMUNITY.--EXCEPT AS PROVIDED UNDER SUBSECTION (C), A
29 FINANCIAL SERVICES PROVIDER OR FIDUCIARY AND ITS DIRECTORS,
30 OFFICERS, EMPLOYEES OR AGENTS SHALL NOT BE SUBJECT TO A CLAIM

1 FOR DAMAGES OR OTHER CIVIL OR CRIMINAL LIABILITY FOR THE
2 FOLLOWING:

3 (1) THE IDENTIFICATION OR FAILURE TO IDENTIFY THE
4 FINANCIAL EXPLOITATION OF AN OLDER ADULT.

5 (2) A DECISION TO MAKE A REPORT OR NOT MAKE A REPORT
6 UNDER THIS CHAPTER.

7 (3) A DECISION TO ALLOW THE DISBURSEMENT OF FUNDS OR
8 ENGAGE IN A TRANSACTION UNDER THIS CHAPTER.

9 (4) A REFUSAL TO DISBURSE FUNDS OR ENGAGE IN A
10 TRANSACTION UNDER THIS CHAPTER.

11 (5) THE RELEASE OF INFORMATION TO A LAW ENFORCEMENT
12 OFFICIAL, THE DEPARTMENT OR AN AREA AGENCY ON AGING AS
13 AUTHORIZED BY THIS CHAPTER.

14 (6) THE PROVISION OF A NOTICE UNDER SECTION 6952
15 (RELATING TO DISBURSEMENT OF FUNDS AND TRANSACTIONS).

16 (B) ADDITIONAL IMMUNITIES AND DEFENSES.--NOTWITHSTANDING ANY
17 OTHER LAW TO THE CONTRARY:

18 (1) THE REFUSAL BY A FINANCIAL SERVICES PROVIDER TO
19 ENGAGE IN A TRANSACTION AUTHORIZED UNDER THIS SUBSECTION
20 SHALL NOT CONSTITUTE THE WRONGFUL DISHONOR OF AN ITEM UNDER
21 13 PA.C.S. § 4402 (RELATING TO LIABILITY OF BANK TO CUSTOMER
22 FOR WRONGFUL DISHONOR; TIME OF DETERMINING INSUFFICIENCY OF
23 ACCOUNT).

24 (2) A REASONABLE BELIEF THAT PAYMENT OF A CHECK WILL
25 FACILITATE THE FINANCIAL EXPLOITATION OF AN OLDER ADULT SHALL
26 CONSTITUTE REASONABLE GROUNDS TO DOUBT THE COLLECTABILITY OF
27 THE ITEM FOR PURPOSES OF THE EXPEDITED FUNDS AVAILABILITY ACT
28 (PUBLIC LAW 100-86, 12 U.S.C. § 4001 ET SEQ.), THE CHECK
29 CLEARING FOR THE 21ST CENTURY ACT (PUBLIC LAW 108-100, 12
30 U.S.C. § 5001 ET SEQ.) AND 12 CFR PT. 229 (RELATING TO

1 AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS).

2 (C) LIMITATION.--THE IMMUNITIES AND DEFENSES PROVIDED UNDER
3 THIS SECTION SHALL NOT APPLY TO A DIRECTOR, OFFICER, EMPLOYEE OR
4 AGENT INVOLVED IN THE FINANCIAL EXPLOITATION OF AN OLDER ADULT.

5 SUBCHAPTER G

6 CRIMINAL HISTORY

7 SEC.

8 6960. CRIMINAL HISTORY.

9 6961. GROUNDS FOR DENYING EMPLOYMENT.

10 6962. PROVISIONAL EMPLOYEES FOR LIMITED PERIODS.

11 § 6960. CRIMINAL HISTORY.

12 (A) GENERAL RULE.--A FACILITY SHALL REQUIRE AN INDIVIDUAL
13 UNDER SUBSECTION (B) TO SUBMIT THE FOLLOWING INFORMATION, WHICH
14 MUST HAVE BEEN OBTAINED WITHIN THE PRECEDING ONE-YEAR PERIOD:

15 (1) UNDER 18 PA.C.S. CH. 91 (RELATING TO CRIMINAL
16 HISTORY RECORD INFORMATION), A REPORT OF CRIMINAL HISTORY
17 RECORD INFORMATION FROM THE PENNSYLVANIA STATE POLICE OR A
18 STATEMENT FROM THE PENNSYLVANIA STATE POLICE THAT THE CENTRAL
19 REPOSITORY CONTAINS NO INFORMATION RELATING TO THAT PERSON.
20 THE CRIMINAL HISTORY RECORD INFORMATION SHALL BE LIMITED TO
21 THAT WHICH IS DISSEMINATED UNDER 18 PA.C.S. § 9121(B)(2)
22 (RELATING TO GENERAL REGULATIONS).

23 (2) A REPORT OF FEDERAL CRIMINAL HISTORY RECORD
24 INFORMATION PURSUANT TO THE FEDERAL BUREAU OF INVESTIGATION'S
25 APPROPRIATION UNDER THE DEPARTMENTS OF STATE, JUSTICE, AND
26 COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION
27 ACT, 1973 (PUBLIC LAW 92-544, 86 STAT. 1109). THE DEPARTMENT
28 SHALL BE THE INTERMEDIARY FOR THE PURPOSES OF THIS PARAGRAPH.
29 FOR THE PURPOSES OF THIS PARAGRAPH, THE INDIVIDUAL SHALL
30 SUBMIT A FULL SET OF FINGERPRINTS IN A MANNER PRESCRIBED BY

1 THE DEPARTMENT. THE COMMONWEALTH SHALL SUBMIT THE
2 FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR A
3 NATIONAL CRIMINAL HISTORY RECORD CHECK. THE INFORMATION
4 OBTAINED FROM THE CRIMINAL RECORD CHECK SHALL BE USED BY THE
5 DEPARTMENT TO DETERMINE THE INDIVIDUAL'S ELIGIBILITY. THE
6 DETERMINATION SHALL BE SUBMITTED TO THE ADMINISTRATOR BY THE
7 APPLICANT, PRIOR TO COMMENCING EMPLOYMENT, OR BY THE
8 EMPLOYEE. THE ADMINISTRATOR SHALL INSURE CONFIDENTIALITY OF
9 THE INFORMATION. THE PROVISIONS OF 18 PA.C.S. § 9121(B)(2)
10 SHALL NOT APPLY IF THE REQUEST FOR A REPORT OF FEDERAL
11 CRIMINAL HISTORY RECORD INFORMATION IS MADE UNDER THIS
12 SECTION.

13 (B) REPORTS.--THE FOLLOWING INDIVIDUALS SHALL SUBMIT THE
14 REPORTS OF CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER
15 SUBSECTION (A):

16 (1) AN APPLICANT, WITH THE APPLICANT'S APPLICATION.

17 (2) AN EMPLOYEE.

18 (3) AN ADMINISTRATOR WHO HAS OR MAY HAVE DIRECT CONTACT
19 WITH A RECIPIENT.

20 (4) AN OPERATOR WHO HAS OR MAY HAVE DIRECT CONTACT WITH
21 A RECIPIENT.

22 (C) NEW REPORTS.--NEW REPORTS OF CRIMINAL HISTORY
23 INFORMATION SHALL BE OBTAINED IN ACCORDANCE WITH THE FOLLOWING:

24 (1) BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION, AN
25 INDIVIDUAL UNDER SUBSECTION (B) SHALL BE REQUIRED TO OBTAIN
26 THE REPORT OF CRIMINAL HISTORY RECORD INFORMATION REQUIRED
27 UNDER SUBSECTION (A) (2) EVERY 60 MONTHS. THE DATE FOR
28 REQUIRED RENEWAL SHALL BE FROM THE DATE OF THE INDIVIDUAL'S
29 OLDEST REPORT OF CRIMINAL HISTORY RECORD INFORMATION.

30 (2) AN INDIVIDUAL IDENTIFIED IN SUBSECTION (B) WITH A

1 CURRENT REPORT OF CRIMINAL HISTORY RECORD INFORMATION ISSUED
2 PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION SHALL BE
3 REQUIRED TO OBTAIN THE REPORT OF CRIMINAL HISTORY RECORD
4 INFORMATION REQUIRED UNDER SUBSECTION (A) (2) WITHIN 60 MONTHS
5 FROM THE DATE OF THE INDIVIDUAL'S OLDEST REPORT OF CRIMINAL
6 HISTORY RECORD INFORMATION OR, IF THE CURRENT REPORT OF
7 CRIMINAL HISTORY RECORD INFORMATION IS OLDER THAN 60 MONTHS,
8 WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION.

9 (3) AN INDIVIDUAL IDENTIFIED IN SUBSECTION (B) WHO WAS
10 PREVIOUSLY NOT REQUIRED TO HAVE A REPORT OF CRIMINAL HISTORY
11 INFORMATION SHALL BE REQUIRED TO OBTAIN THE REPORTS OF
12 CRIMINAL HISTORY INFORMATION REQUIRED UNDER SUBSECTION (A) (1)
13 AND (2) NO LATER THAN A YEAR FROM THE EFFECTIVE DATE OF THIS
14 SECTION.

15 (D) WRITTEN NOTICE OF NEW ARREST OR CONVICTION.--

16 (1) IF AN EMPLOYEE IS ARRESTED FOR OR CONVICTED OF AN
17 OFFENSE THAT WOULD CONSTITUTE GROUNDS FOR DENYING EMPLOYMENT
18 UNDER SECTION 6961 (RELATING TO GROUNDS FOR DENYING
19 EMPLOYMENT), THE EMPLOYEE SHALL PROVIDE THE ADMINISTRATOR OR
20 DESIGNEE WITH WRITTEN NOTICE NOT LATER THAN 72 HOURS AFTER
21 THE ARREST OR CONVICTION.

22 (2) IF THE PERSON RESPONSIBLE FOR EMPLOYMENT DECISIONS
23 OR THE ADMINISTRATOR HAS A REASONABLE BELIEF THAT AN EMPLOYEE
24 WAS ARRESTED OR CONVICTED FOR AN OFFENSE THAT WOULD
25 CONSTITUTE GROUNDS FOR DENYING EMPLOYMENT UNDER SECTION 6961,
26 OR THE EMPLOYEE HAS PROVIDED NOTICE AS REQUIRED UNDER
27 PARAGRAPH (1), THE PERSON RESPONSIBLE FOR EMPLOYMENT
28 DECISIONS OR THE ADMINISTRATOR SHALL IMMEDIATELY REQUIRE THE
29 EMPLOYEE TO SUBMIT CURRENT INFORMATION AS REQUIRED UNDER
30 SUBSECTION (A). THE COST OF THE INFORMATION SET FORTH IN

1 SUBSECTION (A) SHALL BE BORNE BY THE FACILITY.

2 § 6961. GROUNDS FOR DENYING EMPLOYMENT.

3 (A) GENERAL RULE.--SUBJECT TO SUBSECTION (F), A FACILITY MAY
4 NOT HIRE OR RETAIN AN INDIVIDUAL REQUIRED TO SUBMIT INFORMATION
5 UNDER SECTION 6960 (RELATING TO CRIMINAL HISTORY) IF THE
6 INDIVIDUAL'S CRIMINAL HISTORY RECORD INFORMATION INDICATES THE
7 INDIVIDUAL HAS BEEN CONVICTED OF AN OFFENSE UNDER ONE OR MORE OF
8 THE FOLLOWING PROVISIONS OF 18 PA.C.S. (RELATING TO CRIMES AND
9 OFFENSES) :

10 (1) A FELONY UNDER CHAPTER 25 (RELATING TO CRIMINAL
11 HOMICIDE) .

12 (2) SECTION 3011 (RELATING TO TRAFFICKING IN
13 INDIVIDUALS) .

14 (3) SECTION 3121 (RELATING TO RAPE) .

15 (4) SECTION 3124.2 (RELATING TO INSTITUTIONAL SEXUAL
16 ASSAULT) .

17 (5) SECTION 3125 (RELATING TO AGGRAVATED INDECENT
18 ASSAULT) .

19 (6) A FEDERAL OR OUT-OF-STATE OFFENSE SIMILAR IN NATURE
20 TO THOSE CRIMES LISTED UNDER THIS SUBSECTION.

21 (B) TWENTY-FIVE-YEAR BAN.--SUBJECT TO SUBSECTION (F), A
22 FACILITY MAY NOT HIRE OR RETAIN AN INDIVIDUAL REQUIRED TO SUBMIT
23 INFORMATION UNDER SECTION 6960 WITHIN 25 YEARS FROM THE
24 INDIVIDUAL'S RELEASE OR DISCHARGE FROM A STATE OR COUNTY
25 CORRECTIONAL INSTITUTION OR FROM TERMINATION OF SUPERVISED
26 PROBATION OR PAROLE, WHICHEVER IS LATER, IF THE INDIVIDUAL'S
27 CRIMINAL HISTORY RECORD INFORMATION INDICATES THE INDIVIDUAL HAS
28 BEEN CONVICTED OF ANY OF THE FOLLOWING OFFENSES UNDER ONE OR
29 MORE OF THE FOLLOWING PROVISIONS OF 18 PA.C.S.:

30 (1) A MISDEMEANOR UNDER CHAPTER 25.

- 1 (2) A FELONY UNDER CHAPTER 27 (RELATING TO ASSAULT).
- 2 (3) A MISDEMEANOR UNDER SECTION 2713 (RELATING TO
3 NEGLECT OF CARE-DEPENDENT PERSON).
- 4 (4) A MISDEMEANOR UNDER SECTION 2718 (RELATING TO
5 STRANGULATION).
- 6 (5) SECTION 2901 (RELATING TO KIDNAPPING).
- 7 (6) SECTION 2902 (RELATING TO UNLAWFUL RESTRAINT).
- 8 (7) SECTION 2903 (RELATING TO FALSE IMPRISONMENT).
- 9 (8) SECTION 3122.1 (RELATING TO STATUTORY SEXUAL
10 ASSAULT).
- 11 (9) SECTION 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL
12 INTERCOURSE).
- 13 (10) SECTION 3124.1 (RELATING TO SEXUAL ASSAULT).
- 14 (11) SECTION 3126 (RELATING TO INDECENT ASSAULT).
- 15 (12) SECTION 3127 (RELATING TO INDECENT EXPOSURE).
- 16 (13) SECTION 3129 (RELATING TO SEXUAL INTERCOURSE WITH
17 ANIMAL).
- 18 (14) SECTION 3301 (RELATING TO ARSON AND RELATED
19 OFFENSES).
- 20 (15) SECTION 3502 (RELATING TO BURGLARY).
- 21 (16) CHAPTER 37 (RELATING TO ROBBERY).
- 22 (17) SECTION 4115 (RELATING TO FALSELY IMPERSONATING
23 PERSONS PRIVATELY EMPLOYED).
- 24 (18) A FELONY UNDER SECTION 4120 (RELATING TO IDENTITY
25 THEFT).
- 26 (19) SECTION 4302 (RELATING TO INCEST).
- 27 (20) SECTION 4303 (RELATING TO CONCEALING DEATH OF
28 CHILD).
- 29 (21) A FELONY OFFENSE UNDER SECTION 4304 (RELATING TO
30 ENDANGERING WELFARE OF CHILDREN).

1 (22) SECTION 4305 (RELATING TO DEALING IN INFANT
2 CHILDREN).

3 (23) SECTION 5902 (B.1) (RELATING TO PROSTITUTION AND
4 RELATED OFFENSES).

5 (24) SECTION 5903 (A) (1), (3) (II), (4) (II), (5) (II) OR
6 (6), (C) OR (D) (RELATING TO OBSCENE AND OTHER SEXUAL
7 MATERIALS AND PERFORMANCES).

8 (25) SECTION 6312 (RELATING TO SEXUAL ABUSE OF
9 CHILDREN).

10 (26) SECTION 6318 (RELATING TO UNLAWFUL CONTACT WITH
11 MINOR).

12 (27) SECTION 6319 (RELATING TO SOLICITATION OF MINORS TO
13 TRAFFIC DRUGS).

14 (28) SECTION 6320 (RELATING TO SEXUAL EXPLOITATION OF
15 CHILDREN).

16 (29) A FEDERAL OR OUT-OF-STATE OFFENSE SIMILAR IN NATURE
17 TO THE CRIMES LISTED UNDER THIS SUBSECTION.

18 (C) TEN-YEAR BAN.--SUBJECT TO SUBSECTION (F), A FACILITY MAY
19 NOT HIRE OR RETAIN AN INDIVIDUAL REQUIRED TO SUBMIT INFORMATION
20 UNDER SECTION 6960 WITHIN 10 YEARS FROM THE INDIVIDUAL'S RELEASE
21 OR DISCHARGE FROM A STATE OR COUNTY CORRECTIONAL INSTITUTION OR
22 FROM TERMINATION OF SUPERVISED PROBATION OR PAROLE, WHICHEVER IS
23 LATER, IF THE INDIVIDUAL'S CRIMINAL HISTORY RECORD INFORMATION
24 INDICATES THE INDIVIDUAL HAS BEEN CONVICTED OF ANY OF THE
25 FOLLOWING OFFENSES UNDER ONE OR MORE OF THE FOLLOWING PROVISIONS
26 OF 18 PA.C.S.:

27 (1) A MISDEMEANOR UNDER SECTION 2710 (RELATING TO ETHNIC
28 INTIMIDATION).

29 (2) A FELONY UNDER SECTION 2904 (RELATING TO
30 INTERFERENCE WITH CUSTODY OF CHILDREN).

1 (3) SECTION 2909 (RELATING TO CONCEALMENT OF WHEREABOUTS
2 OF A CHILD).

3 (4) SECTION 3131 (RELATING TO UNLAWFUL DISSEMINATION OF
4 INTIMATE IMAGE).

5 (5) A FELONY UNDER CHAPTER 39 (RELATING TO THEFT AND
6 RELATED OFFENSES) OR TWO OR MORE MISDEMEANORS UNDER CHAPTER
7 39.

8 (6) SECTION 4101 (RELATING TO FORGERY).

9 (7) SECTION 4103 (RELATING TO FRAUDULENT DESTRUCTION,
10 REMOVAL OR CONCEALMENT OF RECORDABLE INSTRUMENTS).

11 (8) A FELONY UNDER SECTION 4106 (RELATING TO ACCESS
12 DEVICE FRAUD) OR TWO OR MORE MISDEMEANORS UNDER SECTION 4106.

13 (9) SECTION 4114 (RELATING TO SECURING EXECUTION OF
14 DOCUMENTS BY DECEPTION).

15 (10) A MISDEMEANOR UNDER SECTION 4120 (RELATING TO
16 IDENTITY THEFT).

17 (11) A MISDEMEANOR UNDER SECTION 4304.

18 (12) SECTION 4952 (RELATING TO INTIMIDATION OF WITNESSES
19 OR VICTIMS).

20 (13) SECTION 4953 (RELATING TO RETALIATION AGAINST
21 WITNESS, VICTIM OR PARTY).

22 (14) SECTION 6301 (RELATING TO CORRUPTION OF MINORS).

23 (15) A FEDERAL OR OUT-OF-STATE OFFENSE SIMILAR IN NATURE
24 TO THE CRIMES LISTED IN THIS SUBSECTION.

25 (D) FIVE-YEAR BAN.--SUBJECT TO SUBSECTION (F), A FACILITY
26 MAY NOT HIRE OR RETAIN AN INDIVIDUAL REQUIRED TO SUBMIT
27 INFORMATION UNDER SECTION 6960 WITHIN FIVE YEARS FROM THE
28 INDIVIDUAL'S RELEASE OR DISCHARGE FROM A STATE OR COUNTY
29 CORRECTIONAL INSTITUTION OR FROM TERMINATION OF SUPERVISED
30 PROBATION OR PAROLE, WHICHEVER IS LATER, IF THE INDIVIDUAL'S

1 CRIMINAL HISTORY RECORD INFORMATION INDICATES THE INDIVIDUAL HAS
2 BEEN CONVICTED OF ANY OF THE FOLLOWING OFFENSES UNDER ONE OR
3 MORE OF THE FOLLOWING PROVISIONS OF 18 PA.C.S.:

4 (1) AN OFFENSE DESIGNATED AS A FELONY UNDER THE ACT OF
5 APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED
6 SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.

7 (2) A FELONY UNDER SECTION 4105 (RELATING TO BAD
8 CHECKS).

9 (3) A FEDERAL OR OUT-OF-STATE OFFENSE SIMILAR IN NATURE
10 TO THE CRIMES LISTED IN PARAGRAPHS (1) AND (2).

11 (E) DATE OF RELEASE OR DISCHARGE.--TO DETERMINE THE DATE OF
12 AN INDIVIDUAL'S RELEASE, DISCHARGE OR TERMINATION OF
13 SUPERVISION, AN INDIVIDUAL SHALL PROVIDE TO THE DEPARTMENT, UPON
14 REQUEST, DOCUMENTATION RELATING TO THE INDIVIDUAL'S RELEASE OR
15 DISCHARGE FROM A STATE OR COUNTY CORRECTIONAL INSTITUTION OR
16 FROM TERMINATION OF SUPERVISED PROBATION OR PAROLE.

17 (F) WAIVER REQUEST.--UNLESS PROHIBITED BY FEDERAL LAW, THE
18 DEPARTMENT MAY GRANT A WAIVER OF THE PROHIBITIONS UNDER
19 SUBSECTIONS (A), (B), (C) AND (D) WHEN AN INDIVIDUAL SUBMITS A
20 WRITTEN WAIVER REQUEST. THE DEPARTMENT SHALL REVIEW A WRITTEN
21 REQUEST WITHIN 45 DAYS. THE WAIVER REQUEST SHALL BE SUBMITTED ON
22 A FORM AS PRESCRIBED BY THE DEPARTMENT AND SHALL CONTAIN THE
23 FOLLOWING:

24 (1) THE LENGTH OF TIME SINCE THE INDIVIDUAL'S
25 CONVICTION.

26 (2) THE CIRCUMSTANCES OF THE INDIVIDUAL'S CONVICTION.

27 (3) IF THE INDIVIDUAL WAS INCARCERATED, A COPY OF THE
28 ORDER FROM THE FEDERAL, STATE OR LOCAL JURISDICTION THAT
29 RELEASED THE INDIVIDUAL FROM INCARCERATION, INCLUDING THE
30 DATE OF RELEASE.

1 (4) EVIDENCE OF AN INDIVIDUAL'S REHABILITATION.

2 (5) DEMONSTRATED PRIOR AND PRESENT RELEVANT WORK
3 EXPERIENCE OF THE INDIVIDUAL.

4 (6) COMPETENCY AND PROFICIENCY OF THE INDIVIDUAL IN
5 RELEVANT WORK, INCLUDING THE PROVISION OF ESSENTIAL CARE-
6 DEPENDENT SERVICES.

7 (7) THE RELATIONSHIP OF THE OFFENSE TO THE INDIVIDUAL'S
8 PROSPECTIVE OR CURRENT JOB POSITION.

9 (8) DEMONSTRATED GOOD MORAL CHARACTER IN PERSONAL AND
10 OCCUPATIONAL OR EMPLOYMENT AFFAIRS.

11 (9) A COPY OF A PREVIOUSLY APPROVED WAIVER REQUEST FOR
12 ANOTHER JOB POSITION, AS APPLICABLE.

13 (G) WAIVER REQUEST FOR SPECIFIED JOB.--A WAIVER REQUEST
14 GRANTED UNDER SUBSECTION (F) ONLY APPLIES TO A SPECIFIED JOB
15 POSITION. IF AN INDIVIDUAL SEEKS EMPLOYMENT IN A DIFFERENT
16 FACILITY OR IN A DIFFERENT JOB POSITION, THE INDIVIDUAL SHALL
17 SUBMIT A SUBSEQUENT WRITTEN WAIVER REQUEST.

18 § 6962. PROVISIONAL EMPLOYEES FOR LIMITED PERIODS.

19 (A) PROVISIONAL BASIS.--THE FOLLOWING APPLY:

20 (1) AN ADMINISTRATOR MAY EMPLOY AN APPLICANT ON A
21 PROVISIONAL BASIS FOR A SINGLE PERIOD NOT TO EXCEED 90 DAYS
22 IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

23 (I) THE APPLICANT HAS APPLIED FOR A CRIMINAL HISTORY
24 REPORT REQUIRED UNDER SECTION 6960 (A) (RELATING TO
25 CRIMINAL HISTORY) AND PROVIDED THE FACILITY WITH A COPY
26 OF THE COMPLETED REQUEST FORMS.

27 (II) THE FACILITY HAS NO KNOWLEDGE ABOUT THE
28 APPLICANT THAT WOULD DISQUALIFY THE APPLICANT FROM
29 PROVISIONAL EMPLOYMENT UNDER 18 PA.C.S. § 4911 (RELATING
30 TO TAMPERING WITH PUBLIC RECORDS OR INFORMATION).

1 (III) THE APPLICANT SWEARS OR AFFIRMS IN WRITING
2 THAT THE APPLICANT IS NOT DISQUALIFIED FROM EMPLOYMENT
3 UNDER THIS SUBCHAPTER.

4 (IV) THE ADMINISTRATOR PROVIDES WRITTEN INFORMATION
5 TO THE OLDER ADULT OR FIDUCIARY NOTIFYING THAT THE CARE
6 PROVIDER IS A PROVISIONAL EMPLOYEE AND THE FACILITY'S
7 PROCEDURE FOR PROVISIONAL HIRING WHEN A CRIMINAL HISTORY
8 REPORT IS PENDING.

9 (2) IF THE INFORMATION OBTAINED FROM THE CRIMINAL
10 HISTORY REPORT REVEALS THAT THE APPLICANT IS DISQUALIFIED
11 FROM EMPLOYMENT UNDER SECTION 6961 (RELATING TO GROUNDS FOR
12 DENYING EMPLOYMENT), THE APPLICANT SHALL BE TERMINATED
13 IMMEDIATELY.

14 (B) SUPERVISION.--THE DEPARTMENT, IN CONSULTATION WITH THE
15 DEPARTMENT OF HEALTH AND THE DEPARTMENT OF HUMAN SERVICES, SHALL
16 DEVELOP GUIDELINES REGARDING THE SUPERVISION OF PROVISIONAL
17 EMPLOYEES. SUPERVISION SHALL INCLUDE RANDOM DIRECT SUPERVISION
18 BY AN EMPLOYEE WHO HAS BEEN EMPLOYED BY THE FACILITY FOR A
19 PERIOD OF AT LEAST ONE YEAR.

20 SUBCHAPTER H

21 REMEDIES

22 SEC.

23 6970. PENALTIES.

24 6971. IMMUNITY FROM CIVIL AND CRIMINAL LIABILITY.

25 § 6970. PENALTIES.

26 (A) CIVIL PENALTIES.--

27 (1) A MANDATORY REPORTER WHO FAILS TO COMPLY OR
28 OBSTRUCTS COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER OR
29 WHO INTIMIDATES OR COMMITS A RETALIATORY ACT AGAINST AN
30 INDIVIDUAL WHO COMPLIES IN GOOD FAITH WITH THE PROVISIONS OF

1 THIS CHAPTER COMMITS A VIOLATION OF THIS CHAPTER AND SHALL BE
2 SUBJECT TO AN ADMINISTRATIVE PENALTY. THE DEPARTMENT SHALL
3 HAVE JURISDICTION TO DETERMINE VIOLATIONS OF THIS CHAPTER AND
4 MAY ISSUE AN ORDER ASSESSING A CIVIL PENALTY OF NOT MORE THAN
5 \$5,000. AN ORDER UNDER THIS PARAGRAPH IS SUBJECT TO 2 PA.C.S.
6 CHS. 5 SUBCH. A (RELATING TO PRACTICE AND PROCEDURE OF
7 COMMONWEALTH AGENCIES) AND 7 SUBCH. A (RELATING TO JUDICIAL
8 REVIEW OF COMMONWEALTH AGENCY ACTION).

9 (2) EACH COMMONWEALTH AGENCY WHICH LICENSES A FACILITY
10 SHALL HAVE JURISDICTION REGARDING VIOLATIONS OF SECTION 6960
11 (RELATING TO CRIMINAL HISTORY) AND MAY ISSUE AN ORDER
12 ASSESSING A CIVIL PENALTY NOT TO EXCEED \$5,000.

13 (3) AN OLDER ADULT OR A PERSON MAKING A REPORT OR
14 COOPERATING WITH THE AREA AGENCY ON AGING, INCLUDING
15 PROVIDING TESTIMONY IN AN ADMINISTRATIVE OR JUDICIAL
16 PROCEEDING, SHALL BE FREE FROM ANY DISCRIMINATORY,
17 RETALIATORY OR DISCIPLINARY ACTION BY AN EMPLOYER OR BY ANY
18 OTHER PERSON. A PERSON WHO VIOLATES THIS PARAGRAPH SHALL BE
19 SUBJECT TO A CIVIL ACTION BY THE REPORTER OR THE OLDER ADULT.
20 THE REPORTER OR OLDER ADULT SHALL RECOVER TREBLE COMPENSATORY
21 DAMAGES, COMPENSATORY AND PUNITIVE DAMAGES OR \$5,000,
22 WHICHEVER IS GREATER.

23 (4) A PERSON, INCLUDING THE OLDER ADULT, WITH KNOWLEDGE
24 SUFFICIENT TO JUSTIFY MAKING A REPORT OR COOPERATING WITH THE
25 AREA AGENCY ON AGING, INCLUDING PROVIDING TESTIMONY IN AN
26 ADMINISTRATIVE OR JUDICIAL PROCEEDING, SHALL BE FREE FROM ANY
27 INTIMIDATION BY AN EMPLOYER OR BY ANY OTHER PERSON. A PERSON
28 WHO VIOLATES THIS PARAGRAPH SHALL BE SUBJECT TO A CIVIL
29 ACTION BY THE PERSON INTIMIDATED OR THE OLDER ADULT. THE
30 PERSON INTIMIDATED OR THE OLDER ADULT SHALL RECOVER TREBLE

1 COMPENSATORY DAMAGES, COMPENSATORY AND PUNITIVE DAMAGES OR
2 \$5,000, WHICHEVER IS GREATER.

3 (B) CRIMINAL PENALTIES.--

4 (1) A MANDATORY REPORTER UNDER THIS CHAPTER WHO
5 INTENTIONALLY FAILS TO REPORT SUSPECTED ABUSE, NEGLIGENCE,
6 EXPLOITATION OR ABANDONMENT COMMITS A SUMMARY OFFENSE FOR THE
7 FIRST VIOLATION AND A MISDEMEANOR OF THE SECOND DEGREE FOR A
8 SECOND OR SUBSEQUENT VIOLATION AND SHALL, UPON CONVICTION, BE
9 SENTENCED TO PAY A FINE OF \$5,000 OR TO IMPRISONMENT FOR NOT
10 MORE THAN ONE YEAR, OR BOTH.

11 (2) A PERSON WHO MAKES A FALSE STATEMENT OR
12 REPRESENTATION OF A MATERIAL FACT IN A REPORT OF NEED COMMITS
13 A MISDEMEANOR OF THE FIRST DEGREE AND SHALL, UPON CONVICTION,
14 BE SENTENCED TO PAY A FINE OF NOT MORE THAN \$10,000 OR TO
15 IMPRISONMENT FOR NOT MORE THAN FIVE YEARS, OR BOTH.

16 (C) IMMUNITY.--

17 (1) A PERSON PARTICIPATING IN THE MAKING OF A REPORT OF
18 NEED, OR WHO PROVIDES TESTIMONY IN AN ADMINISTRATIVE OR
19 JUDICIAL PROCEEDING IN A COURT OF THIS COMMONWEALTH ARISING
20 OUT OF A REPORT, SHALL BE IMMUNE FROM ANY CIVIL OR CRIMINAL
21 LIABILITY ON ACCOUNT OF THE REPORT OR TESTIMONY RELATED TO
22 GOOD FAITH COMPLIANCE WITH THIS CHAPTER. THIS IMMUNITY SHALL
23 NOT EXTEND TO LIABILITY FOR ACTS OF ABUSE, NEGLIGENCE,
24 EXPLOITATION OR ABANDONMENT, EVEN IF THE ACTS ARE THE SUBJECT
25 OF THE REPORT OR TESTIMONY.

26 (2) AN ENTITY THAT EMPLOYS A PERSON REQUIRED OR
27 PERMITTED TO MAKE A REPORT UNDER THIS CHAPTER SHALL NOT BE
28 HELD CIVILLY LIABLE FOR ANY ACTION DIRECTLY RELATED TO GOOD
29 FAITH COMPLIANCE WITH THIS CHAPTER.

30 (D) USE.--MONEY COLLECTED UNDER THIS CHAPTER BY THE

1 DEPARTMENT SHALL BE USED FOR DEPARTMENT PROGRAMS TO INVESTIGATE
2 AND PREVENT THE ABUSE, NEGLECT, EXPLOITATION AND ABANDONMENT OF
3 OLDER ADULTS.

4 § 6971. IMMUNITY FROM CIVIL AND CRIMINAL LIABILITY.

5 IN THE ABSENCE OF WILLFUL MISCONDUCT OR GROSS NEGLIGENCE, THE
6 AREA AGENCY ON AGING, THE DIRECTOR, EMPLOYEES OF THE AREA AGENCY
7 ON AGING, PROTECTIVE SERVICES WORKERS OR EMPLOYEES OF THE
8 DEPARTMENT SHALL NOT BE CIVILLY OR CRIMINALLY LIABLE FOR ANY
9 DECISION OR ACTION OR RESULTING CONSEQUENCE OF DECISIONS OR
10 ACTION WHEN ACTING UNDER AND ACCORDING TO THE PROVISIONS OF THIS
11 CHAPTER.

12 SUBCHAPTER I

13 ADMINISTRATION

14 SEC.

15 6980. FUNDING.

16 6981. REGULATIONS.

17 § 6980. FUNDING.

18 MONEY NECESSARY TO ADMINISTER THIS CHAPTER SHALL BE PROVIDED
19 BY AN ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY.

20 § 6981. REGULATIONS.

21 THE DEPARTMENT SHALL ISSUE RULES AND REGULATIONS TO CARRY OUT
22 THIS CHAPTER AND SHALL ANNUALLY PRESENT TO THE GENERAL ASSEMBLY
23 A REPORT ON THE PROGRAM AND SERVICES PERFORMED. STATE AGENCIES
24 WITH OVERSIGHT AUTHORITY OVER ENTITIES IMPACTED BY THIS CHAPTER
25 SHALL PROMULGATE REGULATIONS NECESSARY TO ASSIST THE DEPARTMENT
26 IN IMPLEMENTING THIS CHAPTER.

27 SECTION 2. THE FOLLOWING SHALL APPLY:

28 (1) ACTIVITIES INITIATED UNDER THE ACT OF NOVEMBER 6,
29 1987 (P.L.381, NO.79), KNOWN AS THE OLDER ADULTS PROTECTIVE
30 SERVICES ACT, SHALL CONTINUE AND REMAIN IN FULL FORCE AND

1 EFFECT AND MAY BE COMPLETED UNDER 23 PA.C.S. CH. 69.

2 (2) ORDERS, REGULATIONS, RULES AND DECISIONS WHICH WERE
3 MADE UNDER THE OLDER ADULTS PROTECTIVE SERVICES ACT AND WHICH
4 ARE IN EFFECT ON THE EFFECTIVE DATE OF THIS CHAPTER SHALL
5 REMAIN IN FULL FORCE AND EFFECT UNTIL REVOKED, VACATED OR
6 MODIFIED UNDER 23 PA.C.S. CH. 69.

7 (3) CONTRACTS, GRANTS, AGREEMENTS, OBLIGATIONS AND
8 COLLECTIVE BARGAINING AGREEMENTS ENTERED INTO UNDER THE OLDER
9 ADULTS PROTECTIVE SERVICES ACT ARE NOT AFFECTED NOR IMPAIRED
10 BY REPEALS UNDER THIS ACT.

11 SECTION 3. REPEALS ARE AS FOLLOWS:

12 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
13 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE ADDITION OF 23
14 PA.C.S. CH. 69.

15 (2) THE ACT OF NOVEMBER 6, 1987 (P.L.381, NO.79), KNOWN
16 AS THE OLDER ADULTS PROTECTIVE SERVICES ACT, IS REPEALED.

17 SECTION 4. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

18 (1) THE ADDITION OF 23 PA.C.S. § 6911 SHALL TAKE EFFECT
19 IN ONE YEAR.

20 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
21 IMMEDIATELY.