
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 255 Session of
2019

INTRODUCED BY DINNIMAN, BREWSTER, MENSCH, BROWNE AND YUDICHAK,
FEBRUARY 7, 2019

REFERRED TO LABOR AND INDUSTRY, FEBRUARY 7, 2019

AN ACT

1 Providing for violence prevention committees in health care
2 facilities, for powers and duties of committee, for remedies
3 and for powers and duties of Department of Labor and
4 Industry.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Heath Care
9 Facilities Violence Prevention Act.

10 Section 2. Definitions.

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

14 "Committee." The violence prevention committee established
15 by a health facility under this act.

16 "Department." The Department of Labor and Industry of the
17 Commonwealth.

18 "Employee." An individual who is employed by a health
19 facility, the Commonwealth or a political subdivision who is

1 involved in direct patient care or clinical care services.

2 "Health facility." A hospital, long-term care nursing
3 facility or home health care agency as those terms are defined
4 under the act of July 19, 1979 (P.L.130, No.48), known as the
5 Health Care Facilities Act.

6 "Program." A workplace violence prevention program
7 established by a committee.

8 "Workplace violence." Violence or the threat of violence
9 against workers.

10 Section 3. Violence prevention committee.

11 (a) Establishment.--A health facility shall establish a
12 violence prevention committee to establish, review, administer
13 and provide guidance about a program relating to the prevention
14 of workplace violence at the health facility.

15 (b) Membership.--A committee shall be comprised as follows:

16 (1) At least one member of the committee who shall
17 represent management or a designee, who shall oversee all
18 aspects of the program.

19 (2) At least 50% of the members of the committee shall
20 have direct patient care responsibilities, with the majority
21 being licensed nurses.

22 (3) The remaining members of the committee shall have
23 experience, expertise or responsibility relevant to violence
24 prevention or any other expertise that is considered
25 beneficial to the committee.

26 (4) The committee shall have a proportional
27 representation by union members, selected by their union, and
28 nonunion members elected by secret ballots by their peers.
29 The proportional representation shall incorporate all health
30 care professionals and support personnel at the health

1 facility at risk of becoming a victim of a violent act.

2 (5) In the case of a health care system that is subject
3 to a collective bargaining agreement, the contractual
4 agreement shall designate the number of union members to
5 serve on the committee as well as the number of
6 representatives from management. The agreement shall also
7 account for individuals who are employed by the health care
8 system, but not a member of a union or management.

9 (c) Operation of committee and program.--In the case of a
10 health care system that owns or operates more than one covered
11 health facility, the committee and program may be operated at
12 the system or department level, if:

13 (1) Committee membership includes at least one health
14 care worker from each facility who provides direct care to
15 patients.

16 (2) The committee develops a violence prevention plan
17 for each facility.

18 (3) Data related to violence prevention remains
19 distinctly identifiable for each facility.

20 Section 4. Duties of committee.

21 (a) Risk assessment evaluation.--A committee shall annually
22 perform a risk assessment evaluation of the factors that may put
23 an employee of a health facility at risk of workplace violence.

24 Those factors shall include:

25 (1) Working in public settings.

26 (2) Guarding or maintaining property or possessions.

27 (3) Working in high-crime areas.

28 (4) Working late at night or early in the morning.

29 (5) Using commuter lots that are not adequately lit or
30 frequently patrolled.

1 (6) The existence of uncontrolled public access to the
2 workplace.

3 (7) Working in public areas with individuals in crisis.

4 (8) Working in areas where a patient or resident may
5 exhibit violent behavior.

6 (b) Review.--The committee shall meet quarterly to review
7 any case of workplace violence and to perform duties required by
8 this act.

9 (c) Preparation of report and establishment of program.--A
10 committee shall:

11 (1) Prepare a report from the risk assessment and
12 establish a violence prevention program. If there is more
13 than one health facility within a system, there shall be a
14 program established for each health facility.

15 (2) Develop and maintain a detailed, written violence
16 prevention plan that identifies workplace risks and provides
17 specific methods to address them.

18 (3) Distribute the written violence prevention plan to
19 those employees who are identified to be at risk for
20 workplace violence or any other employee who requests the
21 risk assessment report.

22 (4) Make the risk assessment report available to the
23 public upon the proper request.

24 (5) Establish a method to expedite reporting and review
25 of a report of workplace violence and make written
26 recommendations to the health facility management on how to
27 prevent additional incidents of similar workplace violence.

28 (d) Employee training.--The committee shall provide
29 appropriate employee training to all health care providers who
30 provide direct patient care at the time of hire and annually

1 thereafter.

2 Section 5. Reporting of workplace violence.

3 (a) Duty to report.--An employee of a health facility who
4 reasonably believes that an incident of workplace violence has
5 occurred shall report the occurrence of the incident in
6 accordance with the violence prevention plan of the health
7 facility unless the employee knows a report has already been
8 made. The report shall be made immediately or as soon thereafter
9 as reasonably practicable, but in no event later than 24 hours
10 after the occurrence or discovery of the incident.

11 (b) Whistleblower protection.--An employee of a health
12 facility who reports the occurrence of an incident of workplace
13 violence in accordance with subsection (a) may not be subject to
14 retaliatory action for reporting the serious event or incident
15 as specified in the act of December 12, 1986 (P.L.1559, No.169),
16 known as the Whistleblower Law.

17 (c) Construction.--Nothing in this section shall be
18 construed to limit a health facility's ability to take
19 appropriate disciplinary action against an employee for failure
20 to meet defined performance expectations or to take corrective
21 action against an employee for unprofessional conduct, including
22 making false reports or failure to report serious events under
23 this section.

24 Section 6. Distribution of reports of workplace violence.

25 A report of workplace violence that is submitted to
26 management or to the health facility shall be provided to the
27 committee within 72 hours of the submission of the report.

28 Section 7. Penalties.

29 (a) Administrative fine.--The department may levy an
30 administrative fine on a health facility or employer that

1 violates this act or any regulation issued under this act. The
2 fine shall be not less than \$100 nor greater than \$1,000 for
3 each violation.

4 (b) Administrative order.--The department may order a health
5 facility to take an action which the department deems necessary
6 to correct a violation of section 4.

7 (c) Administrative agency law.--This section is subject to 2
8 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of
9 Commonwealth agencies) and 7 Subch. A (relating to judicial
10 review of Commonwealth agency action).

11 Section 8. Remedies.

12 (a) Judicial relief.--

13 (1) If a health facility has engaged in conduct that
14 caused or maintained a substantial risk of further workplace
15 violence, including failing to implement the recommendations
16 of a committee, an aggrieved party may commence an action
17 with the court of common pleas of the county in which the
18 health facility is located.

19 (2) The court may enjoin the health facility from
20 engaging in the illegal activities and may order any other
21 relief that is appropriate, including reinstatement of an
22 employee, removal of the offending party from the employee's
23 work environment, reimbursement for lost wages, medical
24 expenses, compensation for emotional distress and attorney
25 fees.

26 (b) Administrative relief.--

27 (1) If a committee of a health facility concludes that
28 the health facility is not acting in good faith in
29 implementing the recommendations of the committee, the
30 committee, by vote of a majority of the members, may appeal

1 the health facility's decision to the department.

2 (2) If the department after a hearing determines the
3 health facility is acting in bad faith and failing to
4 implement safety recommendations suggested by the committee,
5 the department may implement penalties against the health
6 facility, including appropriate fines and administrative
7 penalties.

8 Section 9. Effect on collective bargaining agreements.

9 This act may not be construed to:

10 (1) Supersede any current provision of an employee's
11 existing collective bargaining agreement that provides
12 greater rights and protection than prescribed by this act.

13 (2) Prevent any new provisions of a collective
14 bargaining agreement that provide greater rights and
15 protections from being implemented and applicable to an
16 employee.

17 Section 10. Rules and regulations.

18 The department shall adopt rules and regulations necessary to
19 implement this act. The rules and regulations shall include
20 guidelines as the department deems appropriate regarding
21 workplace violence prevention programs required under this act
22 and related to reporting and monitoring systems and employee
23 training.

24 Section 11. Effective date.

25 This act shall take effect in 180 days.