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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 348 Session of  
2021

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INTRODUCED BY KRUEGER, KOSIEROWSKI, SCHLOSSBERG, HOWARD,  
HOHENSTEIN, SANCHEZ, ZABEL, A. DAVIS, CIRESI, T. DAVIS,  
DeLUCA, KENYATTA, ISAACSON, GALLOWAY, O'MARA, SCHWEYER AND  
WARREN, FEBRUARY 3, 2021

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, FEBRUARY 3, 2021

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AN ACT

1 Providing for violence prevention committees in health care  
2 facilities, for duties of committees, for workplace violence  
3 reporting requirements and for powers and duties of the  
4 Department of Labor and Industry; and imposing fines and  
5 administrative penalties.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Health  
10 Facility Employee Violence Prevention Act.

11 Section 2. Definitions.

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

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

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

1 "Employee." An individual who is employed by a health  
2 facility who is involved in direct patient care or clinical care  
3 services.

4 "Health facility." A hospital, long-term care nursing  
5 facility or home health care agency as those terms are defined  
6 in section 802.1 of the act of July 19, 1979 (P.L.130, No.48),  
7 known as the Health Care Facilities Act.

8 "Program." The workplace violence prevention program  
9 established by a committee.

10 "Workplace violence." Violence or the threat of violence  
11 against an employee.

12 Section 3. Violence prevention committee.

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

17 (b) Membership.--Each committee shall be comprised as  
18 follows:

19 (1) At least one member or designee of the committee  
20 shall represent management and oversee all aspects of the  
21 program.

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

25 (3) The remaining members of the committee shall have  
26 experience, expertise or responsibility relevant to violence  
27 prevention or other expertise that is considered beneficial  
28 to the committee.

29 (4) The committee shall have a proportional  
30 representation of union members, selected by their union, and

1 nonunion members, elected by secret ballot by their peers.  
2 The proportional representation shall incorporate all  
3 employees at risk of becoming a victim of workplace violence.

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

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

15 (1) Committee membership includes at least one employee  
16 from each health facility who provides direct care to  
17 patients.

18 (2) The committee develops a violence prevention plan  
19 for each health facility.

20 (3) Data related to violence prevention remains  
21 distinctly identifiable for each health facility.

22 Section 4. Duties of committee.

23 (a) Risk assessment evaluation.--Each committee shall  
24 annually perform a risk assessment evaluation of the factors  
25 that may put an employee at risk of workplace violence. Those  
26 factors shall include, but not be limited to:

27 (1) Working in a public setting.

28 (2) Guarding or maintaining property or possessions.

29 (3) Working in a high-crime area.

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

1           (5) Using commuter lots that are not adequately lit or  
2 frequently patrolled.

3           (6) The existence of uncontrolled public access to the  
4 workplace.

5           (7) Working in a public area with individuals in crisis.

6           (8) Working in an area where a patient or resident may  
7 exhibit violent behavior.

8           (b) Review.--Each committee shall meet quarterly to review  
9 any case of workplace violence and to perform duties required  
10 under this act.

11          (c) Preparation of report and establishment of program.--  
12 Each committee shall:

13           (1) Prepare a report from the risk assessment evaluation  
14 and establish a program. If there is more than one health  
15 facility within a system, there shall be a program  
16 established for each health facility. The program shall be  
17 updated annually.

18           (2) Develop and maintain a detailed, written violence  
19 prevention plan that:

20               (i) identifies workplace risks;

21               (ii) establishes a system to identify and flag  
22 individuals with a history of violence; and

23               (iii) provides specific methods to address workplace  
24 risks.

25           (3) Distribute the violence prevention plan and risk  
26 assessment report to those employees who are identified to be  
27 at risk for workplace violence and to other employees who  
28 request the violence prevention plan or risk assessment  
29 report.

30           (4) Make the risk assessment report available to the

1 public upon request.

2 (5) Establish a method to expedite reporting and review  
3 of a report of workplace violence and make written  
4 recommendations to the health facility management on  
5 preventing additional incidents of similar workplace  
6 violence.

7 (d) Employee training.--The committee shall provide  
8 appropriate employee training to employees at the time of hire  
9 and annually thereafter.

10 Section 5. Reporting of workplace violence.

11 (a) Reporting.--An employee who reasonably believes that an  
12 incident of workplace violence has occurred shall report the  
13 occurrence of the incident in accordance with the violence  
14 prevention plan of the health facility unless the employee knows  
15 a report has already been made. The report shall be made  
16 immediately or as soon thereafter as reasonably practicable, but  
17 no later than 24 hours after the occurrence or discovery of the  
18 incident.

19 (b) Liability.--An employee who reports the occurrence of an  
20 incident of workplace violence under subsection (a) may not be  
21 subject to retaliatory action for reporting the incident as set  
22 forth in the act of December 12, 1986 (P.L.1559, No.169), known  
23 as the Whistleblower Law.

24 (c) Limitation.--This section shall not limit a health  
25 facility's ability to take appropriate disciplinary action  
26 against an employee for failure to meet defined performance  
27 expectations or to take corrective action against an employee  
28 for unprofessional conduct, including making false reports or  
29 failure to report an incident of workplace violence under this  
30 section.

1 Section 6. Distribution of reports of workplace violence.

2 A report of an incident of workplace violence that is  
3 submitted to management or to the health facility shall be  
4 provided to the committee within 72 hours of the submission of  
5 the report.

6 Section 7. Penalties.

7 (a) Administrative fine.--The department may levy an  
8 administrative fine on a health facility that violates this act  
9 or any regulation adopted under this act. The fine shall be not  
10 less than \$100 nor more than \$1,000 for each violation.

11 (b) Administrative order.--The department may order a health  
12 facility to take an action that the department deems necessary  
13 to correct a violation of section 5.

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

18 Section 8. Remedies.

19 (a) General rule.--If a health facility has engaged in  
20 conduct that causes or maintains a substantial risk of further  
21 workplace violence, including failing to implement the  
22 recommendations of a committee, a court may enjoin the health  
23 facility from engaging in the illegal activities and may order  
24 any other relief that is appropriate, including, but not limited  
25 to:

26 (1) reinstatement of an employee;

27 (2) removal of the offending party from the employee's  
28 work environment;

29 (3) reimbursement for lost wages;

30 (4) medical expenses;

1 (5) compensation for emotional distress; and

2 (6) attorney fees.

3 (b) Appeals to department.--

4 (1) If a committee concludes that a health facility is  
5 not acting in good faith in implementing the recommendations  
6 of the committee, the committee, by vote of a majority of the  
7 members, may appeal the health facility's decision to the  
8 department.

9 (2) If, after a hearing, the department determines that  
10 the health facility is acting in bad faith and failing to  
11 implement safety recommendations suggested by the committee,  
12 the department may impose penalties against the health  
13 facility, including appropriate fines and administrative  
14 penalties.

15 Section 9. Effect on collective bargaining agreements.

16 This act may not be construed to:

17 (1) Supersede a current provision of an employee's  
18 existing collective bargaining agreement which provides  
19 greater rights and protection than prescribed by this act.

20 (2) Prevent any new provisions of a collective  
21 bargaining agreement which provides greater rights and  
22 protections from being implemented and applicable to an  
23 employee.

24 Section 10. Rules and regulations.

25 The department shall adopt rules and regulations necessary to  
26 implement this act. The rules and regulations shall include  
27 guidelines the department deems appropriate regarding workplace  
28 violence prevention programs required under this act and related  
29 to reporting and monitoring systems and employee training.

30 Section 11. Effective date.

1        This act shall take effect in 180 days.