
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 38 Session of
2021

INTRODUCED BY L. WILLIAMS, PHILLIPS-HILL, KANE, HUGHES, FONTANA,
MARTIN, COMITTA, STEFANO, COSTA, MUTH AND CAPPELLETTI,
JUNE 22, 2021

REFERRED TO HEALTH AND HUMAN SERVICES, JUNE 22, 2021

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," providing for liability
4 for false claims, for adoption of congressional intent of the
5 Federal False Claims Act, for damages, costs and civil
6 penalties, for powers of Attorney General, for qui tam
7 actions and for civil investigative demands.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The act of June 13, 1967 (P.L.31, No.21), known
11 as the Human Services Code, is amended by adding an article to
12 read:

13 ARTICLE XIV-D

14 LIABILITY FOR FALSE CLAIMS

15 (a) Preliminary Provisions

16 Section 1401-D. Short title.

17 This article shall be known and may be cited as the
18 Commonwealth Fraud Prevention Act.

19 Section 1402-D. Declaration of policy.

20 The General Assembly declares that this article adopts the

1 intent of Congress in enacting the Federal False Claims Act
2 (Public Law 97-258, 31 U.S.C. §§ 3729-3733) on September 13,
3 1982, including the amendments enacted October 27, 1986 (Public
4 Law 99-562, 100 Stat. 3153), and all subsequent amendments.

5 Section 1403-D. Definitions.

6 The following words and phrases when used in this article
7 shall have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Claim." As follows:

10 (1) A request or demand for money or property, whether
11 under contract or otherwise and regardless of whether the
12 Commonwealth has title to the money or property, that is
13 presented, submitted or otherwise made to:

14 (i) An employee, officer or agent of the
15 Commonwealth.

16 (ii) A contractor, grantee or other recipient, and
17 any portion of the money or property will be spent or
18 used on the Commonwealth's behalf or to advance a program
19 or interest of the Commonwealth, and the Commonwealth:

20 (A) provides or has provided any portion of the
21 money or property requested or demanded; or

22 (B) will reimburse the contractor, grantee or
23 other recipient for any portion of the money or
24 property which is requested or demanded.

25 (2) The term does not include requests or demands for
26 money or property that the Commonwealth has paid to an
27 individual as compensation for employment or as an income
28 subsidy with no restrictions on the individual's use of the
29 money or property.

30 (3) To the extent it is not connected to a request or

1 demand for money or property, a filing with a Commonwealth
2 agency pursuant to the Commonwealth's insurance laws shall
3 not constitute a claim.

4 "Knowingly." As follows:

5 (1) Whenever a person, with respect to information, does
6 any of the following:

7 (i) Has actual knowledge of the information.

8 (ii) Acts in deliberate ignorance of the truth or
9 falsity of the information.

10 (iii) Acts in reckless disregard of the truth or
11 falsity of the information.

12 (2) Proof of specific intent to defraud is not required.

13 "Legal claim." A claim for relief at law or equity, whether
14 contemplated or asserted, including any claim, demand, account,
15 note or any other cause of action or liability.

16 "Material." A natural tendency to influence, or be capable
17 of influencing, the payment or receipt of money or property.

18 "Obligation." An established duty, whether or not fixed,
19 arising from any of the following:

20 (1) An express or implied contractual relationship.

21 (2) An express or implied grantor-grantee relationship.

22 (3) An express or implied licensor-licensee
23 relationship.

24 (4) A fee-based or similar relationship.

25 (5) A statute or regulation.

26 (6) The retention of an overpayment.

27 "Official use." A use that is consistent with the law and
28 the regulations and policies of the Office of Attorney General,
29 including the following:

30 (1) Use in connection with internal memoranda and

1 reports.

2 (2) Communications between the Office of Attorney
3 General and a Federal, State or local government agency or a
4 contractor of a Federal, State or local government agency,
5 undertaken in furtherance of an investigation or prosecution
6 of an action.

7 (3) Interviews of a qui tam plaintiff or other witness.

8 (4) Oral examinations.

9 (5) Depositions.

10 (6) Preparation for and response to civil discovery
11 requests.

12 (7) Introduction into the record of an action or
13 proceeding.

14 (8) Applications, motions, memoranda and briefs
15 submitted to a court or other tribunal.

16 (9) Communications with investigators, auditors,
17 consultants and experts, the counsel of other parties,
18 arbitrators and mediators, concerning an investigation,
19 action or proceeding.

20 "Original source." An individual who:

21 (1) prior to a public disclosure under section 1412-D(f)

22 (2), has voluntarily disclosed to the Commonwealth the
23 information on which the allegations or transactions in a
24 claim are based; or

25 (2) has knowledge that is independent of and materially
26 adds to the publicly disclosed allegations or transactions
27 and who has voluntarily provided the information to the
28 Commonwealth before filing an action under section 1412-D(b).

29 "Person." A natural person, corporation, firm, association,
30 organization, partnership, limited liability company, business,

1 trust, business trust, estate or foundation.

2 "Qui tam plaintiff." A person bringing a civil action under
3 section 1412-D(b).

4 (b) False Claims

5 Section 1411-D. Acts subjecting persons to liability and
6 damages.

7 (a) Liability.--Except as provided in subsection (b), a
8 person shall be liable to the Commonwealth for three times the
9 amount of damages that the Commonwealth sustains, plus a civil
10 penalty in an amount determined under subsection (d) for each
11 violation, if the person commits any of the following acts:

12 (1) Knowingly presents or causes to be presented a false
13 or fraudulent claim for payment or approval.

14 (2) Knowingly makes, uses or causes to be made or used,
15 a false record or statement material to a false or fraudulent
16 claim.

17 (3) Has possession, custody or control of property or
18 money used or to be used by the Commonwealth and knowingly
19 delivers or causes to be delivered less than all of the money
20 or property.

21 (4) Is authorized to make or deliver a document
22 certifying receipt of property used or to be used by the
23 Commonwealth and, intending to defraud the Commonwealth,
24 makes or delivers a receipt without completely knowing that
25 the information on the receipt is true.

26 (5) Knowingly buys or receives as a pledge of an
27 obligation or debt, public property from an officer or
28 employee of the Commonwealth who lawfully may not sell or
29 pledge the property.

30 (6) Knowingly makes, uses or causes to be made or used,

1 a false record or statement material to an obligation to pay
2 or transmit money or property to the Commonwealth or
3 knowingly conceals, or knowingly and improperly avoids or
4 decreases an obligation to pay or transmit money or property
5 to the Commonwealth.

6 (7) Knowingly fails to disclose a fact, event or
7 occurrence material to an obligation to pay or transmit money
8 or property to the Commonwealth.

9 (8) Is a beneficiary of an inadvertent submission of a
10 false claim, subsequently discovers the falsity of the claim
11 and fails to disclose the false claim to the Commonwealth
12 within a reasonable time after discovery of the false claim.

13 (9) Conspires to commit a violation of paragraph (1),
14 (2), (3), (4), (5), (6), (7) or (8).

15 (b) Damages limitation.--Notwithstanding the damages
16 provision of subsection (a), the court may assess not less than
17 two times the amount of damages the Commonwealth sustains from a
18 violation of subsection (a) if the court finds all of the
19 following:

20 (1) The person committing the violation furnished the
21 Commonwealth officials who are responsible for investigating
22 false claims violations with all information known to that
23 person about the violation within 30 days after the date on
24 which the person first obtained the information.

25 (2) The person fully cooperated with an investigation by
26 the Commonwealth.

27 (3) At the time the person furnished the Commonwealth
28 with information about the violation, no criminal
29 prosecution, civil action or administrative action had
30 commenced with respect to the violation, and the person did

1 not have actual knowledge of the existence of an
2 investigation into the violation.

3 (c) Commonwealth costs.--A person who is liable for damages
4 or penalties under subsection (a) shall also be liable to the
5 Commonwealth for the reasonable costs of investigating and
6 prosecuting violations of subsection (a), including reasonable
7 costs to the Office of Attorney General and, if applicable, a
8 district attorney designated under section 1412-D(a)(2).

9 (d) Adjustment of penalties.--The upper and lower limits on
10 civil penalties imposed under subsection (a) shall be equal to
11 and shall adjust consistently with the civil penalty limits
12 imposed under 31 U.S.C. § 3729(a)(1) (relating to false claims),
13 as such limits are periodically adjusted by the Federal Civil
14 Penalties Inflation Adjustment Act of 1990 (Public Law 101-410,
15 28 U.S.C. § 2461 note).

16 (e) Exemption from disclosure.--The Office of Attorney
17 General shall be exempt from disclosing information under the
18 act of February 14, 2008 (P.L.6, No.3), known as the Right-to-
19 Know Law, that is furnished under subsection (b) or accessed or
20 shared under section 1413.1-D(a).

21 Section 1412-D. Attorney General investigations and
22 prosecutions and civil actions.

23 (a) Responsibilities.--The following shall apply:

24 (1) The Attorney General shall have authority to
25 investigate a violation of section 1411-D. If the Attorney
26 General finds that a person has violated or is violating
27 section 1411-D, the Attorney General may bring a civil action
28 under this section against that person.

29 (2) The Attorney General may enter into an agreement
30 with a district attorney to designate the district attorney

1 to serve as the Attorney General's designee, investigate a
2 violation of section 1411-D and bring a civil action under
3 this section against a person that has violated or is
4 violating section 1411-D. The Attorney General at any time
5 may rescind the designation made under this paragraph.

6 (3) Nothing in section 1407 shall be construed to limit
7 the Attorney General's authority to investigate or prosecute
8 violations of section 1411-D.

9 (b) Actions by qui tam plaintiffs.--The following shall
10 apply:

11 (1) A qui tam plaintiff may bring a civil action for a
12 violation of section 1411-D for the qui tam plaintiff and for
13 the Commonwealth in the name of the Commonwealth. Once filed,
14 the action may be dismissed only if the court and the
15 Attorney General give written consent to the dismissal and
16 their reasons for consenting.

17 (2) A copy of the complaint and written disclosure of
18 substantially all material evidence and information the qui
19 tam plaintiff possesses shall be served promptly on the
20 Attorney General as provided for in the Pennsylvania Rules of
21 Civil Procedure or applicable court rule. The complaint shall
22 be filed in camera and shall remain under seal for at least
23 120 days and shall not be served on the defendant until the
24 court orders the service. The Commonwealth may elect to
25 intervene and proceed with the action within 120 days after
26 it receives the complaint and the material evidence and
27 information.

28 (3) Upon motion of the Commonwealth, the court, for good
29 cause shown, shall extend the time during which the complaint
30 remains sealed under paragraph (2). The motion may be

1 supported by affidavits or other submissions in camera. The
2 defendant shall not be required to respond to a complaint
3 filed under this section until the complaint is unsealed and
4 served upon the defendant under the Pennsylvania Rules of
5 Civil Procedure or applicable court rule.

6 (4) Before the expiration of the 120-day period or any
7 extensions obtained under paragraph (3), the Commonwealth
8 shall:

9 (i) proceed with the action; or

10 (ii) notify the court that the Commonwealth declines
11 to take over the action, in which case the qui tam
12 plaintiff shall have the right to conduct the action.

13 (c) Intervention.--When a qui tam plaintiff brings an action
14 under subsection (b), no person other than the Commonwealth may
15 intervene or bring a related action based on the facts
16 underlying the pending action.

17 (d) Rights of the parties to qui tam actions.--The following
18 shall apply:

19 (1) If the Commonwealth proceeds with the action, it
20 shall have the primary responsibility for prosecuting the
21 action and shall not be bound by an act of the qui tam
22 plaintiff. The qui tam plaintiff shall have the right to
23 continue as a party to the action, subject to the limitations
24 set forth in paragraph (2).

25 (2) The following shall apply:

26 (i) Upon notice to the qui tam plaintiff, the
27 Commonwealth may move to dismiss the action despite the
28 qui tam plaintiff's objections. The court shall dismiss
29 the action for good cause shown if the court has provided
30 the qui tam plaintiff with an opportunity to oppose the

1 motion and present evidence at a hearing.

2 (ii) The Commonwealth may settle the action with the
3 defendant despite the qui tam plaintiff's objections if
4 the court determines, after a hearing providing the qui
5 tam plaintiff an opportunity to present evidence, that
6 the proposed settlement is fair, adequate and reasonable
7 under the circumstances. Upon a showing of good cause,
8 the hearing may be held in camera. Upon motion of the
9 Commonwealth, the court, for good cause shown, shall
10 order a partial lifting of the seal to facilitate the
11 investigative process or settlement.

12 (iii) Upon the Commonwealth's showing that the qui
13 tam plaintiff's unrestricted participation during the
14 course of the action would interfere with or unduly delay
15 the Commonwealth's prosecution of the case or would be
16 repetitious, irrelevant or for purposes of harassment,
17 the court may, in its discretion, impose limitations on
18 the qui tam plaintiff's participation by:

19 (A) limiting the number of witnesses the qui tam
20 plaintiff may call;

21 (B) limiting the length of witness testimony;

22 (C) limiting the qui tam plaintiff's cross-
23 examination of witnesses; or

24 (D) otherwise limiting the qui tam plaintiff's
25 participation in the action.

26 (iv) Upon the defendant's showing that the qui tam
27 plaintiff's unrestricted participation in the action
28 would be for purposes of harassment or would cause the
29 defendant undue burden or unnecessary expense, the court
30 may limit the qui tam plaintiff's participation in the

1 action.

2 (3) If the Commonwealth elects not to proceed with the
3 action, the qui tam plaintiff shall have the right to conduct
4 the action. If the Commonwealth requests, it shall be served
5 with copies of all pleadings filed in the action and shall be
6 supplied, at the Commonwealth's expense, with copies of all
7 deposition transcripts and other discovery produced in the
8 action. Without limiting the qui tam plaintiff's status and
9 rights, the court shall permit the Commonwealth to intervene
10 at a later date upon a showing of good cause.

11 (4) Whether or not the Commonwealth proceeds with the
12 action, upon the Commonwealth's showing, in camera, that
13 certain actions of discovery by the qui tam plaintiff would
14 interfere with the Commonwealth's investigation or
15 prosecution of a criminal or civil matter arising out of the
16 same facts, the court may stay the discovery for a period of
17 not more than 60 days. The court may extend the 60-day period
18 upon the Commonwealth's further showing, in camera, that it
19 has pursued the criminal or civil investigation or
20 proceedings with reasonable diligence and that the discovery
21 proposed in the civil action will interfere with the ongoing
22 criminal or civil investigations or proceedings.

23 (5) Notwithstanding subsection (b), the Commonwealth may
24 elect to pursue its legal claims through an alternate remedy
25 available to the Commonwealth, including an administrative
26 proceeding to determine a civil money penalty. If the
27 alternate remedy is pursued in another proceeding, the qui
28 tam plaintiff shall have the same rights in the proceeding as
29 if the action had continued under this section. A finding of
30 fact or conclusion of law made in the other proceeding that

1 has become final shall be conclusive on all parties to an
2 action under this section. A finding or conclusion is final
3 if it has been finally determined on appeal to the
4 appropriate court of the Commonwealth, if the time for filing
5 the appeal regarding the finding or conclusion has expired
6 without an appeal having been filed or if the finding or
7 conclusion is not subject to judicial review.

8 (e) Award to qui tam plaintiff.--

9 (1) The following shall apply:

10 (i) If the Commonwealth proceeds with an action
11 brought by a qui tam plaintiff, the qui tam plaintiff
12 shall, subject to the provisions of this subsection,
13 receive at least 15% but not more than 25% of the
14 proceeds of the action or settlement of the legal claim,
15 depending upon the extent to which either or both the qui
16 tam plaintiff and the qui tam plaintiff's counsel
17 substantially contributed to the prosecution of the
18 action.

19 (ii) If the court finds that the action is based
20 primarily on disclosures of specific information, other
21 than information provided by the qui tam plaintiff,
22 relating to allegations or transactions in a criminal,
23 civil or administrative hearing to which the Commonwealth
24 is a party, or in a Federal, State or local legislative
25 or other governmental hearing, audit or investigation or
26 from the news media, the court may award a sum it
27 considers appropriate, but in no case more than 10% of
28 the proceeds of the action or settlement, taking into
29 account the information's significance and the qui tam
30 plaintiff's role in advancing the action.

1 (2) If the Commonwealth does not proceed with an action
2 under this section, the qui tam plaintiff shall receive at
3 least 25% but not more than 30% of the proceeds of the action
4 or settlement of the legal claim, as the court deems
5 reasonable.

6 (3) Whether or not the Commonwealth proceeds with the
7 action, if the court finds that the qui tam plaintiff planned
8 and initiated the violation of section 1411-D upon which the
9 action was filed, the following shall apply:

10 (i) Subject to subparagraph (ii), the court may, to
11 the extent the court considers appropriate, reduce the
12 share of the proceeds of the action or settlement of the
13 legal claim which the qui tam plaintiff would otherwise
14 receive under paragraph (1) or (2), taking into account
15 the qui tam plaintiff's role in advancing the action and
16 any relevant circumstances pertaining to the violation.

17 (ii) If the qui tam plaintiff is convicted of
18 criminal conduct arising from the qui tam plaintiff's
19 role in the violation, the qui tam plaintiff shall be
20 dismissed from the civil action and shall not receive a
21 share of the proceeds of the action. The dismissal shall
22 not prejudice the Commonwealth's right to continue the
23 action.

24 (4) An award to a qui tam plaintiff shall be made from
25 the proceeds of the action or settlement of the legal claim.
26 The qui tam plaintiff also shall receive an amount for
27 reasonable expenses which the court finds were necessarily
28 incurred, plus reasonable attorney fees and costs. The
29 expenses, fees and costs shall be awarded against the
30 defendant.

1 (5) If the Commonwealth does not proceed with the action
2 and the qui tam plaintiff conducts the action, the court may
3 award to the defendant reasonable attorney fees and expenses
4 if the defendant prevails in the action and the court finds
5 that the qui tam plaintiff's legal claim was clearly
6 frivolous, clearly vexatious or brought primarily for
7 purposes of harassment.

8 (f) Certain actions barred.--

9 (1) A court does not have jurisdiction over an action
10 filed under this section against the Governor, the Lieutenant
11 Governor, the Attorney General, the Auditor General, the
12 Treasurer, a cabinet member, a deputy secretary, a member of
13 the General Assembly or a member of the judiciary if the
14 action is based on evidence or information known to the
15 Commonwealth when the action was brought.

16 (2) The following shall apply:

17 (i) Subject to subparagraph (ii), the court shall
18 dismiss an action or legal claim brought under subsection
19 (b) if substantially the same allegations or transactions
20 alleged in the action or legal claim were publicly
21 disclosed in:

22 (A) the news media;

23 (B) a criminal, civil or administrative hearing
24 in which the Commonwealth is or was a party; or

25 (C) a Federal, State or local legislative or
26 other governmental report, hearing, audit or
27 investigation.

28 (ii) The court may not dismiss an action under
29 subparagraph (i) if:

30 (A) the action was brought by the Attorney

1 General;

2 (B) the Attorney General opposes dismissal; or

3 (C) the qui tam plaintiff is an original source
4 of the information publicly disclosed.

5 (3) A person may not bring an action under this section
6 which is based upon allegations or transactions that are the
7 subject of a civil suit or an administrative civil money
8 penalty proceeding in which the Commonwealth is already a
9 party.

10 (g) Commonwealth not liable for certain expenses.--The
11 Commonwealth is not liable for expenses which a qui tam
12 plaintiff incurs in bringing an action under this section.

13 (h) (Reserved).

14 (i) Cooperation by agencies.--Commonwealth agencies shall
15 cooperate in the investigation and prosecution of false claims
16 under this section, whether the claims are brought by the
17 Attorney General or a qui tam plaintiff.

18 Section 1413-D. Civil investigative demands.

19 (a) Issuance and service.--The following shall apply:

20 (1) If the Attorney General or, for purposes of this
21 subsection, the Attorney General's designee, has reason to
22 believe that a person may be in possession, custody or
23 control of documentary material or information relevant to a
24 false claims investigation under this article, the Attorney
25 General or designee may, before commencing a civil proceeding
26 under section 1412-D(a) or making an election under section
27 1412-D(b), issue in writing and cause to be served upon the
28 person a civil investigative demand requiring the person to:

29 (i) produce documentary material for inspection and
30 copying;

1 (ii) answer in writing written interrogatories with
2 respect to documentary material or information;

3 (iii) give oral testimony concerning documentary
4 material or information; or

5 (iv) furnish any combination of materials, answers
6 or testimony.

7 (2) If a civil investigative demand is an express demand
8 for a product of discovery, the Attorney General or the
9 Attorney General's designee shall:

10 (i) cause to be served in any manner authorized by
11 this subsection a copy of the demand upon the person from
12 whom or which the discovery was obtained; and

13 (ii) notify the demand issuee of the date on which
14 the copy was served.

15 (b) Contents and deadlines.--The following shall apply:

16 (1) A civil investigative demand shall state the nature
17 of the conduct constituting the alleged violation of this
18 article that is under investigation and the applicable
19 provisions of this article alleged to be violated.

20 (2) If the civil investigative demand is for the
21 production of documentary material, the demand shall:

22 (i) describe each class of documentary material to
23 be produced with definiteness and certainty as to permit
24 the material to be fairly identified;

25 (ii) prescribe a return date for each class that
26 will provide a reasonable time period within which the
27 material so demanded may be assembled and made available
28 for inspection and copying; and

29 (iii) identify the false claims investigator to whom
30 the material shall be available.

1 (3) If the civil investigative demand is for answers to
2 written interrogatories, the demand shall:

3 (i) set forth with specificity the written
4 interrogatories to be answered;

5 (ii) prescribe dates on which the answers to the
6 written interrogatories shall be submitted; and

7 (iii) identify the false claims investigator to whom
8 the answers shall be submitted.

9 (4) If the civil investigative demand is for oral
10 testimony, the demand shall:

11 (i) prescribe a date, time and place at which the
12 oral testimony shall be given;

13 (ii) identify a false claims investigator who shall
14 conduct the examination and the custodian to whom the
15 transcript of the examination shall be submitted;

16 (iii) specify that attendance and testimony are
17 necessary to the conduct of the false claims
18 investigation; and

19 (iv) describe the general purpose for which the
20 demand is being issued and general nature of the
21 testimony, including the primary areas of inquiry, which
22 will be taken under the demand.

23 (5) A civil investigative demand shall contain the
24 following statement printed at the beginning of the demand:
25 "You have the right to seek the assistance of an attorney,
26 who may represent you in all phases of the investigation of
27 which this civil investigative demand is a part."

28 (6) A civil investigative demand that is an express
29 demand for a product of discovery shall not be returned or
30 returnable until 20 days after a copy of the demand has been

1 served upon the person from whom or which the discovery was
2 obtained.

3 (7) The date prescribed for commencement of oral
4 testimony under a civil investigative demand shall not be
5 less than seven days after the date on which the demand is
6 served, unless the Attorney General or a designee determines
7 that exceptional circumstances exist and warrant commencing
8 testimony within a lesser time period.

9 (8) The Attorney General, or a designee, may not
10 authorize the issuance of more than one civil investigative
11 demand for the same person's oral testimony unless:

12 (i) the person requests otherwise; or

13 (ii) the Attorney General or designee notifies the
14 person in writing that an additional demand for oral
15 testimony is necessary.

16 (c) Protected material or information.--The following shall
17 apply:

18 (1) A civil investigative demand may not require the
19 production of documentary material, the submission of answers
20 to written interrogatories or the giving of oral testimony if
21 the material, answers or testimony would be protected from
22 disclosure under the standards applicable to:

23 (i) subpoenas or subpoenas duces tecum issued by a
24 court of this Commonwealth to aid in a grand jury
25 investigation; or

26 (ii) discovery under the Pennsylvania Rules of Civil
27 Procedure or other applicable court rule, to the extent
28 that the application of the standards to a demand is
29 appropriate and consistent with the provisions and
30 purposes of this section.

1 (2) The following shall apply:

2 (i) Except where a statute explicitly precludes the
3 superseding effect imposed by this paragraph, a civil
4 investigative demand that is an express demand for a
5 product of discovery supersedes an inconsistent order,
6 rule or provision of law, other than in this section,
7 that prevents or restrains disclosure of the product of
8 discovery to any person.

9 (ii) A person's disclosure of a product of discovery
10 under an express demand does not constitute a waiver of
11 any right or privilege to resist discovery of trial
12 preparation materials that the person may be entitled to
13 invoke.

14 (d) Service and jurisdiction.--Except as otherwise provided,
15 the following apply to civil investigative demands issued under
16 this section and petitions filed under subsection (j):

17 (1) The following shall apply:

18 (i) A civil investigative demand may be served by a
19 false claims investigator, a law enforcement officer or
20 another individual authorized by law to serve process in
21 the jurisdiction where the demand is served.

22 (ii) A petition may be served by any person
23 authorized to serve process under the Pennsylvania Rules
24 of Civil Procedure or other applicable court rule.

25 (2) The following shall apply:

26 (i) A civil investigative demand or petition may be
27 served upon a person consistent with and in the manner
28 prescribed by 42 Pa.C.S. Ch. 53 (relating to bases of
29 jurisdiction and interstate and international procedure)
30 and the Pennsylvania Rules of Civil Procedure or other

1 applicable court rule, for personal service inside or
2 outside this Commonwealth.

3 (ii) To the extent the courts of the Commonwealth
4 can assert jurisdiction over a person outside this
5 Commonwealth, a court with jurisdiction over an action
6 filed under this article shall have the same jurisdiction
7 to take action respecting the person's compliance with
8 this section that it would have if the person resided
9 within the court's jurisdiction.

10 (3) The following shall apply:

11 (i) A civil investigative demand or petition may be
12 served upon a legal entity by:

13 (A) delivering an executed copy of the demand or
14 petition to a partner, executive officer, managing
15 agent or general agent of the legal entity, or to an
16 employee designated or agent authorized by
17 appointment or law to receive service of process on
18 behalf of the legal entity;

19 (B) delivering an executed copy of the demand or
20 petition to the legal entity's principal office or
21 place of business;

22 (C) depositing an executed copy of the demand or
23 petition in the United States mail by registered or
24 certified mail with a return receipt requested,
25 addressed to the legal entity at its principal office
26 or place of business; or

27 (D) any other method provided by the
28 Pennsylvania Rules of Civil Procedure or other
29 applicable court rule.

30 (ii) A civil investigative demand or petition may be

1 served upon a natural person by:

2 (A) delivering an executed copy of the demand or
3 petition to the person;

4 (B) depositing an executed copy of the demand or
5 petition in the United States mail by registered or
6 certified mail with a return receipt requested,
7 addressed to the person at the person's residence or
8 principal office or place of business; or

9 (C) any other method provided by the
10 Pennsylvania Rules of Civil Procedure or other
11 applicable court rule.

12 (4) A verified return by the individual serving a civil
13 investigative demand or a petition, setting forth the manner
14 of service, shall be proof of service. In the case of service
15 by registered or certified mail, the return post office
16 receipt of the demand or petition's delivery shall accompany
17 the verified return.

18 (e) Documentary material.--

19 (1) The following shall apply:

20 (i) The production of documentary material shall be
21 made under a written and verified certificate, in the
22 form the demand designates, by the following individuals:

23 (A) if the demand issuee is a natural person, by
24 the demand issuee; and

25 (B) if the demand issuee is not a natural
26 person, by an individual who has knowledge of facts
27 and circumstances relating to the production and is
28 authorized to act on the demand issuee's behalf.

29 (ii) The certificate shall state that all the
30 documentary material required by the demand and in the

1 demand issuee's possession, custody or control has been
2 produced and made available to the false claims
3 investigator identified in the demand.

4 (2) The following shall apply:

5 (i) A demand issuee shall make demanded material
6 available for inspection and copying to the false claims
7 investigator identified in the demand:

8 (A) at the demand issuee's principal place of
9 business;

10 (B) at another place as the false claims
11 investigator and the demand issuee thereafter may
12 agree and prescribe in writing; or

13 (C) as the court may direct under this section.

14 (ii) The documentary material shall be made
15 available on the return date specified in the demand or
16 on a later date as the false claims investigator may
17 prescribe in writing. The demand issuee may, upon written
18 agreement with the false claims investigator, substitute
19 copies for originals of all or any part of the material.

20 (3) If the demand issuee objects to the production of
21 any portion of the required documentary material or otherwise
22 withholds any portion of the material, the demand issuee
23 shall with particularity state the reasons for the objection
24 or withholding and identify all withheld material.

25 (f) Interrogatories.--The following shall apply:

26 (1) Each interrogatory in a civil investigative demand
27 shall be answered separately and fully in writing under oath
28 and shall be submitted under a verified certificate, in the
29 form the demand designates, stating that all information
30 required by the demand and in the demand issuee's possession,

1 custody, control or knowledge has been submitted by the
2 following persons:

3 (i) if the demand issuee is a natural person, by the
4 demand issuee; and

5 (ii) if the demand issuee is not a natural person,
6 by the individuals responsible for answering each
7 interrogatory.

8 (2) If the demand issuee objects to an interrogatory or
9 any portion thereof, or otherwise withholds information, the
10 demand issuee shall state with particularity the reasons for
11 the objection or withholding and identify all withheld
12 information.

13 (g) Oral examinations.--

14 (1) The following shall apply:

15 (i) The examination of a person under a civil
16 investigative demand for oral testimony shall be taken
17 before an officer authorized to administer oaths and
18 affirmations by the laws of this Commonwealth or of the
19 place where the examination is held.

20 (ii) The officer shall put the witness on oath or
21 affirmation and, personally or by someone acting under
22 the officer's direction and in the officer's presence,
23 shall record the witness's testimony.

24 (iii) The testimony shall be stenographically
25 transcribed.

26 (iv) When the transcribing is complete, the officer
27 shall promptly transmit a copy of the transcript to the
28 custodian.

29 (v) This subsection shall not preclude the taking of
30 testimony by any means authorized by, and in a manner

1 consistent with, the Pennsylvania Rules of Civil
2 Procedure or other applicable court rule.

3 (2) The false claims investigator conducting the
4 examination shall exclude from the place where the
5 examination is held all persons except the following:

6 (i) the witness giving the testimony;

7 (ii) the attorney for the witness;

8 (iii) the attorney for the Commonwealth;

9 (iv) the officer before whom the testimony is to be
10 taken;

11 (v) the court reporter taking the testimony; and

12 (vi) any other person agreed to by the witness and
13 the attorney for the Commonwealth.

14 (3) Oral testimony taken under a civil investigative
15 demand shall be taken in the county or city within which the
16 person resides, is found, or transacts business, or in a
17 place to which the false claims investigator and the witness
18 otherwise agree.

19 (4) The following shall apply:

20 (i) When the transcript of testimony is completed,
21 the false claims investigator or the officer before whom
22 the testimony is taken shall afford the witness, who may
23 be accompanied by counsel, a reasonable opportunity to
24 examine and read the transcript, unless the witness
25 waives the reading and examination.

26 (ii) The officer or false claims investigator shall
27 enter and identify on the transcript any changes in form
28 or substance that the witness desires to make with a
29 statement of the reasons the witness gives for making the
30 changes.

1 (iii) The witness shall sign the transcript after
2 the changes, if any, are made, unless the witness waives
3 the signing in writing, is ill, cannot be found, or
4 refuses to sign. If the witness does not sign the
5 transcript within 30 days after being afforded a
6 reasonable opportunity to sign it, the officer or false
7 claims investigator shall sign it and state on the record
8 the fact of the witness's waiver, illness, absence or
9 refusal to sign, together with the reasons, if any, given
10 for why the witness did not sign the transcript.

11 (iv) The officer before whom the testimony is taken
12 shall certify on the transcript that the witness was
13 sworn by the officer and the transcript is a true record
14 of the witness's testimony, and the officer shall
15 promptly deliver the transcript or send the transcript by
16 registered or certified mail to the custodian.

17 (v) Upon receiving payment of reasonable charges,
18 the false claims investigator shall furnish a copy of the
19 transcript to the witness only, except that the Attorney
20 General or the Attorney General's designee may, for good
21 cause, limit the witnesses to inspecting the official
22 transcript.

23 (5) The following shall apply:

24 (i) A witness compelled to appear for oral testimony
25 may be accompanied, represented and advised by counsel.
26 Counsel may advise the witness in confidence with respect
27 to any question asked of the witness.

28 (ii) The witness or counsel may object on the record
29 to any question, in whole or in part, and shall briefly
30 state for the record the reason for the objection. An

1 objection may be made, received and entered upon the
2 record when it is claimed that the witness is entitled to
3 refuse to answer on the grounds of any constitutional or
4 legal right or privilege, including the privilege against
5 self-incrimination. The witness may not otherwise object
6 to or refuse to answer any question and may not directly
7 or through counsel otherwise interrupt the oral
8 examination. If a witness refuses to answer a question, a
9 petition may be filed with the court under this section
10 for an order compelling the witness to answer the
11 question.

12 (6) A witness appearing for oral testimony under a civil
13 investigative demand shall be entitled to the same fees and
14 allowances that are paid to witnesses in the courts of common
15 pleas.

16 (h) Refusal to comply on self-incrimination privilege
17 grounds.--The Attorney General may invoke the provisions of 42
18 Pa.C.S. § 5947 (relating to immunity of witnesses) if a demand
19 issue on the grounds of privilege against self-incrimination,
20 refuses to:

21 (1) furnish documentary material or answer an
22 interrogatory in response to a civil investigative demand;

23 (2) answer a question asked during oral examination made
24 under a civil investigative demand; or

25 (3) otherwise comply with a civil investigative demand.

26 (i) Custody of documents, answers and transcripts.--The
27 following shall apply:

28 (1) Unless the Attorney General designates another
29 person, the false claims investigator identified on a civil
30 investigative demand shall serve as custodian of documentary

1 material, interrogatory answers and oral testimony
2 transcripts received under this section. The Attorney General
3 may designate additional persons as the Attorney General
4 determines to be necessary to serve as deputy, alternative or
5 successor custodians.

6 (2) A false claims investigator who receives documentary
7 material, interrogatory answers or oral testimony transcripts
8 under this section shall:

9 (i) if serving as custodian, take possession of the
10 material, answers or transcripts and be responsible for
11 their usage and for the return of documentary material;
12 or

13 (ii) if not serving as custodian, transmit the
14 materials, answers or transcripts to the custodian, who
15 shall take possession and responsibility for the
16 materials, answers or transcripts.

17 (3) The custodian may cause the preparation of copies of
18 documentary material, interrogatory answers or oral testimony
19 transcripts as may be required for official use by a false
20 claims investigator or another officer or employee of the
21 Office of Attorney General authorized to use the materials,
22 answers or transcripts in connection with the taking of oral
23 testimony under this section.

24 (4) The following shall apply:

25 (i) Except as otherwise provided in this section, no
26 documentary material, interrogatory answers or oral
27 testimony transcripts or copies of the foregoing shall be
28 available for examination by any individual other than a
29 false claims investigator or other officer or employee of
30 the Office of Attorney General.

1 (ii) The prohibition in subparagraph (i) shall not
2 apply if the person who produced material, answers or
3 transcripts, or in the case of a product of discovery
4 produced under an express demand for the material, the
5 person from whom or which the discovery was obtained,
6 consents.

7 (iii) Nothing in this paragraph shall be construed
8 to prevent disclosure to the General Assembly or to a
9 Commonwealth agency in furtherance of statutory or
10 constitutional obligations, except that disclosure shall
11 be subject to 18 Pa.C.S. Ch. 91 (relating to criminal
12 history record information).

13 (iv) While in the custodian's possession and under
14 reasonable terms and conditions as the Attorney General
15 prescribes, documentary material, interrogatory answers
16 and oral testimony transcripts shall be made available
17 for examination by the person that produced them or by
18 the person's authorized representative.

19 (5) The following shall apply:

20 (i) Notwithstanding 18 Pa.C.S. Ch. 91, an attorney
21 of the Office of Attorney General who is designated to
22 appear before a court, grand jury or Commonwealth agency
23 in a case or proceeding may, in connection with the case
24 or proceeding, obtain from the custodian and use any
25 documentary material, interrogatory answers or oral
26 testimony transcripts that the attorney determines is
27 required.

28 (ii) Upon the case or proceeding's completion, the
29 attorney shall return to the custodian documentary
30 material, interrogatory answers or oral testimony

1 transcripts that have not passed into the court's, grand
2 jury's or agency's control through introduction into the
3 case or proceeding's record.

4 (6) The following shall apply:

5 (i) Subject to subparagraphs (ii) and (iii), upon
6 the written request of a person producing documentary
7 material in connection with a false claims investigation,
8 the custodian shall return the material.

9 (ii) The custodian shall return the material only
10 if:

11 (A) all cases or proceedings arising out of the
12 false claims investigation have been completed; or

13 (B) no case or proceeding in which the material
14 may be used has been commenced within a reasonable
15 time after completion of the examination and analysis
16 of all documentary material and other information
17 assembled in the course of the false claims
18 investigation.

19 (iii) The custodian shall not be required to return
20 either of the following:

21 (A) material that has passed into a court, grand
22 jury or Commonwealth agency's control through
23 introduction into a case or proceeding's record; or

24 (B) copies furnished to the false claims
25 investigator or made for the Attorney General under
26 this subsection.

27 (j) Judicial proceedings.--The following shall apply:

28 (1) The Attorney General or the Attorney General's
29 designee may file and serve upon a person a petition for a
30 court order enforcing a civil investigative demand if:

1 (i) the person fails to comply with a demand served
2 upon the person; or

3 (ii) satisfactory copying or reproduction of the
4 material requested in the demand cannot be done and the
5 person refuses to surrender the material.

6 (2) The following shall apply:

7 (i) A demand issuee who has received a civil
8 investigative demand may file and serve upon the false
9 claims investigator identified in the demand a petition
10 for a court order modifying or setting aside the demand.

11 (ii) If a demand is an express demand for a product
12 of discovery, the person from whom discovery was obtained
13 may, upon receipt of the demand, file and serve upon the
14 false claims investigator identified in the demand a
15 petition for a court order modifying or setting aside
16 those portions of the demand requiring production of the
17 product of discovery.

18 (iii) A petition under this paragraph must be filed
19 within:

20 (A) the earlier of 20 days after the civil
21 investigative demand is served on the person or any
22 time before the return date specified in the demand;
23 or

24 (B) a longer period if the false claims
25 investigator so prescribes in writing in the demand.

26 (iv) A petition under this paragraph shall specify
27 each ground the petitioner relies on in seeking relief
28 and may be based on either of the following:

29 (A) failure of the civil investigative demand,
30 or any portion thereof, to comply with this section's

1 provisions; or

2 (B) any constitutional or other legal right or
3 privilege of the petitioner.

4 (v) During the pendency of a petition under this
5 paragraph, the following shall apply:

6 (A) The court may stay, as it deems proper,
7 compliance with all or part of the demand and the
8 running of time allowed for compliance with the
9 demand.

10 (B) The petitioner must comply with any portion
11 of the demand that is not sought to be modified or
12 set aside, or otherwise subject to a stay issued by
13 the court.

14 (3) At any time a custodian possesses or is in custody
15 or control of documentary material, interrogatory answers or
16 transcripts of oral testimony given under a civil
17 investigative demand, the following persons may file and
18 serve upon the custodian a petition for a court order
19 requiring the custodian to perform a duty imposed on the
20 custodian by this section:

21 (i) the demand issuer that furnished the material,
22 answers or testimony; and

23 (ii) in the case of an express demand for a product
24 of discovery, the person from whom discovery was
25 obtained.

26 (4) The following shall apply:

27 (i) The court shall have jurisdiction to hear and
28 determine a petition filed under this section and, after
29 a hearing at which all parties have the opportunity to be
30 heard, to enter orders as may be required to carry out

1 the provisions of this section.

2 (ii) A final order entered by Commonwealth Court
3 under this section shall be subject to appeal to the
4 Supreme Court under 42 Pa.C.S. § 723 (relating to appeals
5 from Commonwealth Court).

6 (k) Exemption from disclosure.--The Office of Attorney
7 General shall be exempt from disclosing under the act of
8 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law,
9 documentary material, interrogatory answers and oral testimony
10 provided under a civil investigative demand.

11 (l) Definitions.--For purposes of this section, the
12 following words and phrases shall have the meanings given to
13 them in this subsection unless the context clearly indicates
14 otherwise:

15 "Custodian." The false claims investigator or other
16 custodian or a deputy or alternate custodian designated by the
17 Attorney General under subsection (i).

18 "Demand issuee." A person to whom or which a civil
19 investigative demand is issued or directed.

20 "Documentary material." Includes the original or a copy of a
21 book, record, report, memorandum, paper, communication,
22 tabulation, chart or other document or data compilations stored
23 or accessible through computer or other information retrieval
24 systems, together with appropriate and succinct instructions and
25 all other materials necessary to use or interpret the data
26 compilations, and a product of discovery.

27 "False claims investigation." An inquiry conducted by a
28 false claims investigator for the purposes of ascertaining
29 whether a person is or has been engaged in a violation of this
30 article.

1 "False claims investigator." An attorney or investigator
2 employed by the Office of Attorney General, or by a district
3 attorney designated under section 1412-D(a)(2), who is charged
4 with the duty of enforcing or carrying out the provisions of
5 this article, or an officer or employee of the Commonwealth
6 acting under the attorney or investigator's direction and
7 supervision in connection with a false claims investigation.

8 "Legal entity." A person other than a natural person.

9 "Person." As defined in 1 Pa.C.S. § 1991 (relating to
10 definitions).

11 "Product of discovery." The term includes:

12 (1) the original or duplicate of a deposition
13 interrogatory, document, thing, result of the inspection of
14 land or other property, examination or admission that is
15 obtained by any method of discovery in a judicial or
16 administrative proceeding of an adversarial nature;

17 (2) a digest, analysis, selection, compilation or
18 derivation of an item listed in paragraph (1); and

19 (3) an index or other manner of access to an item listed
20 in paragraph (1).

21 "Verified." Supported by oath or affirmation and averred
22 subject to the penalties of 18 Pa.C.S. § 4904 (relating to
23 unsworn falsification to authorities).

24 Section 1413.1-D. Access and sharing of information.

25 (a) Criminal investigation or prosecution information.--The
26 following shall apply:

27 (1) Notwithstanding the provisions of 18 Pa.C.S. Ch. 91
28 (relating to criminal history record information) or any
29 other law, and as necessary to advance an investigation or
30 prosecution of a potential or actual violation of section

1 1411-D, the Attorney General may access and share data,
2 records, documents or other information obtained during the
3 course of a criminal investigation or prosecution with the
4 following:

5 (i) A section, unit or individual employee or agent
6 of the Office of Attorney General authorized and
7 designated by the Attorney General to investigate or
8 prosecute a potential or actual violation of section
9 1411-D, including a district attorney designated under
10 section 1412-D(a) (2).

11 (ii) The United States Department of Justice.

12 (iii) The appropriate civil prosecutorial authority
13 of another jurisdiction.

14 (2) A recipient under paragraph (1)(i) shall be subject
15 to the provisions of 18 Pa.C.S. Ch. 91 relating to further
16 disclosure, dissemination and sharing of the information with
17 noncriminal justice agencies, departments and individuals,
18 except as permitted under paragraph (1)(ii) and (iii).

19 (b) Sharing information with qui tam plaintiff.--Except as
20 otherwise prohibited by law, information the Attorney General or
21 the Attorney General's designee obtains under section 1413-D may
22 be shared with a qui tam plaintiff, if the Attorney General or
23 designee determines it is necessary as part of a false claims
24 investigation conducted under this article.

25 Section 1414-D. Deposit of Commonwealth's share of proceeds.

26 (a) Distribution and division.--The Commonwealth's share of
27 the proceeds of an action or settlement under this article, not
28 including the costs under section 1411-D(c) and less any amount
29 legally required to be paid from the Commonwealth's share, shall
30 be distributed in the following manner:

1 (1) An amount equal to 10% of the total enforcement
2 costs shall be distributed from the Commonwealth's share to
3 the Office of Attorney General and, if applicable, a district
4 attorney designated under section 1412-D(a)(2), in proportion
5 equal to each office's percentage of the enforcement costs.
6 Money distributed under this paragraph shall be reserved for
7 use by the Medicaid Fraud Control Section.

8 (2) After distribution under paragraph (1), an amount
9 sufficient to reimburse the damages sustained by Commonwealth
10 agencies as a result of a violation of section 1411-D shall
11 be distributed from the Commonwealth's share to the agencies.
12 A Commonwealth agency that distributed money under this
13 paragraph shall use the money to reimburse the programs
14 administered by the agency whose funds were diminished as a
15 result of the violation.

16 (3) The amount from the Commonwealth's share remaining
17 after distribution under paragraphs (1) and (2) shall be
18 deposited into the Budget Stabilization Reserve Fund.

19 (b) Definition.--As used in this section, the term
20 "enforcement costs" means the costs awarded under section 1411-
21 D(c) to the Attorney General and, if applicable, to a district
22 attorney designated under section 1412-D(a)(2).

23 Section 1415-D. Annual report.

24 (a) Report required.--The Attorney General shall prepare an
25 annual report concerning actions taken under this article by
26 December 31 each year, beginning December 31, 2021. The report
27 shall be submitted to the following:

28 (1) The Governor.

29 (2) The Department of Auditor General.

30 (3) The Independent Fiscal Office.

1 (4) The Office of Inspector General.

2 (5) The members of the General Assembly.

3 (6) The Legislative Budget and Finance Committee.

4 (b) Contents.--The report shall include the following:

5 (1) The number of actions filed under this article by
6 the Attorney General.

7 (2) The number of actions filed under this article by
8 the Attorney General that were completed.

9 (3) The amount that was recovered in actions filed under
10 this article by the Attorney General through settlement or
11 through a judgment and, if known, the amount recovered for
12 damages, penalties and litigation costs.

13 (4) The number of actions filed under section 1412-D by
14 a person other than the Attorney General.

15 (5) The number of actions filed under section 1412-D by
16 a person other than the Attorney General that were completed.

17 (6) The amounts that were recovered in actions filed
18 under section 1412-D by a person other than the Attorney
19 General through settlement or through a judgment and, if
20 known, the amounts recovered for damages, penalties and
21 litigation costs and the amounts recovered by the
22 Commonwealth and the person.

23 (7) The amount expended by the Commonwealth for
24 investigation, litigation and all other costs for legal
25 claims under this article.

26 (8) A narrative describing the most notable or prevalent
27 violations of section 1411-D and recommendations on how
28 Commonwealth agencies may prevent similar violations from
29 occurring.

30 (9) Legislative recommendations the Attorney General may

1 have for amendments to this article and any other law as it
2 relates to this article.

3 Section 1416-D. Statute of limitations, burden of proof and
4 estoppel.

5 (a) Statute of limitations.--

6 (1) (i) Subject to subparagraph (ii), a civil action
7 under section 1412-D may not be brought more than 10 years
8 after the date on which the violation was committed.

9 (ii) If a violation is part of a continuing course
10 of conduct, a civil action under section 1412-D may not
11 be brought more than 10 years after the date on which the
12 last violation in the continuing course of conduct was
13 committed.

14 (2) If the Commonwealth elects to intervene and proceed
15 with an action brought under section 1412-D(b), the following
16 shall apply:

17 (i) The Commonwealth may file its own complaint or
18 amend the qui tam plaintiff's complaint in order to
19 clarify or add detail to the legal claims and add any
20 additional claims with respect to which the Commonwealth
21 contends it is entitled to relief.

22 (ii) The Commonwealth's pleading shall relate back
23 to the filing date of the qui tam plaintiff's complaint
24 to the extent that the Commonwealth's legal claims arise
25 out of the conduct, transactions or occurrences set
26 forth, or attempted to be set forth, in the qui tam
27 plaintiff's complaint.

28 (b) Burden of proof.--In an action brought under section
29 1412-D, the Commonwealth or the qui tam plaintiff shall be
30 required to prove all essential elements of the cause of action,

1 including damages, by a preponderance of the evidence.

2 (c) Estoppel.--Notwithstanding any other provision of law, a
3 final judgment rendered in the Commonwealth's favor in a
4 criminal proceeding charging false statements or fraud, whether
5 upon a verdict after trial or upon a plea of guilty or nolo
6 contendere, shall estop the defendant from denying the essential
7 elements of the offense in an action brought under section 1412-
8 D that involves the same transaction as in the criminal
9 proceeding.

10 Section 1417-D. Relief from retaliatory actions.

11 (a) General rule.--An employee, contractor or agent shall be
12 entitled to all relief necessary to make the employee,
13 contractor or agent whole, if the employee, contractor or agent
14 is discharged, demoted, suspended, threatened, harassed or in
15 any other manner discriminated against in the terms and
16 conditions of employment, contract or agency because of lawful
17 acts done by the employee, contractor, agent or associated
18 others in furtherance of an action under this article or other
19 efforts to stop one or more violations of this article.

20 (b) Relief.--Relief under subsection (a) shall include
21 reinstatement with the same seniority status that the employee,
22 contractor or agent would have had but for the discrimination,
23 two times the amount of back pay, interest on the back pay and
24 compensation for special damages sustained as a result of the
25 discrimination, including litigation costs and reasonable
26 attorney fees.

27 (c) Limitation.--An action under this section may not be
28 brought more than three years after the date on which the
29 retaliation occurred.

30 Section 1418-D. Actions and remedies under other laws.

1 (a) Actions and remedies not exclusive.--The provisions of
2 this article are not exclusive and the actions and remedies
3 provided for in this article shall be in addition to any other
4 actions and remedies provided for in any other law or available
5 under the common law.

6 (b) Construction.--The availability of an action or remedy
7 provided for in any other law or available under the common law
8 shall not be construed to exclude, impair or limit the
9 availability or use of the provisions of this article.

10 (c) Existing privileges and immunities unaffected.--This
11 article shall not abrogate or modify any existing statutory or
12 common law privilege or immunity.

13 Section 1419-D. Qualification of article for increased share of
14 recoveries.

15 (a) Submission.--Within 30 days after the effective date of
16 this article, the Attorney General shall submit a copy of this
17 article and any other relevant information to the Office of
18 Inspector General, United States Department of Health and Human
19 Services and request a determination that this article meets the
20 requirements of section 1909(b) of the Social Security Act (49
21 Stat. 620, 42 U.S.C. § 1396h(b)), in order to qualify the
22 Commonwealth for an increased share of amounts recovered under
23 this article with respect to false or fraudulent claims
24 submitted to the medical assistance program.

25 (b) Review and recommendations.--If the Office of Inspector
26 General, United States Department of Health and Human Services
27 determines that this article does not meet the requirements of
28 section 1909(b) of the Social Security Act, the Attorney General
29 shall prepare and transmit to the officials designated in
30 section 1415-D(a), a report explaining the reasons for the

1 denial and suggested revisions to this article which would cause
2 this article to meet the requirements of section 1909(b) of the
3 Social Security Act.

4 Section 1420-D. Rules of procedure.

5 Except as otherwise set forth in, or where clearly
6 inconsistent with, this article, proceedings under this article
7 shall be governed by the Pennsylvania Rules of Civil Procedure
8 or other applicable court rule.

9 Section 1421-D. Implementation.

10 (a) Regulations.--The Attorney General is empowered and
11 authorized to promulgate regulations as necessary to carry out
12 the purposes of this article.

13 (b) Guidelines.--The following shall apply:

14 (1) In order to facilitate the speedy implementation of
15 this article, in lieu of initially promulgating regulations,
16 the Attorney General may promulgate, adopt and use guidelines
17 which shall be transmitted to the Legislative Reference
18 Bureau for publication in the Pennsylvania Bulletin. A
19 guideline promulgated under this section shall not be subject
20 to review under any of the following:

21 (i) Section 612 of the act of April 9, 1929
22 (P.L.177, No.175), known as The Administrative Code of
23 1929.

24 (ii) Sections 201, 202, 203, 204 and 205 of the act
25 of July 31, 1968 (P.L.769, No.240), referred to as the
26 Commonwealth Documents Law.

27 (iii) Sections 204(b) and 301(10) of the act of
28 October 15, 1980 (P.L.950, No.164), known as the
29 Commonwealth Attorneys Act.

30 (iv) The act of June 25, 1982 (P.L.633, No.181),

1 known as the Regulatory Review Act.

2 (2) A guideline promulgated under this section shall be
3 effective for three years after the effective date of this
4 article, after which it shall be promulgated as a regulation.

5 (c) Mandatory provisions.--The Attorney General, whether by
6 regulation, guideline or internal policy, shall implement
7 provisions to:

8 (1) control a person's disclosure, dissemination,
9 sharing or use of information that is protected under 18
10 Pa.C.S. Ch. 91 (relating to criminal history record
11 information) and that the person lawfully obtains in
12 connection with an investigation or prosecution of a
13 potential or actual violation of section 1411-D; and

14 (2) in accordance with section 1413.1-D(b), prevent the
15 unauthorized further disclosure, dissemination, sharing or
16 use of protected information.

17 Section 1422-D. Jurisdiction; Attorney General as relator in
18 false claims actions.

19 (a) Jurisdiction.--An action or petition under this article
20 shall be filed in a court of competent jurisdiction. The
21 following shall apply:

22 (1) An action or petition that is brought in the courts
23 of the Commonwealth shall be filed in Commonwealth Court.

24 (2) Commonwealth Court shall have jurisdiction over a
25 legal claim asserted under the laws of the United States, a
26 state or a local government, which arises from the same
27 transaction or occurrence as an action brought under this
28 article.

29 (b) Attorney General as relator.--To the extent permitted by
30 Federal law the Attorney General may bring an action as a

1 relator under 31 U.S.C. § 3730 (relating to civil actions for
2 false claims) with respect to any act for which a person may be
3 held liable under 31 U.S.C. Ch. 37 (relating to claims).

4 (c) Service on other authorities.--With respect to the
5 Federal Government or a state or local government that is named
6 as a coplaintiff with the Commonwealth in an action brought
7 under this article, the following shall apply to a seal on the
8 action ordered by the court under section 1412-D(b):

9 (1) The seal shall not preclude the Commonwealth or the
10 qui tam plaintiff from:

11 (i) serving the complaint or other pleadings or
12 filings upon the law enforcement authorities that are
13 authorized under the law of that Federal, State or local
14 government to investigate and prosecute the actions on
15 the government's behalf; or

16 (ii) disclosing to the law enforcement authorities
17 substantially all material evidence and information the
18 Commonwealth or the qui tam plaintiff possesses.

19 (2) The seal shall apply to the law enforcement
20 authorities so served to the same extent as the seal applies
21 to other parties in the action.

22 (d) Definition.--For purposes of this section, the term
23 "state" includes the District of Columbia, the Commonwealth of
24 Puerto Rico, the Virgin Islands and all insular territories of
25 the United States.

26 Section 1423-D. Expiration.

27 This article shall expire as follows:

28 (1) Except as provided in paragraph (2), this article
29 shall expire 20 years after the effective date of this
30 section.

1 (2) This article's expiration shall not apply to or
2 otherwise affect the following:

3 (i) A violation of this article that occurred before
4 this article's expiration.

5 (ii) An investigation of an alleged violation of
6 this article that commenced, but was not completed,
7 before this article's expiration.

8 Section 2. This act shall take effect in 120 days.