
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 190 Session of
2021

INTRODUCED BY MENSCH, J. WARD, AUMENT, BAKER, BROOKS, MARTIN,
MASTRIANO, PHILLIPS-HILL, PITTMAN, STEFANO AND YAW,
FEBRUARY 10, 2021

REFERRED TO AGING AND YOUTH, FEBRUARY 10, 2021

AN ACT

1 Providing for essential family caregivers in facilities during
2 disaster emergencies.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Essential
7 Family Caregiver Designation Act.

8 Section 2. Definitions.

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

12 "Communicable disease." As defined in section 2(c) of the
13 act of April 23, 1956 (1955 P.L.1510, No.500), known as the
14 Disease Prevention and Control Law of 1955.

15 "Compassionate care situation." Any of the following:

16 (1) An end of life situation.

17 (2) A resident struggling with the change in environment

1 and lack of physical family support who was living with
2 family before being recently admitted to a facility.

3 (3) A resident who is grieving after a friend or family
4 member recently passed away.

5 (4) A resident who is experiencing weight loss or
6 dehydration and needs cueing and encouragement with eating or
7 drinking which was previously provided by a family member or
8 caregiver.

9 (5) A resident who is experiencing emotional distress,
10 is seldom speaking or crying more frequently and who used to
11 talk and interact with others.

12 "Essential family caregiver." As follows:

13 (1) Any of the following individuals who are at least 18
14 years of age and who, prior to visitor restrictions, were
15 regularly engaged with a resident at least once per week:

16 (i) An immediate family member.

17 (ii) A caregiver of the resident who is not employed
18 by a facility.

19 (2) The term does not include an employee of a
20 regulatory agency unless the employee is an immediate family
21 member of the resident.

22 "Facility." Any of the following:

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

26 (2) A personal care home as defined in section 1001 of
27 the Human Services Code.

28 (3) An intermediate care facility for individuals with
29 an intellectual disability.

30 "Immediate family member." A spouse, child, stepchild,

1 parent, stepparent, grandparent, grandchild, brother,
2 stepbrother, sister, stepsister or like relative-in-law.

3 "Intermediate care facility for individuals with an
4 intellectual disability." The term shall have the same meaning
5 as the term "intermediate care facility for the mentally
6 retarded" in section 1905(d) of the Social Security Act (49
7 Stat. 620, 42 U.S.C. § 1396d(d)) on the effective date of this
8 definition.

9 "Secretary." The Secretary of Human Services of the
10 Commonwealth.

11 "State of disaster emergency." A state of disaster emergency
12 declared under 35 Pa.C.S. § 7301(c) (relating to general
13 authority of Governor) that is due to a communicable disease.
14 Section 3. Essential family caregiver.

15 (a) Designation.--Notwithstanding any other provision of
16 law, during a state of disaster emergency the secretary shall
17 require a facility to designate at least one essential family
18 caregiver per resident to provide companionship and assist with
19 activities requiring one-on-one direction, including
20 compassionate care situations. Only facilities that have the
21 ability to follow necessary precautions outlined by the Federal
22 and State Government may designate an essential family
23 caregiver.

24 (b) Visitation.--Visitation by an essential family caregiver
25 may be conducted through different means based on a facility's
26 structure and the needs of the residents, such as use of
27 resident rooms, dedicated visitation spaces and the outdoors and
28 visitation in circumstances beyond compassionate care
29 situations. The following shall apply:

30 (1) Except for on-going use of virtual visits,

1 facilities may still restrict visitation by an essential
2 family caregiver due to any of the following:

3 (i) A COVID-19 county positivity rate greater than
4 10% according to the United States Department of Health
5 and Human Services Centers for Medicare and Medicaid
6 Services.

7 (ii) The facility's COVID-19 status.

8 (iii) A resident's COVID-19 status.

9 (iv) Visitor symptoms.

10 (2) Except as provided under paragraph (1), a facility
11 may not restrict visitation by an essential family caregiver
12 without a reasonable clinical or safety cause.

13 (c) Essential family caregiver requirements.--The decision
14 to designate an essential family caregiver may be individualized
15 and integrated with resident-centered care planning. A visit
16 shall be held outdoors whenever practicable. For inside visits,
17 the following shall apply:

18 (1) Designation shall be by the facility executive
19 director or equivalent position or designee, in consultation
20 with the resident and the resident's representative, and only
21 upon agreement by the resident and their representative.

22 (2) A schedule and the amount of time allowed in a
23 facility by an essential family caregiver shall be agreed to
24 prior to an essential family caregiver entering a facility
25 and may not exceed more than two hours per day.

26 (3) Notwithstanding any other provision of law,
27 visitation shall be contingent upon the facility having no
28 new COVID-19 cases in the last 14 days. No facility may
29 conduct visitation during the time period the facility is
30 conducting outbreak testing.

1 (4) All who enter the facility must be screened for
2 signs and symptoms of COVID-19 and the denial of entry of
3 those with signs or symptoms must occur.

4 (5) Proper hand hygiene must be implemented.

5 (6) The wearing of a face covering or mask covering both
6 the mouth and nose must be enforced.

7 (7) Physical distancing at least six feet between
8 individuals shall be maintained by an essential family
9 caregiver with staff and other residents while in the
10 facility.

11 (8) An essential family caregiver shall provide care and
12 support similar in nature as provided prior to the
13 proclamation of disaster emergency issued by the Governor on
14 March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020),
15 and any renewal of the state of disaster emergency.

16 (9) An essential family caregiver shall adhere to any
17 conditions specified by the facility.

18 (10) Restriction or revocation of essential family
19 caregiver status shall be at the sole discretion of the
20 facility executive director or equivalent position or
21 designee.

22 Section 4. Effective date.

23 This act shall take effect immediately.