
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2621 Session of
2024

INTRODUCED BY BRENNAN, MALAGARI, McNEILL, HILL-EVANS, GIRAL,
HANBIDGE, D. WILLIAMS, PROBST, KHAN, KENYATTA, PROKOPIAK,
BOROWSKI, SCHLOSSBERG, CONKLIN AND GALLAGHER, OCTOBER 7, 2024

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,
OCTOBER 7, 2024

AN ACT

1 Amending the act of October 7, 2010 (P.L.484, No.70), entitled
2 "An act providing for protection of abused, neglected,
3 exploited or abandoned adults; establishing a uniform
4 Statewide reporting and investigative system for suspected
5 abuse, neglect, exploitation or abandonment of adults;
6 providing for protective services; and prescribing
7 penalties," in preliminary provisions, further providing for
8 definitions; in administration, further providing for duties
9 of department and agencies; and providing for registration of
10 abuse and neglect perpetrators.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 103 of the act of October 7, 2010
14 (P.L.484, No.70), known as the Adult Protective Services Act, is
15 amended to read:

16 Section 103. Definitions.

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

20 "Abandonment." [The desertion of an adult by a caregiver.] A
21 knowing relinquishment or evasion of a person's responsibilities

1 without justification that results in an act by which another
2 person is harmed or is placed in imminent risk of harm.

3 "Abuse." The occurrence of one or more of the following
4 acts:

5 (1) The willful, reckless or negligent infliction of
6 injury, unreasonable confinement, intimidation or punishment
7 with resulting physical harm, pain or mental anguish.

8 (2) The willful deprivation by a caregiver of goods or
9 services which are necessary to maintain physical or mental
10 health.

11 (3) Sexual harassment, rape or abuse as the term is
12 defined in 23 Pa.C.S. § 6102 (relating to definitions).

13 (4) Institutional sexual assault, including a sexual
14 relationship between a staff person and a service recipient,
15 regardless of consent.

16 The term does not include environmental factors which are beyond
17 the control of an adult or a caregiver, including, but not
18 limited to, inadequate housing, furnishings, income, clothing or
19 medical care.

20 "Administrator." The person responsible for the
21 administration of a facility. The term includes a person
22 responsible for employment decisions or an independent
23 contractor.

24 "Adult." A resident of this Commonwealth between 18 and 59
25 years of age who has a physical or mental impairment that
26 substantially limits one or more major life activities.

27 "Adult in need of protective services." An adult who needs
28 the assistance of another person to obtain protective services
29 in order to prevent imminent risk to person or property.

30 "Agency." A local contracted provider of protective

1 services.

2 "Assessment." Social, physical and psychological findings
3 along with a description of the person's current resources and
4 needs.

5 "Caregiver." An individual who or institution that has
6 assumed the responsibility for the provision of care needed to
7 maintain the physical or mental health of an adult. This
8 responsibility may arise voluntarily, by contract, by receipt of
9 payment for care, as a result of family relationship or by order
10 of a court of competent jurisdiction. It is not the intent of
11 this act to impose responsibility on any individual if the
12 responsibility would not otherwise exist in law.

13 "Court." A court of common pleas or a district magistrate
14 court, where applicable.

15 "Department." The Department of [Public Welfare] Human
16 Services of the Commonwealth.

17 "Employee." An individual who is employed by a facility. The
18 term includes:

19 (1) A contract employee who has direct contact with
20 residents or unsupervised access to their personal living
21 quarters.

22 (2) A person who is employed or who enters into a
23 contractual relationship to provide care to an adult for
24 monetary consideration in the adult's place of residence.

25 "Exploitation." [An] A willful act or course of conduct by a
26 caregiver or other person against an adult or an adult's
27 resources, without the informed consent of the adult or with
28 consent obtained through misrepresentation, coercion or threats
29 of force, that results in monetary, personal or other benefit,
30 gain or profit for the perpetrator or monetary or personal loss

1 to the adult.

2 "Facility." The term includes, but is not limited to:

3 (1) An assisted living residence as defined in section
4 1001 of the act of June 13, 1967 (P.L.31, No.21), known as
5 the [Public Welfare] Human Services Code.

6 (2) A domiciliary care home as defined in section
7 2202-A of the act of April 9, 1929 (P.L.177, No.175), known
8 as The Administrative Code of 1929.

9 (3) A home health care agency as defined in section
10 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as
11 the Health Care Facilities Act.

12 (4) An intermediate care facility for people with mental
13 retardation.

14 (5) A long-term care nursing facility as defined in
15 section 802.1 of the act of July 19, 1979 (P.L.130, No.48),
16 known as the Health Care Facilities Act.

17 (6) An older adult daily living center as defined in
18 section 2 of the act of July 11, 1990 (P.L.499, No.118),
19 known as the Older Adult Daily Living Centers Licensing Act.

20 (7) A personal care home as defined in section 1001 of
21 the [act of June 13, 1967 (P.L.31, No.21), known as the
22 Public Welfare] Human Services Code.

23 (8) An organization or group of people that uses public
24 funds and is paid, in part, to provide care and support to
25 adults in a licensed or unlicensed setting.

26 (9) A residential treatment facility.

27 "Financial exploitation." A wrongful or unauthorized taking
28 or attempt to take by withholding, appropriation, concealment or
29 use of money, assets or property of an older adult, including
30 any act or omission taken by a person, including through the use

1 of a power of attorney, guardianship, custodian, trustee,
2 personal representative or conservatorship of an older adult or
3 by an individual who stands in a position of trust and
4 confidence with the older adult, including business transactions
5 to:

6 (1) obtain or attempt to obtain control, through
7 deception, intimidation or undue influence, over the older
8 adult's money, assets or property to deprive the older adult
9 of the ownership, use, benefit or possession of the older
10 adult's money, assets or property; or

11 (2) convert or attempt to convert money, assets or
12 property of the older adult to deprive the older adult of the
13 ownership, use, benefit or possession of the older adult's
14 money, assets or property.

15 "Incident Reporting System." Home and Community Services
16 Information System (HCSIS) or its successor.

17 "Intimidation." An act or omission by a person or entity
18 toward another person which is intended to or with knowledge
19 that the act or omission will obstruct, impede, impair, prevent
20 or interfere with the administration of this act or any law
21 intended to protect adults from mistreatment.

22 "Law enforcement official." [These shall include] Any of the
23 following:

24 (1) A police officer of a municipality.

25 (2) A district attorney.

26 (3) The Pennsylvania State Police.

27 (4) A county sheriff.

28 (5) The Attorney General.

29 "Least restrictive alternative." The least intrusive service
30 or environment that can effectively and safely address the

1 adult's needs and preferences.

2 "Most integrated setting." A setting that enables
3 individuals with disabilities to interact with individuals who
4 do not have disabilities to the fullest extent possible.

5 "Neglect." The willful, reckless or negligent failure to
6 provide for oneself or the failure of a caregiver to provide
7 goods, care or services essential to avoid a clear and serious
8 threat to the physical or mental health of an adult. The term
9 does not include environmental factors that are beyond the
10 control of an adult or the caregiver, including, but not limited
11 to, inadequate housing, furnishings, income, clothing or medical
12 care.

13 "Protective services." [Those activities] Activities,
14 resources and supports provided to adults under this act to
15 detect, prevent, reduce or eliminate abuse, neglect,
16 exploitation and abandonment.

17 "Recipient." An adult who receives care, services or
18 treatment in or from a facility.

19 "Secretary." The Secretary of [Public Welfare] Human
20 Services of the Commonwealth.

21 "Serious bodily injury." Injury inflicted by a willful,
22 reckless or negligent act that:

- 23 (1) creates a substantial risk of death; or
24 (2) causes serious permanent disfigurement or protracted
25 loss or impairment of the function of a body member or organ.

26 "Serious injury." An injury inflicted by a willful, reckless
27 or negligent act that:

- 28 (1) causes a person severe pain; or
29 (2) significantly impairs a person's physical or mental
30 functioning, either temporarily or permanently.

1 "Service plan." A written plan that:

2 (1) Is cooperatively developed by an agency staff, an
3 adult in need of protective services or the adult's appointed
4 guardian, if any, and other family members and advocates when
5 appropriate.

6 (2) Where possible, is based on multidisciplinary,
7 comprehensive written assessments conducted by professionals
8 who have met with the adult in need of protective services
9 and are familiar with his situation.

10 (3) Provides for services in the most integrated setting
11 and utilizes least restrictive alternatives.

12 (4) Describes identified needs, goals to be achieved and
13 specific services to support goal attainment, with regular
14 follow-up and predetermined reassessment of client progress.

15 (5) Is updated as needed.

16 "Sexual abuse." Intentionally, knowingly or recklessly
17 causing or attempting to cause rape, involuntary deviate sexual
18 intercourse, sexual assault, statutory sexual assault,
19 aggravated indecent assault or incest, as defined by 18 Pa.C.S.
20 (relating to crimes and offenses).

21 Section 2. Section 301(a) of the act is amended by adding
22 paragraphs to read:

23 Section 301. Duties of department and agencies.

24 (a) General rule.--

25 * * *

26 (8) The department shall establish staff training and
27 curriculum for the provision of protective services to
28 investigate, identify and determine perpetrators of abuse and
29 neglect, including the prevention of adult abandonment, the
30 identification of abused and neglected adults and the

1 provision of necessary ameliorative services to abused and
2 neglected adults and their families.

3 (9) The department shall establish and provide training
4 and informational materials to department-funded employers on
5 the registry, including obligations for background checks.

6 * * *

7 Section 3. The act is amended by adding a chapter to read:

8 CHAPTER 6

9 REGISTRATION OF ABUSE AND NEGLECT PERPETRATORS

10 Section 601. Definitions.

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

14 "Adult." A resident of this Commonwealth who is at least 18
15 years of age and has a physical or mental impairment that
16 substantially limits one or more major life activities.

17 "Clear and convincing evidence." Evidence relating to an
18 offense and presented to a decision maker that leaves the
19 decision maker with a firm belief or conviction that it is
20 highly probable that the factual contentions of the offense are
21 true.

22 "Employer." An entity that is licensed by or receives
23 funding from the department, the Department of Aging or the
24 Department of Health.

25 "Registry." The abuse and neglect registry established under
26 this chapter.

27 Section 602. Abuse and neglect registry.

28 The department shall establish an abuse and neglect registry
29 in order to track perpetrators of abuse and neglect of adults
30 within this Commonwealth.

1 Section 603. Purpose.

2 The purpose of the registry shall be to protect adults within
3 this Commonwealth by preventing exposure to caregivers who have
4 a history of substantiated abandonment, abuse, exploitation or
5 neglect.

6 Section 604. Duties of department.

7 The department shall:

8 (1) Promulgate regulations as necessary to implement
9 this chapter.

10 (2) Enforce this chapter and the regulations promulgated
11 under this chapter.

12 Section 605. Responsibility for investigation.

13 The department shall establish procedures regarding the
14 following different responses to address suspected abuse and
15 neglect of an adult by individuals allegedly committing the
16 suspected abuse and neglect:

17 (1) If the suspected abuse and neglect of an adult is
18 alleged to be committed by a perpetrator, the appropriate
19 county agency shall investigate the allegation as provided in
20 this chapter.

21 (2) If the suspected abuse and neglect of an adult is
22 alleged to have been committed by a perpetrator and the
23 behavior constituting the suspected abuse and neglect
24 includes a violation of a criminal offense, the appropriate
25 county agency and law enforcement officials shall jointly
26 investigate the allegation with the independent investigative
27 team established in section 608 and as provided in this
28 chapter.

29 (3) If the suspected abuse and neglect of an adult is
30 alleged to have been committed by a perpetrator and the

1 behavior constituting the suspected abuse and neglect of an
2 adult includes a criminal offense, law enforcement officials
3 where the suspected abuse and neglect is alleged to have
4 occurred shall be solely responsible for investigating the
5 allegation.

6 Section 606. Investigating performance of agency.

7 (a) Inquiry.--

8 (1) If, within 30 days from the date of an initial
9 report of suspected abuse and neglect of an adult, the
10 appropriate agency has not investigated the report and
11 informed the department that the report is an indicated
12 report or an unfounded report or unless within that same 30-
13 day period the report is determined to be a founded report,
14 the department shall begin an inquiry into the performance of
15 the agency. The inquiry may include a performance audit of
16 the agency as provided in subsection (b).

17 (2) On the basis of the inquiry, the department shall
18 take appropriate action to require that the provisions of
19 this chapter be followed, which action may include, without
20 limitation, the institution of appropriate legal action and
21 the withholding of reimbursement for all or part of the
22 activities of the agency.

23 (3) The department shall determine in its inquiry
24 whether the agency has sufficiently documented reasons why
25 the investigation has not been completed in the 30-day
26 period.

27 (b) Performance audit.--Notwithstanding any other provision
28 of this chapter, the secretary or a designee of the secretary
29 may, after reasonable notice to the agency, direct a performance
30 audit of any activity engaged in under this chapter.

1 Section 607. Registration of certain offenders.

2 (a) General rule.--The department shall place an individual
3 on the registry if the department finds by clear and convincing
4 evidence that the individual:

5 (1) Is at least 18 years of age at the time of the
6 offense and was the subject of a protective services
7 investigation that substantiated the abuse, neglect,
8 abandonment or exploitation of an adult.

9 (2) Was convicted of neglect of a care-dependent person
10 as defined under 18 Pa.C.S. § 2713 (relating to neglect of
11 care-dependent person).

12 (3) Was convicted of an offense under 18 Pa.C.S. Ch. 27
13 (relating to assault), 31 (relating to sexual offenses), 39
14 (relating to theft and related offenses) or 43 (relating to
15 offenses against the family) where the victim was an adult.

16 (b) Duration of registration.--The duration of registration
17 on the registry shall be permanent, except as otherwise provided
18 in this chapter.

19 Section 608. Investigation.

20 Prior to placing an individual on the registry, the
21 department shall conduct an investigation. The investigative
22 process shall be performed by trained and qualified independent
23 investigators. The process shall include chain of custody,
24 evidence collection standards, reconciliation of evidence,
25 document retention, protection of privacy and confidentiality
26 and the determination of substantiated abuse.

27 Section 609. Review panel.

28 (a) General rule.--The department and the Department of
29 Aging shall establish a panel comprised of personnel from the
30 department and the Department of Aging. The panel shall review

1 findings in which an individual is found by investigation under
2 section 608 to have committed a registerable offense.

3 (b) Procedure.--The department, in conjunction with the
4 Department of Aging, shall establish a process with parameters
5 and duties for reviewers to confirm the finding of substantiated
6 abuse, neglect, abandonment or exploitation.

7 Section 610. Notification for individuals placed on registry.

8 (a) General rule.--Upon determination that an individual has
9 committed a registerable offense, the department shall notify
10 the individual that the individual is being placed on the
11 registry. Upon determination that an individual has committed a
12 registerable offense, the department shall place the
13 individual's name on the registry.

14 (b) Form of notification.--Notification under subsection (a)
15 shall occur electronically, if electronic contact information is
16 available, and by certified and registered mail.

17 (c) Employer notification.--The department shall notify the
18 employer of an individual placed on the registry electronically,
19 if electronic contact information is available, and by certified
20 and registered mail.

21 (d) Contents of notification.--Notification under this
22 section shall include the individual's name and the date and
23 type of registerable offense that was substantiated and
24 confirmed by the review panel.

25 Section 611. Appeals process.

26 (a) General rule.--An individual found to have committed a
27 registerable offense shall have 90 days from the date the
28 notification of the determination was sent to appeal the
29 decision.

30 (b) Notification of appeal on registry.--During the 90-day

1 period, the registry shall note the pending appeal and, if the
2 appeal is filed, the designation shall remain until the case is
3 adjudicated.

4 (c) Administrative review.--Within 90 days of being notified
5 of the status of the report, an individual named as a
6 perpetrator in an indicated report of abuse and neglect of an
7 adult may request an administrative review by, or appeal and
8 request a hearing before, the secretary to amend or expunge an
9 indicated report on the grounds that it is inaccurate or it is
10 being maintained in a manner inconsistent with this chapter. The
11 request must be in writing in a manner prescribed by the
12 department.

13 (d) Time period for review.--If an individual placed on the
14 registry files a timely appeal, an administrative review shall
15 occur within 60 days of the filing date of the appeal.

16 (e) Waiver of review.--An individual may request to waive
17 the administrative review process.

18 (f) Reversal or transfer of determination.--

19 (1) If, through the administrative review, the
20 determination that an individual committed a registerable
21 offense is reversed, the individual's name shall be removed
22 from the registry.

23 (2) If, through the administrative review, the
24 determination is affirmed, the case shall be transferred to
25 the Bureau of Hearings and Appeals for adjudication.

26 (g) Form of notification.--

27 (1) A notification of a determination to an individual
28 shall occur electronically, if electronic contact information
29 is available, and by certified and registered mail.

30 (2) A notification of a determination to an employer at

1 the time of the incident shall be provided electronically, if
2 electronic contact information is available, and by certified
3 and registered mail.

4 Section 612. Request for reconsideration.

5 (a) General rule.--An individual who has been placed on the
6 registry for five years may file a request for a reconsideration
7 with the secretary to evaluate the continued inclusion of the
8 individual's name on the registry. If the request for
9 reconsideration is denied by the secretary, the individual may
10 file an appeal with the Bureau of Hearings and Appeals.

11 (b) Limitation.--An individual shall not submit more than
12 one appeal annually after the five-year period.

13 (c) Reconsideration criteria.--If an individual who has been
14 on the registry for five or more years files an appeal, the
15 following criteria shall be considered when determining if the
16 individual's name should be removed from the registry:

17 (1) Facts surrounding the offense and the nature of the
18 offense.

19 (2) Severity and any recurrence of a pattern of the
20 offense.

21 (3) Activities the individual has undertaken to
22 rehabilitate or otherwise address potential underlying causes
23 of behavior that led to the committing of the registerable
24 offense.

25 (4) Employment or care history since the inclusion on
26 the registry that are relevant to the question of whether the
27 individual poses a danger to adults.

28 Section 613. Access to registry.

29 (a) General rule.--The registry shall be Internet-based and
30 publicly available to an employer with a registered account and

1 to a non-department-licensed or non-department-funded entity
2 that serves adults.

3 (b) Attestation form.--An employer that seeks access to the
4 registry must complete and sign an attestation form agreeing to
5 access the registry for the sole purpose of conducting
6 background checks for prospective or current employees.

7 (c) Annual fee.--An employer with a registered account shall
8 pay an annual fee to have access to the registry.

9 (d) Information that is accessible.--

10 (1) The registry shall list that an individual is either
11 a registered offender or a registered offender pending appeal
12 but shall not contain information about the offense.

13 (2) A prospective employer may request the date and
14 registerable offense from the department as part of a
15 background check for individuals who appear on the registry.

16 Section 614. Use of registry.

17 An employer and an individual serving adults must check the
18 registry prior to hiring an individual at five-year intervals
19 thereafter.

20 Section 615. Employer obligations.

21 The addition of the registry to the protective services
22 system shall not be construed to impair other law that protects
23 employee rights. An employer that serves adults shall:

24 (1) Check the registry prior to hiring an employee.

25 (2) Maintain and implement policies and procedures
26 governing the supervision plans related to individuals who
27 appear on the registry, including individuals that appear in
28 pending status or indefinite status.

29 Section 616. Fees.

30 (a) General rule.--The department shall establish an annual

1 fee that employers are required to pay in order to have a
2 registered account and access to the registry.

3 (b) Determination of fee.--The department shall determine
4 the amount of a fee imposed under subsection (a) by
5 consideration of the following criteria:

6 (1) The context of the other required background checks
7 for an employer in terms of cost and resources to manage.

8 (2) The administrative burden of managing collection and
9 processing of fees.

10 (3) The burden for small employers or individuals self-
11 directed services.

12 (4) Costs associated with employer compliance with
13 registry requirements.

14 Section 617. Record retention.

15 The secretary shall develop a record retention policy of
16 unsubstantiated reports and substantiated reports of abuse and
17 neglect of an adult to allow for tracking of potential offenders
18 over time and for perpetrators of registerable offenses.

19 Section 4. This act shall take effect in 60 days.