
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2663 Session of
2024

INTRODUCED BY D. WILLIAMS, HILL-EVANS, MADDEN, GIRAL, McNEILL,
MERSKI AND SANCHEZ, NOVEMBER 19, 2024

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,
NOVEMBER 19, 2024

AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania
2 Consolidated Statutes, providing for older adults protective
3 services; and making a repeal.

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

6 Section 1. Title 35 of the Pennsylvania Consolidated
7 Statutes is amended by adding a part to read:

8 PART VII

9 PERSONAL SAFETY

10 Chapter

11 85. Preliminary Provisions (Reserved)

12 87. Older Adults Protective Services

13 CHAPTER 85

14 PRELIMINARY PROVISIONS

15 (Reserved)

16 CHAPTER 87

17 OLDER ADULTS PROTECTIVE SERVICES

18 Subchapter

- 1 A. Preliminary Provisions
- 2 B. Duties of Department
- 3 C. Duties of Area Agencies on Aging
- 4 D. Protective Services
- 5 E. Reporting
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10 SUBCHAPTER A

11 PRELIMINARY PROVISIONS

12 Sec.

13 8701. Scope of chapter.

14 8702. Findings.

15 8703. Definitions.

16 8704. Intent.

17 § 8701. Scope of chapter.

18 This chapter relates to older adults protective services.

19 § 8702. Findings.

20 The General Assembly finds and declares as follows:

21 (1) Older adults demonstrating functional limitations
22 and who are at risk of abuse, neglect, exploitation,
23 financial exploitation or abandonment shall have access to
24 and be provided with services necessary to protect their
25 health, safety and welfare.

26 (2) The purpose of this chapter is to ensure the
27 availability of protective services to older adults who have
28 been determined to need the protective services without
29 placing restrictions upon their personal liberty.

30 (3) Older adults have the right to make choices

1 regarding their lifestyles, relationships, bodies and health.

2 (4) Protective services must safeguard an older adult's
3 right to make choices while protecting them from abuse,
4 neglect, exploitation, financial exploitation and
5 abandonment.

6 (5) The General Assembly intends to provide for the
7 detection and reduction, correction or elimination of abuse,
8 neglect, exploitation, financial exploitation and abandonment
9 and to establish a program to provide protective services for
10 older adults determined by the area agency on aging to be in
11 need of protective services.

12 (6) Convictions for certain offenses that evidence a
13 reckless disregard for the vulnerability of care-dependent
14 populations, involve misappropriation or misuse of property
15 or involve inappropriate or irresponsible behavior may
16 legitimately warrant time-limited bans on employment working
17 with older adults under this chapter.

18 § 8703. Definitions.

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

22 "Abandonment." The desertion of an older adult by a
23 caregiver.

24 "Abuse." As follows:

25 (1) The occurrence of one or more of the following acts:

26 (i) The knowing infliction of injury, unreasonable
27 confinement, intimidation or punishment with resulting
28 physical harm, pain or mental anguish.

29 (ii) The willful deprivation by a caregiver of goods
30 or services that are necessary to maintain physical or

1 mental health.

2 (iii) For the purpose of sexual arousal or sexual
3 gratification, the non-touching or sexual interaction
4 with another by an individual who:

5 (A) engages in a course of conduct or repeatedly
6 commits acts which serve no legitimate purpose and
7 are sexual in nature; or

8 (B) communicates to or about such other person
9 any lewd, lascivious, threatening or obscene words,
10 language, drawings or caricatures in any manner or
11 format.

12 (iv) Sexual abuse.

13 (v) Abuse as the term is defined in 23 Pa.C.S. §
14 6102 (relating to definitions).

15 (2) The term does not include environmental factors
16 which are beyond the control of an adult or a caregiver,
17 including inadequate housing, furnishings, income, clothing
18 or medical care.

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

23 "Applicant." An individual who submits an application to be
24 considered for employment by a facility.

25 "Area agency on aging." The local agency or the local
26 agency's agent designated by the department within each planning
27 and service area to administer the delivery of older adult
28 protective services.

29 "Assessment." Comprehensive social, physical, cognitive and
30 psychological findings along with a description of the person's

1 current resources and needs.

2 "Care." Services provided to meet an older adult's need for
3 personal care or physical or behavioral health care. The
4 following apply:

5 (1) Services include homemaker services, assistance with
6 activities of daily living, physical therapy, occupational
7 therapy, speech therapy, medical social services, home-care
8 aide services, companion-care services, private duty nursing
9 services, respiratory therapy, intravenous therapy, in-home
10 dialysis and durable medical equipment services, which are
11 routinely provided unsupervised and which require interaction
12 with an adult.

13 (2) The term does not include durable medical equipment
14 delivery.

15 "Care-dependent individual." An older adult who, due to
16 physical or cognitive disability or impairment, requires
17 assistance to meet the basic needs for food, shelter, clothing,
18 personal care or physical or behavioral health care.

19 "Caregiver." An individual or institution that has assumed
20 the responsibility for the provision of care needed to maintain
21 the physical or mental health of an older adult. The
22 responsibility may arise voluntarily, by contract, by receipt of
23 payment for care, as a result of family relationship or by order
24 of a court of competent jurisdiction.

25 "Court." A court of common pleas or a district magistrate
26 court, where applicable.

27 "Department." The Department of Aging of the Commonwealth.

28 "Designated perpetrator." An individual determined, based on
29 a substantiated protective services investigation, to be a
30 perpetrator of abuse, neglect, exploitation, financial

1 exploitation or abandonment of an older adult.

2 "Employee." The term includes:

3 (1) An individual who is employed by a facility.

4 (2) A contract employee who has direct contact with
5 residents or unsupervised access to their personal living
6 quarters.

7 (3) An individual who is employed or who enters into a
8 contractual relationship to provide care to an older adult
9 for monetary consideration in the older adult's place of
10 residence.

11 "Exploitation." An act or course of conduct by a caregiver
12 or other person against an older adult or an older adult's
13 resources without the informed consent of the older adult or
14 with consent or authorization obtained through
15 misrepresentation, undue influence, coercion or threats of force
16 that results in monetary or personal loss to the older adult.
17 The term includes financial exploitation.

18 "Facility." The term includes the following:

19 (1) An assisted living residence as defined in section
20 1001 of the act of June 13, 1967 (P.L.31, No.21), known as
21 the Human Services Code.

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

25 (3) A home health care agency as defined in section
26 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as
27 the Health Care Facilities Act.

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

30 (5) A long-term care nursing facility as defined in

1 section 802.1 of the Health Care Facilities Act.

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

5 (7) A personal care home as defined in section 1001 of
6 the Human Services Code.

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

10 (9) A residential treatment facility.

11 (10) A hospital.

12 "Fiduciary." A person legally authorized to act on behalf of
13 an older adult.

14 "Financial exploitation." As defined in 18 Pa.C.S. § 3922.1
15 (relating to financial exploitation of an older adult or care-
16 dependent person).

17 "Financial institution." Any of the following conducting
18 business in this Commonwealth:

19 (1) A depository institution as defined in section 3(c)
20 of the Federal Deposit Insurance Act (12 U.S.C. § 1813(c)).

21 (2) A Federal credit union or State credit union as
22 defined in section 101 of the Federal Credit Union Act (12
23 U.S.C. § 1752), including an institution-affiliated party of
24 a credit union as defined in section 206(r) of the Federal
25 Credit Union Act (12 U.S.C. § 1786(r)).

26 (3) A financial institution under 31 CFR Subpt. B Ch. X
27 (relating to Financial Crimes Enforcement Network, Department
28 of the Treasury) that is required to file a suspicious
29 activity report.

30 "Health care provider." Any of the following:

1 (1) A health care facility as defined under section 101
2 of the Health Care Facilities Act.

3 (2) An individual who is licensed, certified or
4 otherwise regulated to provide health care services under the
5 laws of this Commonwealth.

6 "Hospital." An institution licensed by the Department of
7 Health that has an organized medical staff established for the
8 purpose of providing to inpatients, by or under the supervision
9 of physicians, diagnostic and therapeutic services for the care
10 of persons who are injured, disabled, pregnant, diseased, sick
11 or mentally ill or rehabilitation services for the
12 rehabilitation of persons who are injured, disabled, pregnant,
13 diseased, sick or mentally ill. The term includes a facility for
14 the diagnosis and treatment of disorders within the scope of
15 specific medical specialties. The term does not include a
16 facility caring exclusively for behavioral health patients or a
17 facility whose inpatients are predominantly individuals under 18
18 years of age.

19 "Imminent risk." An immediate or impending action, condition
20 or situation that poses a direct threat to an older adult's
21 health or life absent intervention without delay for any reason
22 upon discovery of the action, condition or situation.

23 "Individual reasonably associated with the older adult." The
24 term includes:

25 (1) an authorized contact provided by an older adult to
26 a financial institution, authorized signatory or beneficiary
27 on an older adult's account;

28 (2) a fiduciary authorized to manage some or all of the
29 financial affairs of the older adult;

30 (3) a co-owner of an account;

1 (4) an attorney or financial professional known to
2 represent or have represented or to assist in the management
3 of the financial affairs of the older adult;

4 (5) a parent, spouse, adult child, sibling or other
5 known family member or close associate of an older adult; or

6 (6) any other person in a position of trust with respect
7 to the older adult as provided under 18 Pa.C.S. § 3922.1(f).

8 "Intimidation." An act or omission by an individual toward
9 another individual which is intended to threaten or with the
10 knowledge that the act or omission will frighten, obstruct,
11 impede, impair, prevent or interfere with the administration of
12 this chapter or other law intended to protect older adults from
13 mistreatment.

14 "Law enforcement agency." The Office of Attorney General of
15 the Commonwealth, a district attorney's office or an agency that
16 employs a law enforcement official.

17 "Law enforcement official." Any of the following:

18 (1) An individual who is employed as a police officer
19 and holds a current certificate under 53 Pa.C.S. Ch. 21
20 Subch. D (relating to municipal police education and
21 training).

22 (2) A district attorney or assistant district attorney.

23 (3) A Pennsylvania State Police officer.

24 (4) The Attorney General of the Commonwealth or an agent
25 or deputy of the Attorney General.

26 (5) A sheriff or deputy sheriff.

27 "Least restrictive alternative." The least intrusive
28 interventions, services or environment that can effectively and
29 safely address an older adult's needs.

30 "Mandatory reporter." Any of the following:

1 (1) An administrator or employee of a facility.

2 (2) A health care provider.

3 (3) An individual who is licensed, certified or
4 otherwise regulated to provide health care services under the
5 laws of this Commonwealth.

6 (4) An administrator or employee of an area agency on
7 aging.

8 (5) A law enforcement official.

9 "Neglect." The failure to provide for oneself or the failure
10 of a caregiver or fiduciary to provide goods, care or services
11 essential to avoid a clear and serious threat to the physical or
12 mental health of an older adult. An older adult who does not
13 consent to the provision of protective services may not be found
14 to be neglected solely on the grounds of environmental factors
15 which are beyond the control of the older adult or the
16 caregiver, including inadequate housing, furnishings, income,
17 clothing or medical care.

18 "Older adult." An individual within the jurisdiction of the
19 Commonwealth who is 60 years of age or older.

20 "Older adult in need of protective services." An older adult
21 who, because of one or more functional limitations, needs the
22 assistance of another individual to perform or obtain services
23 that are necessary to maintain physical, financial or mental
24 health, for whom there is no responsible caregiver and there is
25 a risk of harm to their person or property or they are at
26 imminent risk under section 8754(a) (relating to involuntary
27 intervention by emergency court order).

28 "Protective services." The activities, resources and
29 supports provided to older adults under this chapter to detect,
30 address, prevent, remedy, reduce or eliminate abuse, neglect,

1 exploitation, financial exploitation and abandonment.

2 "Recipient." An individual who receives care, services or
3 treatment in or from a facility or caregiver.

4 "Risk of harm." The strong likelihood that an older adult
5 will experience an action, condition, situation, injury or other
6 outcome that is adverse or detrimental to their health, welfare
7 or safety.

8 "Serious bodily injury." Injury that does one of the
9 following:

10 (1) creates a substantial risk of death; or

11 (2) causes serious disfigurement of a body part or
12 organ, protracted loss or impairment of the function of a
13 body part or organ.

14 "Serious injury." An injury that:

15 (1) causes an individual severe pain; or

16 (2) significantly impairs an individual's physical or
17 mental functioning, either temporarily or permanently.

18 "Service plan." A written comprehensive assessment by an
19 area agency on aging of an older adult that includes a person-
20 centered and trauma-informed approach that identifies needs,
21 goals to be achieved or maintained and specific services
22 designed to support the older adult's physical and mental
23 health.

24 "Sexual abuse." Intentionally, knowingly or recklessly
25 causing or attempting to cause rape, involuntary deviate sexual
26 intercourse, sexual assault, institutional sexual assault,
27 statutory sexual assault, aggravated indecent assault, indecent
28 assault or incest.

29 § 8704. Intent.

30 It is not the intent of this chapter to impose responsibility

1 on an individual if the responsibility would not otherwise exist
2 in law.

3 SUBCHAPTER B

4 DUTIES OF DEPARTMENT

5 Sec.

6 8721. Public education.

7 8722. (Reserved).

8 8723. Training.

9 8724. Confidentiality.

10 8725. Schedule and annual plan.

11 8726. Waiver application availability.

12 8727. Reporting.

13 § 8721. Public education.

14 The department shall conduct an ongoing public education and
15 outreach campaign to older adults and the general public,
16 designed to promote and create awareness about the reporting of
17 and protection from abuse, neglect, exploitation, financial
18 exploitation and abandonment of older adults.

19 § 8722. (Reserved).

20 § 8723. Training.

21 (a) Standards.--The department shall establish minimum
22 training requirements and ongoing education for all area agency
23 on aging employees to ensure that the employees possess the
24 competency, knowledge and skills necessary for the effective
25 provision of protective services.

26 (b) Mandatory reporters.--The department shall establish a
27 training program for mandatory reporters regarding reporting
28 requirements under this chapter.

29 § 8724. Confidentiality.

30 The department shall establish methods which shall be used by

1 an area agency on aging, its designees and its protective
2 services providers to ensure the privacy of older adults
3 receiving services and the confidentiality of all records.

4 § 8725. Schedule and annual plan.

5 (a) Establishment.--The department shall establish a
6 schedule for the submission and approval of the plans associated
7 with the development of training provided in section 8723
8 (relating to training).

9 (b) Protective services plan.--Each area agency on aging
10 shall develop an annual protective services plan. The plan shall
11 describe the local implementation of this chapter, including the
12 organization, staffing, mode of operations and financing of
13 protective services and the provisions made for the purchase of
14 services, interagency relations, interagency agreements, service
15 referral mechanisms and locus of responsibility for cases with
16 multiservice agency needs. The plan shall include a list of each
17 public or private entity that has been identified by the area
18 agency on aging as having substantial contact with older adults
19 who are potentially in need of protective services or
20 perpetrators of abuse, neglect, exploitation, financial
21 exploitation and abandonment against older adults. The list
22 shall be submitted to the department for purposes of the public
23 education campaign under section 8721 (relating to public
24 education).

25 § 8726. Waiver application availability.

26 As referenced in section 8782 (relating to grounds for
27 denying employment), the department shall develop a standardized
28 waiver application process that shall be publicly available.

29 § 8727. Reporting.

30 The department shall annually submit to the General Assembly

1 a report on the training program established under section 8723
2 (relating to training) and services performed. The report shall
3 include, at minimum, statistical data on abuse, the waiver
4 process and training practices. The report shall be publicly
5 available.

6 SUBCHAPTER C

7 DUTIES OF AREA AGENCIES ON AGING

8 Sec.

9 8731. Receipt of reports.

10 8732. Investigations.

11 8733. Investigations involving facilities.

12 8734. Investigations involving law enforcement officials.

13 8735. Access to older adults.

14 8736. Access to records.

15 8737. Rights of older adults.

16 8738. Rights of designated perpetrators.

17 8739. Electronic records.

18 8740. Confidentiality standards required.

19 8741. Availability of protective services.

20 § 8731. Receipt of reports.

21 An area agency on aging must be capable of receiving reports
22 of older adults in need of protective services at all times.
23 Reports may be received electronically or orally. The report
24 received shall be documented in a manner prescribed by the
25 department.

26 § 8732. Investigations.

27 (a) Duty.--An area agency on aging shall investigate each
28 report in accordance with regulations issued by the department
29 to determine if an older adult is determined to be in need of
30 protective services. The following apply:

1 (1) The regulations shall provide for the methods of
2 conducting investigations and making depositions and shall
3 ensure that steps are taken to avoid a conflict of interest.

4 (2) To the extent permitted by law, the department may
5 exchange information with Federal agencies or the
6 Commonwealth as necessary to ensure the health, safety and
7 welfare of an older adult and protect an older adult from
8 financial exploitation under section 8773 (relating to
9 financial institution compliance policies).

10 (b) Closure.--Upon closure of a case, all information shall
11 be retained for a minimum of five years under procedures
12 established by the department.

13 (c) Timely assessment.--If a report is substantiated by the
14 area agency on aging or if an assessment is necessary in order
15 to determine whether or not the report is substantiated, the
16 area agency on aging shall provide for a timely assessment if
17 the older adult consents to an assessment. Upon completion of
18 the assessment, written findings shall be prepared which shall
19 include recommended action. The service plan shall provide for
20 the least restrictive alternative, encouraging self-
21 determination and continuity of care, shall be in writing and
22 shall include a recommended course of action, which may include
23 the pursuit of civil or criminal remedies. If an older adult
24 found to be in need of protective services does not consent to
25 an assessment or the development of a service plan, the area
26 agency on aging may apply section 8754 (relating to involuntary
27 intervention by emergency court order) to the case.

28 (d) Environmental factors.--An older adult may not be found
29 to be abused solely on the grounds of environmental factors that
30 are beyond the control of the older adult or caregiver,

1 including inadequate housing, furnishings, income, clothing or
2 medical care.

3 § 8733. Investigations involving facilities.

4 If the report concerns a facility, the area agency on aging
5 shall notify the local ombudsman and the licensing agency.

6 Investigations concerning facilities shall be coordinated with
7 the licensing agency and conducted under procedures developed by
8 the department in consultation with the Commonwealth agency with
9 oversight authority for the facility. Facilities shall take
10 reasonable steps to protect older adults following receipt of a
11 report of suspected abuse, neglect, exploitation, financial
12 exploitation or abandonment involving an employee, including a
13 plan of supervision or suspension.

14 § 8734. Investigations involving law enforcement officials.

15 (a) Coordination.--To the extent possible, law enforcement
16 officials, an area agency on aging and other mandatory reporters
17 shall coordinate respective investigations and advise each other
18 and provide applicable additional information on an ongoing
19 basis.

20 (b) Notice to law enforcement.--Upon receiving a report of
21 any of the following, the area agency on aging shall immediately
22 notify a law enforcement official:

- 23 (1) Suspicious death.
24 (2) Serious bodily injury.
25 (3) Serious injury.
26 (4) Sexual abuse.

27 (c) Actions following referral.--

28 (1) Following a referral to a law enforcement official,
29 the area agency on aging shall contact a law enforcement
30 official to obtain information about actions taken and the

1 outcomes, including decisions regarding criminal charges, and
2 the law enforcement official shall provide the information to
3 the extent that the information is available.

4 (2) An area agency on aging shall report the information
5 under paragraph (1) to the department in a manner prescribed
6 by the department.

7 § 8735. Access to older adults.

8 (a) General rule.--

9 (1) An area agency on aging shall have access to older
10 adults who have been reported to be in need of protective
11 services in order to:

12 (i) Investigate reports.

13 (ii) Assess needs of the older adult and develop a
14 service plan for addressing those needs.

15 (iii) Provide for the delivery of services by the
16 area agency on aging or other protective services
17 provider under the service plan.

18 (2) If the area agency on aging is denied access to an
19 older adult reported to be in need of protective services,
20 the area agency on aging may petition the court for an order
21 to require the appropriate access when either of the
22 following conditions apply:

23 (i) The caregiver or a third party has interfered
24 with the completion of the investigation, the assessment
25 and service plan or the delivery of services.

26 (ii) The area agency on aging can demonstrate that
27 the older adult reported to be in need of protective
28 services is denying access because of undue influence,
29 coercion, extortion or justifiable fear of future abuse,
30 neglect, exploitation, financial exploitation or

1 abandonment.

2 (b) Petition.--The area agency on aging may petition the
3 court for an order to require any of the following:

4 (1) Access to the older adult.

5 (2) A physical health evaluation of the older adult.

6 (3) A behavioral health evaluation of the older adult.

7 § 8736. Access to records.

8 (a) Area agency on aging access.--An area agency on aging
9 shall, with the consent of the older adult, have access to all
10 records for the purposes of:

11 (1) Assessing an older adult's need for services.

12 (2) Planning and delivery of services.

13 (3) Investigating reports.

14 (b) Refusal.--If the area agency on aging is denied access
15 to records necessary for the completion of a proper
16 investigation of a report, assessment or service plan or the
17 delivery of needed services in order to prevent further abuse,
18 neglect, exploitation, financial exploitation or abandonment of
19 the older adult reported to be in need of protective services,
20 the area agency on aging may petition the court of common pleas
21 for an order requiring the appropriate access when either of the
22 following conditions apply:

23 (1) The older adult has provided written consent for
24 confidential records to be disclosed and the keeper of the
25 records denies access.

26 (2) The area agency on aging can demonstrate that the
27 older adult is denying access to records because the older
28 adult is unable to give informed consent due to cognitive
29 impairments, undue influence, coercion, extortion or
30 justifiable fear of future abuse, neglect, exploitation,

1 financial exploitation or abandonment.

2 (c) Request of certain records.--Records of Commonwealth
3 agencies, private organizations, financial institutions,
4 fiduciaries, medical institutions and practitioners and persons
5 reasonably suspected of engaging in or facilitating the abuse,
6 neglect, exploitation, financial exploitation or abandonment of
7 an older adult, which the area agency on aging reasonably
8 believes to be necessary to complete an investigation or
9 assessment and service plan, shall be requested in written form
10 and made available to the area agency on aging unless the
11 disclosure is prohibited by any other provision of Federal or
12 State law. Except as provided by a court order, access to
13 financial records shall be limited to records relating to the
14 most recent transaction or transactions that may comprise
15 financial exploitation, not to exceed 60 calendar days prior to
16 the first transaction that was reported or 60 calendar days
17 after the last transaction that was reported.

18 (d) Compensation.--The area agency on aging or the
19 department may compensate a person requested or ordered to
20 provide records to the area agency on aging for the reasonable
21 costs of producing records in a manner consistent with the
22 requirements of section 1115(a) of the Right to Financial
23 Privacy Act of 1978 (Public Law 95-630, 12 U.S.C. § 3415).
24 § 8737. Rights of older adults.

25 (a) Notification.--An area agency on aging shall discreetly
26 notify an older adult during an investigation that a report has
27 been made and shall provide the older adult with a brief summary
28 of the nature of the report.

29 (b) Information.--As provided in section 8755 (relating to
30 confidentiality of records), an older adult who is the subject

1 of a report, or the older adult's guardian if the guardian is
2 not named as a perpetrator in the report, may receive, upon
3 written request, a summary of the report of need except
4 information that would identify the individual who made a report
5 of suspected abuse, neglect, exploitation, financial
6 exploitation or abandonment or persons who cooperated in a
7 subsequent investigation. Upon request, the mandated reporter
8 who had filed the report of abuse may be informed whether a case
9 had been opened as a result of the report.

10 (c) Appeal.--A denial of services by the department or an
11 area agency on aging under this subchapter may be appealed in
12 accordance with the rules and regulations issued by the
13 department under Article XXII-A of the act of April 9, 1929
14 (P.L.177, No.175), known as The Administrative Code of 1929.
15 § 8738. Rights of designated perpetrators.

16 An individual designated as a perpetrator of abuse under this
17 chapter following an investigation of an area agency on aging
18 have the right to appeal the designation and shall be entitled
19 to the following:

20 (1) Notification by the area agency on aging at the
21 conclusion of the investigation that the individual has been
22 designated a perpetrator of abuse, neglect, exploitation,
23 financial exploitation or abandonment and a brief summary of
24 the investigative findings.

25 (2) The right to file an appeal with the department
26 under 1 Pa. Code Pt. II (relating to general rules of
27 administrative practice and procedure) to challenge the
28 designation.

29 (3) The right to request additional information related
30 to the designation. Upon the filing of an appeal, the area

1 agency on aging shall provide a brief summary of the
2 information that supports the designation that is consistent
3 with the confidentiality requirements of this chapter.

4 § 8739. Electronic records.

5 Any requirements of this chapter that information be
6 prepared, filed, submitted, requested, maintained or signed in
7 writing may be satisfied by the use of an electronic record or
8 signature to the extent permitted by law, unless the department,
9 an area agency on aging or a law enforcement agency requires the
10 use of a nonelectronic record or original signature.

11 § 8740. Confidentiality standards required.

12 Area agencies on aging shall utilize the department's
13 confidentiality standards established under section 8724
14 (relating to confidentiality).

15 § 8741. Availability of protective services.

16 An area agency on aging shall offer protective services to an
17 individual determined by the area agency on aging to be an older
18 adult in need of protective services under this chapter.

19 SUBCHAPTER D

20 PROTECTIVE SERVICES

21 Sec.

22 8751. Consent by request.

23 8752. Interference with services.

24 8753. Financial obligations, liabilities and payments.

25 8754. Involuntary intervention by emergency court order.

26 8755. Confidentiality of records.

27 § 8751. Consent by request.

28 An older adult shall receive protective services voluntarily
29 unless the services are ordered by a court of competent
30 jurisdiction.

1 § 8752. Interference with services.

2 If a person interferes with the provision of services or
3 interferes with the rights of an older adult to consent to the
4 provision of services, an area agency on aging may petition the
5 court for an order enjoining the interference.

6 § 8753. Financial obligations, liabilities and payments.

7 Older adults receiving protective services and agencies
8 providing services under this subchapter shall comply with the
9 following provisions regarding liability for the payment of
10 services:

11 (1) Funding to provide or make available protective
12 services under this subchapter shall not be used in place of
13 any public or private entitlements or benefits for which the
14 older adult receiving protective services under this
15 subchapter is or may be eligible.

16 (2) Funding to provide or make available protective
17 services shall not be available until eligibility and receipt
18 of benefits under public and private entitlements or
19 resources have been exhausted.

20 (3) Funding available to local area agencies on aging
21 under this subchapter may be used to cover the costs of
22 activities, including:

23 (i) Administering protective services plans.

24 (ii) Receiving and maintaining records of reports of
25 abuse, neglect, exploitation, financial exploitation and
26 abandonment.

27 (iii) Conducting investigations of reported abuse,
28 neglect, exploitation, financial exploitation and
29 abandonment.

30 (iv) Carrying out assessments and developing service

1 plans.

2 (v) Petitioning the court.

3 (vi) Providing for emergency involuntary
4 intervention.

5 (vii) Arranging for available services needed to
6 carry out service plans, including, as appropriate,
7 arranging for services for other individuals in the
8 household unit in order to reduce, correct or eliminate
9 abuse, neglect, exploitation, financial exploitation or
10 abandonment of an older adult.

11 (viii) Purchasing, on a temporary basis, services
12 determined by a service plan to be necessary to reduce,
13 correct or eliminate abuse, neglect, exploitation,
14 financial exploitation or abandonment of an older adult
15 if the services are not available within the existing
16 resources of the area agency on aging or other
17 appropriate provider. Purchase of services under this
18 section is limited to a 30-day period which may be
19 renewed with adequate justification under regulations
20 issued by the department.

21 (4) Older adults receiving protective services shall not
22 be required to pay a fee when the receipt of the services is
23 not subject to cost sharing.

24 § 8754. Involuntary intervention by emergency court order.

25 (a) Emergency petition.--An area agency on aging may
26 petition a court of common pleas for an emergency order to
27 provide protective services to an older adult who is at imminent
28 risk of death, sexual abuse, serious injury or serious bodily
29 injury. The court of common pleas shall grant the area agency on
30 aging's petition if the court finds, by clear and convincing

1 evidence, that failure to provide protective services will place
2 the older adult at imminent risk of death, sexual abuse, serious
3 injury or serious bodily injury. The courts of common pleas of
4 each judicial district shall ensure that a judge or magisterial
5 district judge is available at all times to accept and rule on
6 petitions for emergency court orders under this section if the
7 area agency on aging determines that a delay until normal court
8 hours may significantly increase danger to the older adult.

9 (b) Limited order.--The court, after finding clear and
10 convincing evidence of the need for an emergency order, shall
11 order only services necessary to remove the conditions creating
12 the established need.

13 (c) Right to counsel.--In order to protect the rights of an
14 older adult for whom protective services are being ordered, an
15 emergency court order under this section shall provide that the
16 older adult has the right to legal counsel. If the older adult
17 is unable to provide for counsel, counsel shall be appointed by
18 the court.

19 (d) Forcible entry.--If it is necessary to forcibly enter a
20 premises after obtaining a court order, a law enforcement
21 official may forcibly enter a premises if accompanied by a
22 representative of the area agency on aging.

23 (e) Health and safety requirements.--The area agency on
24 aging shall take reasonable steps to ensure that while the older
25 adult is receiving services under an emergency court order, the
26 health and safety needs of the older adult's dependents are met
27 and that the personal property and dwelling of the older adult
28 are secure. If any of the older adult's dependents have health
29 and safety needs, the area agency on aging shall make a report
30 as follows:

1 (1) Reports of suspected child abuse shall be made in
2 accordance with 23 Pa.C.S. Ch. 63 (relating to child
3 protective services).

4 (2) Reports of need for adult protective services shall
5 be made in accordance with the act of October 7, 2010
6 (P.L.484, No.70), known as the Adult Protective Services Act.
7 § 8755. Confidentiality of records.

8 (a) Requirement.--Information contained in reports, records
9 of investigation, assessments and service plans created under
10 this subchapter shall be considered privileged and confidential
11 and shall be maintained in accordance with regulations
12 promulgated by the department. The department or the area agency
13 on aging may not release confidential information related to the
14 older adult except by court order, or to a law enforcement
15 official or coroner under subsection (b) (2), and may be used by
16 the department in civil proceedings, subject to protective
17 orders. Information contained in protective service records is
18 subject to other Federal and State privacy and confidentiality
19 laws.

20 (b) Release of protective services records.--

21 (1) Protective services records may be provided to a
22 court of competent jurisdiction or to another party pursuant
23 to a court order. A subpoena shall not be a court order for
24 purposes of this section.

25 (2) Protective services records may be provided to law
26 enforcement officials or a coroner if the information is
27 relevant to the official's or coroner's investigation of
28 abuse, neglect, exploitation, financial exploitation
29 abandonment or death of the older adult. The protective
30 services records shall not be subject to access under the act

1 of February 14, 2008 (P.L.6, No.3), known as the Right-to-
2 Know Law.

3 (3) In arranging specific services to carry out service
4 plans, the area agency on aging may disclose information to
5 appropriate service providers as may be necessary for the
6 provision of services.

7 (4) The older adult who is the subject of a report or
8 the older adult's guardian, if the guardian is not named as a
9 perpetrator in the report, may receive, upon written request,
10 a summary of the report of need except information that would
11 identify the individual who made a report of suspected abuse,
12 neglect, exploitation, financial exploitation or abandonment
13 or persons who cooperated in a subsequent investigation.

14 (5) An individual who makes a report of suspected abuse,
15 neglect, exploitation, financial exploitation or abandonment
16 may receive, upon written request, confirmation from the
17 department that the report was received and the area agency
18 on aging is acting in accordance with this subchapter.

19 (6) For purposes of monitoring area agency on aging
20 performance or conducting other official duties, appropriate
21 staff of the department, as designated by the Secretary of
22 Aging, may access protective services records.

23 (7) The department or the area agency on aging may
24 collaborate or share information included in protective
25 services records with Commonwealth agencies for purposes of
26 official Commonwealth business, to the extent permitted by
27 law.

28 (8) The department and the Department of Human Services
29 shall collaborate and coordinate by exchanging information
30 for the purpose of ensuring the continuity of service

1 delivery to both older adults in need of protective services
2 under this subchapter and adults in need of protective
3 services, as defined under the act of October 7, 2010
4 (P.L.484, No.70), known as the Adult Protective Services Act.

5 (9) The department or the area agency on aging may share
6 a summary of protective services information with another
7 area agency on aging that is performing responsibilities
8 under this subchapter relevant to older adults within the
9 area agency on aging's jurisdiction.

10 (10) An employee of an agency of another state who
11 performs older adult protective services similar to those
12 under this subchapter may access a summary of protective
13 services information relevant to older adults within the area
14 agency on aging's jurisdiction.

15 (11) Protective services records may be provided to a
16 health care provider who is examining or treating the older
17 adult and who suspects that the older adult is in need of
18 protection under this subchapter.

19 (12) Protective services records may be provided to the
20 director, or an individual specifically designated in writing
21 by the director, of a hospital or other medical institution
22 where the older adult is being treated if the director or
23 designee suspects that the recipient is in need of protection
24 under this subchapter.

25 (13) Unless prohibited by Federal law, protective
26 services records relating to financial exploitation may be
27 provided to a financial institution or fiduciary as necessary
28 to exercise the authority to prohibit disbursement of funds
29 and transactions provided under section 8773 (relating to
30 financial institution compliance policies).

1 SUBCHAPTER E

2 REPORTING

3 Sec.

4 8761. Voluntary reporting.

5 8762. Mandatory reporting.

6 8763. Mandatory reporting to law enforcement officials and
7 department.

8 8764. Contents of report.

9 8765. Coroner.

10 8766. Protecting identity of reporter and cooperating
11 witnesses.

12 § 8761. Voluntary reporting.

13 An individual who knows or has reasonable cause to believe
14 that an older adult may be a victim of abuse, neglect,
15 exploitation, financial exploitation or abandonment may make an
16 oral or electronic report to an area agency on aging.

17 § 8762. Mandatory reporting.

18 The following apply:

19 (1) A mandatory reporter who knows or has reasonable
20 cause to suspect that an older adult may be a victim of
21 abuse, neglect, exploitation, financial exploitation or
22 abandonment shall:

23 (i) Immediately make an oral or electronic report to
24 the area agency on aging within 24 hours in accordance
25 with the department's process and procedures.

26 (ii) Complete a written mandatory abuse report under
27 section 8764 (relating to contents of report) to the area
28 agency on aging within 48 hours in accordance with the
29 department's process and procedures.

30 (2) A mandatory reporter employee may request that their

1 administrator create a written mandatory abuse form.
2 § 8763. Mandatory reporting to law enforcement officials and
3 department.

4 In addition to the reports to the area agency on aging under
5 section 8702 (relating to findings), a mandatory reporter who
6 knows or has reasonable cause to believe that an older adult may
7 be a victim of suspicious death, serious bodily injury, serious
8 injury or sexual abuse shall immediately contact law enforcement
9 officials and the department to make an oral report. A mandatory
10 reporter shall make a written mandatory abuse report to
11 appropriate law enforcement officials within 48 hours. The area
12 agency on aging shall make a written mandatory abuse report
13 under section 8764 (relating to contents of report) to the
14 department within 48 hours in accordance with the department's
15 process and procedures.

16 § 8764. Contents of report.

17 A written mandatory abuse report under this subchapter shall
18 be prepared in a manner and on forms prescribed by the
19 department. At a minimum, the written mandatory abuse report
20 shall include the following information, as well as additional
21 information required by regulation:

22 (1) Name, age, sex and address of the older adult.

23 (2) Name and address of the older adult's legal
24 representative or next of kin.

25 (3) Name and address of the facility, if applicable.

26 (4) Nature and location of the reported incident and any
27 specific comments or observations directly related to the
28 alleged incident and the older adult involved.

29 (5) Any relevant information related to the identity of
30 the alleged perpetrator, including, name, age, sex and

1 relationship to the older adult.

2 (6) Name of the individual making the written mandatory
3 abuse report, contact information for the reporter and
4 information regarding any actions taken by the reporter in
5 response to the incident, except as provided in section
6 8766(b) (relating to protecting identity of reporter and
7 cooperating witnesses).

8 § 8765. Coroner.

9 If there is reasonable cause to suspect that an older adult
10 died as a result of abuse, neglect, exploitation or abandonment,
11 including a death within a coroner's jurisdiction under the act
12 of August 9, 1955 (P.L.323, No.130), known as The County Code,
13 an area agency on aging shall give the oral or electronic report
14 and forward a copy of the written mandatory abuse report as
15 provided in section 8764 (relating to contents of report) to the
16 appropriate coroner within 24 hours. The written mandatory abuse
17 report shall be maintained as confidential by the coroner.

18 § 8766. Protecting identity of reporter and cooperating
19 witnesses.

20 (a) Prohibition.--Except for disclosures to law enforcement
21 officials and coroners, the release of records that would
22 identify an individual who made a report under this subchapter
23 or an individual who cooperated in a subsequent investigation is
24 prohibited and the records are exempt from access under the act
25 of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know
26 Law.

27 (b) Identity protection.--If records are provided pursuant
28 to a court order, the identity of the reporter and cooperating
29 witnesses shall be deleted unless otherwise ordered by the court
30 after an in camera review.

1 older adult and the suspected perpetrator of the
2 financial exploitation that the financial institution
3 determines is needed to facilitate investigation of the
4 report.

5 (2) If an employee of a financial institution has
6 reasonable cause to believe that an older adult who is an
7 account holder may be subject to past, current or attempted
8 financial exploitation, the employee shall immediately follow
9 the financial institution's compliance policies, program,
10 plan and procedures to report of past, current or attempted
11 financial exploitation to the area agency on aging and law
12 enforcement agency. Financial institutions shall comply with
13 all Federal and State laws governing the reporting of older
14 adult financial exploitation and share relevant records with
15 the area agency on aging.

16 (b) Refusal to disburse.--A financial institution is
17 authorized to place a hold on a proposed transaction for a
18 period of up to 15 business days as necessary to determine the
19 legitimacy of the transaction. The proposed transaction may be
20 held an additional 25 business days at the request of the area
21 agency on aging, law enforcement agency or fiduciary of the
22 older adult. A request of an area agency on aging, law
23 enforcement official or fiduciary of the older adult to hold or
24 engage in a transaction as authorized by this section shall
25 require cause and be documented in writing.

26 (c) Notification.--Except as provided under Federal or State
27 law, if a financial institution places a hold on a proposed
28 transaction to protect an older adult from financial
29 exploitation, an employee of the financial institution shall:

30 (1) Within one business day, notify the older adult,

1 their fiduciary, if they have one, and each person authorized
2 to transact business on the account, except for an individual
3 reasonably believed to have engaged in suspected or attempted
4 financial exploitation of the older adult. The notification
5 shall:

6 (i) State that the financial institution has
7 temporarily blocked the disbursement of money or delayed
8 the execution of transactions as authorized by this
9 section to protect the older adult from financial
10 exploitation.

11 (ii) Provide the name of the financial institution
12 and the name and telephone number of a contact person
13 representing the financial institution.

14 (iii) Identify the account or transaction to which
15 the notification applies.

16 (2) Within five business days, notify each person that
17 has been authorized by the older adult to receive
18 notifications regarding account activity, except for an
19 individual reasonably believed to have engaged in suspected
20 or attempted financial exploitation of the older adult. The
21 notification shall include the information under paragraph
22 (1).

23 (d) Assistance by persons reasonably associated with an
24 older adult.--In consultation with the area agency on aging and
25 notwithstanding any law limiting or prohibiting disclosure, an
26 employee of a financial institution may provide information
27 regarding the report to a person reasonably associated with the
28 older adult sufficient to enable the person to consult with or
29 assist the older adult in avoiding or remedying the suspected
30 financial exploitation or exercise powers they possess to

1 protect the older adult, unless the financial institution has
2 reason to believe the person is knowingly engaged in or
3 facilitating the financial exploitation of the older adult.

4 § 8772. Access to records.

5 (a) Required access.--A financial institution shall provide,
6 at no cost, access to or copies of records that are relevant to
7 the suspected financial exploitation or attempted financial
8 exploitation of an older adult to the area agency on aging and a
9 law enforcement agency, either as part of a referral to the area
10 agency on aging or a law enforcement agency or upon written
11 request of the area agency on aging or a law enforcement agency
12 performing an investigation of financial exploitation of an
13 older adult. The records shall be provided within two business
14 days and may include historical records and records relating to
15 the most recent transaction or transactions that may comprise
16 financial exploitation, not to exceed 60 calendar days prior to
17 the first transaction that was reported or 60 calendar days
18 after the last transaction that was reported.

19 (b) Reports.--A report authorized by this section may
20 include, or may be subsequently supplemented by records of the
21 older adult that the financial institution believes are needed
22 to provide protective services to the older adult.

23 § 8773. Financial institution compliance policies.

24 Financial institutions shall create and implement internal
25 compliance policies, plans and procedures to comply with this
26 chapter within 90 days of the effective date of this section.

27 § 8774. Training.

28 The department, in consultation with the Department of
29 Banking and Securities and with representatives of the financial
30 services industry, are authorized to jointly develop a model

1 training program for employees of financial institutions and
2 employees of area agencies on aging regarding the identification
3 of activities that constitute financial exploitation of older
4 adults and their duties and responsibilities under this
5 subchapter.

6 § 8775. Failure to comply.

7 (a) General rule.--Failure to comply with this chapter shall
8 be an unfair method of competition as defined in section 2 of
9 the act of December 17, 1968 (P.L.1224, No.387), known as the
10 Unfair Trade Practices and Consumer Protection Law.

11 (b) Liability.--Notwithstanding section 8792(1) (relating to
12 immunity from civil and criminal liability), a financial
13 institution shall be liable to an older adult and their joint
14 account holders, if any, for any financial losses suffered by
15 the older adult due to financial exploitation up to a maximum of
16 the deposit insurance limit applicable to the owner of the older
17 adult account at the financial institution under 12 U.S.C. §
18 1821(a) (relating to insurance funds) if the following
19 conditions are met:

20 (1) An employee of the financial institution knew or had
21 reasonable cause to believe that the older adult was subject
22 to past, current or attempted financial exploitation.

23 (2) Despite having the knowledge or cause to believe,
24 the employee of the financial institution failed to hold a
25 proposed transaction as authorized by section 8771(b)
26 (relating to duties of financial institution).

27 (3) Beginning within 60 days of the failure to report
28 under paragraph (2), funds or securities were transferred
29 from the older adult's account held by the financial
30 institution due to financial exploitation over a period of 31

1 days or less.

2 (4) Within 180 days of the last transfer, the financial
3 institution was notified by the older adult, the older
4 adult's legally authorized representative, the area agency on
5 aging or law enforcement agency that the transfer was the
6 result of financial exploitation. Written notice shall
7 contain a signed declaration not given under oath but given
8 under penalty of perjury in conformance with 42 Pa.C.S. Ch.
9 62 (relating to Uniform Unsworn Declarations Act).

10 § 8776. Immunity.

11 An individual acting in good faith under this subchapter
12 shall have immunity from liability for providing access to
13 records or holding a transaction that might otherwise exist.

14 SUBCHAPTER G

15 CRIMINAL HISTORY

16 Sec.

17 8781. Criminal history.

18 8782. Grounds for denying employment.

19 8783. Provisional employees for limited periods.

20 § 8781. Criminal history.

21 (a) General rule.--An applicant shall submit the following
22 information, which must have been obtained within the preceding
23 one-year period:

24 (1) Under 18 Pa.C.S. Ch. 91 (relating to criminal
25 history record information), a report of criminal history
26 record information from the Pennsylvania State Police or a
27 statement from the Pennsylvania State Police that the central
28 repository contains no information relating to that person.
29 The applicant shall submit the report to the department. The
30 criminal history record information shall be limited to

1 information which is disseminated under 18 Pa.C.S. § 9121(b)
2 (2) (relating to general regulations).

3 (2) A full set of fingerprints to the Pennsylvania State
4 Police in a manner prescribed by the Pennsylvania State
5 Police. The Pennsylvania State Police shall submit the full
6 set of fingerprints to the Federal Bureau of Investigation
7 for a national criminal history record check. The
8 Pennsylvania State Police shall provide the department with
9 the national criminal history record information of the
10 individual. The information under this paragraph shall not be
11 limited by 18 Pa.C.S. § 9121(b) (2).

12 (b) Determination.--The information obtained from the
13 criminal history record checks under subsection (a) shall be
14 used by the department to determine the applicant's eligibility
15 under section 8782 (relating to grounds for denying employment).
16 The determination shall be submitted to the administrator by the
17 department prior to employment commencing except as specified in
18 section 8783 (relating to provisional employees for limited
19 periods).

20 (c) Scope.--The following individuals shall submit to the
21 criminal history information inquiry required under subsection
22 (a):

23 (1) An applicant.

24 (2) An administrator who has or may have direct contact
25 with a recipient.

26 (3) An operator who has or may have direct contact with
27 a recipient.

28 (d) Written notice of new arrest or conviction.--

29 (1) If an employee is arrested for or convicted of an
30 offense that would constitute grounds for denying employment

1 under section 8782, the employee shall provide written notice
2 of the arrest or conviction to the administrator or designee
3 not later than 72 hours after the arrest or conviction.

4 (2) If the person responsible for employment decisions
5 or the administrator has a reasonable belief that an employee
6 was arrested or convicted for an offense that would
7 constitute grounds for denying employment under section 8782,
8 or the employee has provided notice as required under
9 paragraph (1), the individual responsible for employment
10 decisions or the administrator shall immediately require the
11 employee to submit current information as required under
12 subsection (a). The cost of the information specified in
13 subsection (a) shall be borne by the facility.

14 § 8782. Grounds for denying employment.

15 (a) Prohibited offenses.--The following offenses, and
16 Federal or out-of-State offenses similar in nature, shall be
17 prohibited as follows:

18 (1) A facility may not hire an applicant or retain an
19 employee if the department determines that the applicant's or
20 employee's criminal history record information indicates that
21 the applicant or employee has been convicted of an offense or
22 attempt, solicitation or conspiracy to commit an offense
23 under one of the following provisions of 18 Pa.C.S. (relating
24 to crimes and offenses):

25 (i) Chapter 25 (relating to criminal homicide).

26 (ii) Section 2718 (relating to strangulation).

27 (iii) Section 3011 (relating to trafficking in
28 individuals).

29 (iv) Section 3121 (relating to rape).

30 (v) Section 3123 (relating to involuntary deviate

1 sexual intercourse).

2 (vi) Section 3124.2 (relating to institutional
3 sexual assault).

4 (2) Subject to subsection (b), a facility may not hire
5 an applicant or retain an employee for a period of 25 years
6 from the individual's release or discharge from a Federal,
7 State or county correctional institution or from termination
8 of supervised probation or parole, whichever is later, if the
9 department determines that the applicant's or employee's
10 criminal history record information indicates the applicant
11 or employee has been convicted of an offense or attempt,
12 solicitation or conspiracy to commit an offense under one of
13 the following provisions of 18 Pa.C.S.:

14 (i) Chapter 26 (relating to crimes against unborn
15 child).

16 (ii) Section 2702 (relating to aggravated assault).

17 (iii) Section 2713 (relating to neglect of care-
18 dependent person).

19 (iv) Section 2715 (relating to threat to use weapons
20 of mass destruction).

21 (v) Section 2716 (relating to weapons of mass
22 destruction).

23 (vi) Section 2717 (relating to terrorism).

24 (vii) Section 2901 (relating to kidnapping).

25 (viii) Section 2903 (relating to false
26 imprisonment).

27 (ix) Section 3122.1 (relating to statutory sexual
28 assault).

29 (x) Section 3124.1 (relating to sexual assault).

30 (xi) Section 3125 (relating to aggravated indecent

1 assault).

2 (xii) Section 3126 (relating to indecent assault).

3 (xiii) Section 3129 (relating to sexual intercourse
4 with an animal).

5 (xiv) Section 3212 (relating to infanticide).

6 (xv) Section 4302 (relating to incest).

7 (xvi) Section 4303 (relating to concealing death of
8 child).

9 (xvii) A felony offense under section 4304 (relating
10 to endangering welfare of children).

11 (xviii) Section 4305 (relating to dealing in infant
12 children).

13 (xix) Section 5510 (relating to abuse of corpse).

14 (xx) Section 5903(a)(1), (3)(ii), (5)(ii) or (6),
15 (c) or (d) (relating to obscene and other sexual
16 materials and performances).

17 (xxi) Section 6312 (relating to sexual abuse of
18 children).

19 (xxii) Section 6318 (relating to unlawful contact
20 with a minor).

21 (xxiii) Section 6319 (relating to solicitation of
22 minors to traffic drugs).

23 (xxiv) Section 6320 (relating to the sexual
24 exploitation of children).

25 (3) Subject to subsection (b), a facility may not hire
26 an applicant or retain an employee for a period of 10 years
27 from the individual's release or discharge from a Federal,
28 State or county correctional institution or from termination
29 of supervised probation or parole, whichever is later, if the
30 department determines that the applicant's or employee's

1 criminal history record information indicates that the
2 applicant or employee has been convicted of an offense or
3 attempt, solicitation or conspiracy to commit an offense
4 under one of the following provisions of 18 Pa.C.S.:

5 (i) Two or more misdemeanors under section 2705
6 (relating to recklessly endangering another person).

7 (ii) Section 2710 (relating to ethnic intimidation).

8 (iii) Section 2902 (relating to unlawful restraint).

9 (iv) A felony offense under section 2904 (relating
10 to interference with custody of children).

11 (v) Section 2909 (relating to concealment of
12 whereabouts of a child).

13 (vi) Section 3127 (relating to indecent exposure).

14 (vii) Section 3131 (relating to unlawful
15 dissemination of intimate image).

16 (viii) Section 3301 (relating to arson and related
17 offenses).

18 (ix) Section 3502 (relating to burglary).

19 (x) Section 3701 (relating to robbery).

20 (xi) Section 3702 (relating to robbery of motor
21 vehicle).

22 (xii) A felony offense under Chapter 39 (relating to
23 theft and related offenses).

24 (xiii) Two or more misdemeanors under Chapter 39.

25 (xiv) Section 4101 (relating to forgery).

26 (xv) Section 4103 (relating to fraudulent
27 destruction, removal or concealment of recordable
28 instruments).

29 (xvi) Section 4106 (relating to access device
30 fraud).

1 (xvii) Section 4114 (relating to securing execution
2 of documents by deception).

3 (xviii) Section 4115 (relating to falsely
4 impersonating persons privately employed).

5 (xix) Section 4120 (relating to identity theft).

6 (xx) A misdemeanor of the first degree under section
7 4304 (relating to endangering welfare of children).

8 (xxi) Section 4952 (relating to intimidation of
9 witnesses or victims).

10 (xxii) Section 4953 (relating to retaliation against
11 witness, victim or party).

12 (xxiii) A felony offense under section 5902(b)
13 (relating to prostitution and related offenses).

14 (xxiv) Section 5902(b.1).

15 (xxv) Section 5903(c) or (d) (relating to obscene
16 and other sexual materials and performances).

17 (xxvi) Section 6301 (relating to corruption of
18 minors).

19 (4) Subject to subsection (b), a facility may not hire
20 an applicant or retain an employee for a period of five years
21 from the individual's release or discharge from a Federal,
22 State or county correctional institution or from termination
23 of supervised probation or parole, whichever is later, if the
24 department determines that the applicant's or employee's
25 criminal history record information indicates that the
26 applicant or employee has been convicted of:

27 (i) Any of the following provisions of 75 Pa.C.S.
28 (relating to vehicles):

29 (A) Section 3735 (relating to homicide by
30 vehicle while driving under influence).

1 (B) Section 3735.1 (relating to aggravated
2 assault by vehicle while driving under the
3 influence).

4 (C) Section 3742 (relating to accidents
5 involving death or personal injury).

6 (D) Section 3802 (relating to driving under
7 influence of alcohol or controlled substance) graded
8 as a misdemeanor of the second degree or higher.

9 (ii) An offense designated as a felony under the act
10 of April 14, 1972 (P.L.233, No.64), known as The
11 Controlled Substance, Drug, Device and Cosmetic Act.

12 (iii) A misdemeanor of the first degree or a felony
13 under 18 Pa.C.S. § 4105 (relating to bad checks).

14 (iv) Convictions listed under subparagraph (i) shall
15 be prohibited if the position the applicant is applying
16 for or the employee is performing includes driving or
17 transporting older adults.

18 (b) Waiver request.--

19 (1) Unless prohibited by Federal law, the department may
20 grant a waiver of the prohibitions under subsection (e) after
21 submission of a written waiver request by an applicant or
22 employee.

23 (2) The waiver request shall be submitted on a form
24 provided by the department and shall contain the following:

25 (i) The length of time since the applicant's or
26 employee's conviction.

27 (ii) The nature and circumstances of the applicant's
28 or employee's conviction.

29 (iii) If the applicant or employee was incarcerated,
30 a copy of the order from the Federal, State or local

1 jurisdiction that released the individual from
2 incarceration, including the date of release.

3 (iv) Evidence of the applicant's or employee's
4 rehabilitation.

5 (v) The nature of and requirements of the job.

6 (vi) The relationship of the offense to the
7 applicant's or employee's current or prospective job
8 position.

9 (vii) A copy of any previously approved waiver
10 requests.

11 (viii) If available and applicable, a letter from
12 the individual's probation or parole officer.

13 (ix) The facility type.

14 (x) A letter from the current or prospective
15 employer indicating the desire to retain or hire the
16 applicant or employee if a waiver request is granted.

17 (xi) The applicant's age relevant to the applicant's
18 potential longevity for future employment.

19 (3) The department may review and consider and
20 additional relevant information or factors in making its
21 determination.

22 (c) Waiver approval.--The department shall review and issue
23 a decision on approval or denial of the waiver request within 30
24 days after receipt of the written waiver request.

25 (d) Applicability.--

26 (1) A waiver request granted under this section applies
27 only to the offenses and facility types listed on the waiver
28 application.

29 (2) If granted, the waiver shall remain in place
30 indefinitely and be transferrable to the same or similar

1 position with an employer of an applicable facility type.

2 (3) The waiver shall not apply if the applicant or
3 employee attempts to secure new employment for a
4 substantially different position.

5 (e) Limitations.--

6 (1) The grant of a waiver request by the department does
7 not guarantee employment to the individual.

8 (2) If new criminal charges are filed against an
9 individual who has obtained a waiver from the department, the
10 individual must report the new criminal charges to both the
11 employer and the department within seven days after the
12 charges were filed.

13 (3) If the new conviction is prohibited under this
14 chapter, the applicant or employee must submit a new waiver
15 request.

16 (4) If a waiver request is denied, an individual may
17 resubmit a new waiver request once every five years.

18 (f) Appeal rights.--If the department denies a request for a
19 waiver, the individual whose request was denied shall have 20
20 days to submit a written appeal to the Secretary of Aging. The
21 following apply:

22 (1) Upon receipt of a notice of appeal, the Secretary of
23 Aging shall have 30 days to complete a review of the relevant
24 facts and circumstances and issue a final decision.

25 (2) All final decisions by the Secretary of Aging shall
26 be reviewable in accordance with the laws of this
27 Commonwealth.

28 (g) Duties and responsibilities of department.--

29 (1) Within 60 days from the effective date of this
30 paragraph, the department shall develop a waiver request

1 form.

2 (2) Within 90 days from the effective date of this
3 paragraph, the department, in collaboration with the
4 Department of Human Services, shall develop a procedure for
5 hearing appeals resulting from department denials of waiver
6 request applications.

7 (h) Date of release or discharge.--To determine an
8 individual's release, discharge or termination of supervision,
9 the individual shall provide to the department, upon request,
10 documentation relating to the individual's release or discharge
11 from a Federal, State or county correctional institution or from
12 termination of supervised probation or parole.

13 (i) Penalties.--An individual who willfully fails to
14 disclose a conviction for an offense enumerated under subsection
15 (a) shall be subject to termination and may be subject to
16 criminal prosecution under 18 Pa.C.S. § 4904 (relating to
17 unsworn falsification to authorities).
18 § 8783. Provisional employees for limited periods.

19 The following apply:

20 (1) A facility may employ an applicant on a provisional
21 basis for a single period not to exceed 45 days, if all of
22 the following conditions are met:

23 (i) The applicant has applied for a criminal history
24 record information report required under section 8781(a)
25 (relating to criminal history) and provided the facility
26 with a copy of the completed request forms.

27 (ii) The facility has no knowledge about the
28 applicant that would disqualify the applicant from
29 employment under 18 Pa.C.S. § 4911 (relating to tampering
30 with public records or information).

1 to practice and procedure of Commonwealth agencies) and 7
2 Subch. A (relating to judicial review of Commonwealth agency
3 action).

4 (3) A Commonwealth agency that licenses a facility shall
5 have jurisdiction regarding violations of section 8781
6 (relating to criminal history) and may issue an order
7 assessing a civil penalty not to exceed \$5,000.

8 (4) An older adult or an individual making a report or
9 cooperating with the area agency on aging, including
10 providing testimony in an administrative or judicial
11 proceeding, shall be free from discriminatory, retaliatory or
12 disciplinary action by an employer or any other person or
13 facility. A person that violates this paragraph shall be
14 subject to a civil action by the reporter or the older adult.
15 The older adult or person making a report or cooperating with
16 the area agency on aging may recover treble compensatory
17 damages, compensatory and punitive damages or \$5,000,
18 whichever is greater.

19 (5) An individual, including the older adult, with
20 knowledge sufficient to justify making a report or
21 cooperating with the area agency on aging, including
22 providing testimony in an administrative or judicial
23 proceeding, shall be free from intimidation by an employer or
24 any other person. An individual who violates this paragraph
25 shall be subject to a civil action by the individual
26 intimidated or the older adult. The individual intimidated or
27 the older adult may recover treble compensatory damages,
28 compensatory and punitive damages or \$5,000, whichever is
29 greater.

30 (b) Criminal penalties.--

1 (1) A mandatory reporter who intentionally fails to
2 report suspected abuse, neglect, exploitation or abandonment
3 of an older adult commits a summary offense for the first
4 violation and a misdemeanor of the second degree for a second
5 or subsequent violation and shall, upon conviction, be
6 sentenced to pay a fine of not more than \$5,000 or to
7 imprisonment for not more than one year, or both.

8 (2) An individual who intentionally makes a false
9 statement or representation of a material fact in a report of
10 need commits a misdemeanor of the first degree and shall,
11 upon conviction, be sentenced to pay a fine of not more than
12 \$10,000 or to imprisonment for not more than five years, or
13 both.

14 § 8792. Immunity from civil and criminal liability.

15 The following apply:

16 (1) An individual participating in making a report of
17 need or who provides testimony in an administrative or
18 judicial proceeding in a court of this Commonwealth arising
19 out of a report of need shall be immune from any civil or
20 criminal liability on account of the report or testimony
21 related to good faith compliance with this chapter. The
22 immunity shall not extend to liability for acts of abuse,
23 neglect, exploitation, financial exploitation or abandonment,
24 even if the acts are the subject of the report or testimony.

25 (2) A facility that employs an individual required or
26 permitted to make a report under this chapter shall not be
27 held civilly liable for any action directly related to good
28 faith compliance with this chapter.

29 (3) In the absence of willful misconduct or gross
30 negligence, the area agency on aging, the director or

1 employees of the area agency on aging, protective services
2 workers or employees of the department shall not be civilly
3 or criminally liable for any decision or action or resulting
4 consequence of decisions or action when acting under and
5 according to the provisions of this chapter.

6 SUBCHAPTER I

7 ADMINISTRATION

8 Sec.

9 8797. Funding.

10 § 8797. Funding.

11 Money necessary to administer this chapter shall be provided
12 by an annual appropriation by the General Assembly.

13 Section 2. The department shall promulgate rules and
14 regulations to carry out the addition of 35 Pa.C.S. Ch. 87 and
15 shall annually present to the General Assembly a report on the
16 program and services performed. Commonwealth agencies with
17 oversight authority over entities impacted by the addition of 35
18 Pa.C.S. Ch. 87 shall promulgate regulations necessary to assist
19 the department in implementing the addition of 35 Pa.C.S. Ch.
20 87.

21 Section 3. The addition of 35 Pa.C.S. Ch. 87 shall not be
22 construed to expand the jurisdiction of or grant additional
23 arrest powers to law enforcement officials that are not
24 otherwise authorized by law.

25 Section 4. Repeals are as follows:

26 (1) The General Assembly declares that the repeal under
27 paragraph (2) is necessary to effectuate the addition of 35
28 Pa.C.S. Ch. 87.

29 (2) The act of November 6, 1987 (P.L.381, No.79), known
30 as the Older Adults Protective Services Act, is repealed.

1 Section 5. The addition of 35 Pa.C.S. Ch. 87 is a
2 continuation of the act of November 6, 1987 (P.L.381, No.79),
3 known as the Older Adults Protective Services Act. Except as
4 otherwise provided in 35 Pa.C.S. Ch. 87, all activities
5 initiated under the Older Adults Protective Services Act shall
6 continue and remain in full force and effect and may be
7 completed under 35 Pa.C.S. Ch. 87. Orders, regulations, rules
8 and decisions which were made under the Older Adults Protective
9 Services Act and which are in effect on the effective date of
10 this section shall remain in full force and effect until
11 revoked, vacated or modified under 35 Pa.C.S. Ch. 87. Contracts,
12 obligations and collective bargaining agreements entered into
13 under the Older Adults Protective Services Act are not affected
14 nor impaired by the repeal of the Older Adults Protective
15 Services Act.

16 Section 6. This act shall take effect in one year.