
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1611 Session of
2025

INTRODUCED BY MADDEN, BENHAM, KOSIEROWSKI, D. WILLIAMS, CARROLL,
HILL-EVANS, PROBST, MAYES, RIVERA, FLEMING, SANCHEZ,
BOROWSKI, PARKER, CEPEDA-FREYTIZ, PIELLI, SHUSTERMAN, GUENST,
STEELE, HADDOCK, HOWARD AND HOHENSTEIN, JUNE 16, 2025

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,
JUNE 16, 2025

AN ACT

1 Amending the act of November 6, 1987 (P.L.381, No.79), entitled
2 "An act relating to the protection of the abused, neglected,
3 exploited or abandoned elderly; establishing a uniform
4 Statewide reporting and investigative system for suspected
5 abuse, neglect, exploitation or abandonment of the elderly;
6 providing protective services; providing for funding; and
7 making repeals," extensively revising provisions relating to
8 the protection of abused elderly; establishing a uniform
9 Statewide reporting and investigative system for suspected
10 abuse of the elderly; providing for protective services;
11 prohibiting financial exploitation; providing for funding and
12 for regulations; imposing penalties; and making editorial
13 changes.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. The title of the act of November 6, 1987
17 (P.L.381, No.79), known as the Older Adults Protective Services
18 Act, is amended to read:

19 AN ACT

20 Relating to the protection of the abused[, neglected, exploited
21 or abandoned elderly; establishing] older adults; providing
22 for a uniform Statewide reporting and investigative system

1 for suspected abuse[, neglect, exploitation or abandonment]
2 of [the elderly] older adults; providing protective services;
3 providing for funding; and making repeals.

4 Section 2. Chapter 1 of the act is repealed:

5 [CHAPTER 1

6 PRELIMINARY PROVISIONS

7 Section 101. Short title.

8 This act shall be known and may be cited as the Older Adults
9 Protective Services Act.

10 Section 102. Legislative policy.

11 It is declared the policy of the Commonwealth of Pennsylvania
12 that older adults who lack the capacity to protect themselves
13 and are at imminent risk of abuse, neglect, exploitation or
14 abandonment shall have access to and be provided with services
15 necessary to protect their health, safety and welfare. It is not
16 the purpose of this act to place restrictions upon the personal
17 liberty of incapacitated older adults, but this act should be
18 liberally construed to assure the availability of protective
19 services to all older adults in need of them. Such services
20 shall safeguard the rights of incapacitated older adults while
21 protecting them from abuse, neglect, exploitation and
22 abandonment. It is the intent of the General Assembly to provide
23 for the detection and reduction, correction or elimination of
24 abuse, neglect, exploitation and abandonment, and to establish a
25 program of protective services for older adults in need of them.

26 Section 103. Definitions.

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

30 "Abandonment." The desertion of an older adult by a

1 caretaker.

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

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

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

10 (3) Sexual harassment, rape or abuse, as defined in the
11 act of October 7, 1976 (P.L.1090, No.218), known as the
12 Protection From Abuse Act.

13 No older adult shall be found to be abused solely on the grounds
14 of environmental factors which are beyond the control of the
15 older adult or the caretaker, such as inadequate housing,
16 furnishings, income, clothing or medical care.

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

21 "Agency." The local provider of protective services, which
22 is the area agency on aging or the agency designated by the area
23 agency on aging to provide protective services in the area
24 agency's planning and service area.

25 "Care." Services provided to meet a person's need for
26 personal care or health care. Services may include homemaker
27 services, assistance with activities of daily living, physical
28 therapy, occupational therapy, speech therapy, medical social
29 services, home-care aide services, companion-care services,
30 private duty nursing services, respiratory therapy, intravenous

1 therapy, in-home dialysis and durable medical equipment
2 services, which are routinely provided unsupervised and which
3 require interaction with the care-dependent person. The term
4 does not include durable medical equipment delivery.

5 "Care-dependent individual." An adult who, due to physical
6 or cognitive disability or impairment, requires assistance to
7 meet needs for food, shelter, clothing, personal care or health
8 care.

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

17 "Client assessment." Social, physical and psychological
18 findings along with a description of the person's current
19 resources and needs.

20 "Court." A court of common pleas or a district magistrate
21 court, where applicable.

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

23 "Employee." An individual who is employed by a facility. The
24 term includes contract employees who have direct contact with
25 residents or unsupervised access to their personal living
26 quarters. The term includes any person who is employed or who
27 enters into a contractual relationship to provide care to a
28 care-dependent individual for monetary consideration in the
29 individual's place of residence.

30 "Exploitation." An act or course of conduct by a caretaker

1 or other person against an older adult or an older adult's
2 resources, without the informed consent of the older adult or
3 with consent obtained through misrepresentation, coercion or
4 threats of force, that results in monetary, personal or other
5 benefit, gain or profit for the perpetrator or monetary or
6 personal loss to the older adult.

7 "Facility." Any of the following:

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

11 (2) A home health care agency.

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

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

18 (5) A personal care home as defined in section 1001 of
19 the act of June 13, 1967 (P.L.31, No.21), known as the Public
20 Welfare Code.

21 "Home health care agency." Any of the following:

22 (1) A home health care organization or agency licensed
23 by the Department of Health.

24 (2) A public or private agency or organization, or part
25 of an agency or organization, which provides care to a care-
26 dependent individual in the individual's place of residence.

27 "Intimidation." An act or omission by any person or entity
28 toward another person which is intended to, or with knowledge
29 that the act or omission will, obstruct, impede, impair, prevent
30 or interfere with the administration of this act or any law

1 intended to protect older adults from mistreatment.

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

3 (1) A police officer of a municipality.

4 (2) A district attorney.

5 (3) The Pennsylvania State Police.

6 "Neglect." The failure to provide for oneself or the failure
7 of a caretaker to provide goods or services essential to avoid a
8 clear and serious threat to physical or mental health. No older
9 adult who does not consent to the provision of protective
10 services shall be found to be neglected solely on the grounds of
11 environmental factors which are beyond the control of the older
12 adult or the caretaker, such as inadequate housing, furnishings,
13 income, clothing or medical care.

14 "Older adult." A person within the jurisdiction of the
15 Commonwealth who is 60 years of age or older.

16 "Older adult in need of protective services." An
17 incapacitated older adult who is unable to perform or obtain
18 services that are necessary to maintain physical or mental
19 health, for whom there is no responsible caretaker and who is at
20 imminent risk of danger to his person or property.

21 "Protective services." Those activities, resources and
22 supports provided to older adults under this act to detect,
23 prevent, reduce or eliminate abuse, neglect, exploitation and
24 abandonment.

25 "Protective setting." A setting chosen by the agency where
26 services can be provided in the least restrictive environment to
27 protect the physical and mental well-being of the older adult.

28 "Recipient." An individual who receives care, services or
29 treatment in or from a facility.

30 "Secretary." The Secretary of Aging of the Commonwealth.

1 "Serious bodily injury." Injury which creates a substantial
2 risk of death or which causes serious permanent disfigurement or
3 protracted loss or impairment of the function of a body member
4 or organ.

5 "Serious physical injury." An injury that:

6 (1) causes a person severe pain; or

7 (2) significantly impairs a person's physical
8 functioning, either temporarily or permanently.

9 "Service plan." A written plan developed by the agency on
10 the basis of comprehensive assessment of a client's need which
11 describes identified needs, goals to be achieved and specific
12 services to support goal attainment, with regular follow-up and
13 predetermined reassessment of client progress. Specific services
14 to support goal attainment may include, but is not limited to,
15 homemaker services, home-delivered meals, attendant care, other
16 in-home services, emergency shelter or food, legal aid services,
17 transportation and other such services. Service plans are
18 cooperatively developed by the agency staff, the client or the
19 client's appointed guardian, and other family members when
20 appropriate. The plan shall also address, where applicable,
21 special needs of other members of the household unit as they may
22 affect the older adult's need for protective services.

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

27 Section 3. The act is amended by adding chapters to read:

28 CHAPTER 1-A

29 PRELIMINARY PROVISIONS

30 Section 101-A. Short title.

1 This act shall be known and may be cited as the Older Adults
2 Protective Services Act.

3 Section 102-A. Definitions.

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

7 "Abandonment." The desertion of an older adult by a
8 caregiver.

9 "Abuse." As follows:

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

11 (i) The knowing infliction of injury, unreasonable
12 confinement, intimidation or punishment with resulting
13 physical harm, pain or mental anguish.

14 (ii) The willful deprivation by a caregiver of goods
15 or services that are necessary to maintain physical or
16 mental health.

17 (iii) Sexual abuse.

18 (iv) Abuse as defined in 23 Pa.C.S. § 6102 (relating
19 to definitions).

20 (v) Exploitation.

21 (vi) Financial exploitation.

22 (vii) Neglect.

23 (viii) Abandonment.

24 (2) The term does not include an environmental factor
25 that is beyond the control of an older adult or a caregiver,
26 including the inadequacy of housing, furnishings, income,
27 clothing or medical care.

28 "Administrator." The individual responsible for the
29 administration of a facility. The term includes an individual
30 responsible for employment decisions at a facility or an

1 independent contractor of a facility.

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

4 "Area agency on aging." The local agency or the local
5 agency's agent designated by the department within a planning
6 and service area to administer the delivery of older adult
7 protective services.

8 "Assessment." Comprehensive social, physical, cognitive and
9 psychological findings along with a description of an
10 individual's current resources and needs.

11 "Care." Services provided to meet an older adult's need for
12 personal care or physical or behavioral health care. The term
13 includes homemaker services, assistance with activities of daily
14 living, physical therapy, occupational therapy, speech therapy,
15 medical social services, home-care aide services, companion-care
16 services, private duty nursing services, respiratory therapy,
17 intravenous therapy, in-home dialysis and durable medical
18 equipment services, that are routinely provided unsupervised and
19 require interaction with an older adult. The term does not
20 include durable medical equipment delivery.

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

27 "Court." A court of common pleas or a district magistrate
28 court, where applicable.

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

30 "Designated representative of a financial institution." An

1 individual who:

2 (1) is entitled to immunity from suit for disclosing
3 suspected financial exploitation by 12 U.S.C. § 3423
4 (relating to immunity from suit for disclosure of financial
5 exploitation of senior citizens); and

6 (2) is designated by a financial institution as the
7 individual responsible for providing information to an area
8 agency on aging, law enforcement agency or the department.

9 "Employee." The term includes:

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

11 (2) An individual who enters into a contractual
12 relationship with a facility and has direct contact with
13 residents or unsupervised access to their personal living
14 quarters.

15 (3) An individual who is employed or enters into a
16 contractual relationship to provide care to an older adult
17 for monetary consideration in the older adult's place of
18 residence.

19 "Exploitation." An act or course of conduct by a caregiver
20 or other person against an older adult or an older adult's
21 resources without the informed consent of the older adult or
22 with consent or authorization obtained through
23 misrepresentation, undue influence, coercion or threats of force
24 that results in monetary or personal loss to the older adult.
25 The term includes financial exploitation.

26 "Facility." The term includes the following:

27 (1) A domiciliary care home as defined in section 2202-A
28 of the act of April 9, 1929 (P.L.177, No.175), known as The
29 Administrative Code of 1929.

30 (2) An assisted living residence as defined in section

1 1001 of the act of June 13, 1967 (P.L.31, No.21), known as
2 the Human Services Code.

3 (3) A home health care agency as defined in section
4 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as
5 the Health Care Facilities Act.

6 (4) An intermediate care facility for individuals with
7 an intellectual disability.

8 (5) A long-term care nursing facility as defined in
9 section 802.1 of the Health Care Facilities Act.

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

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

15 (8) An organization or group of people that uses public
16 funds and is paid, in part, to provide care, care
17 coordination or support to older adults in a licensed or
18 unlicensed setting.

19 (9) A residential treatment facility.

20 (10) A hospital.

21 "Fiduciary." A person legally authorized to act on behalf of
22 an older adult.

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

26 "Financial institution." Any of the following conducting
27 business in this Commonwealth:

28 (1) A depository institution as defined in 12 U.S.C. §
29 1813(c) (relating to definitions).

30 (2) A Federal credit union or State credit union as

1 defined in 12 U.S.C. § 1752 (relating to definitions),
2 including an institution-affiliated party of a credit union
3 as defined in 12 U.S.C. § 1786(r) (relating to termination of
4 insured credit union status and cease and desist orders and
5 removal or suspension from office and procedure).

6 (3) A financial institution under 31 CFR Subt. B Ch. X
7 Pt. 1020 (relating to rules for banks) that is required to
8 file a suspicious activity report.

9 (4) A person subject to supervision by the Department of
10 Banking and Securities or comparable Federal or State bank
11 supervisory or regulatory authority.

12 "Financial institution employee." An individual employed by
13 a financial institution that has either:

14 (1) direct contact with an older adult; or

15 (2) access to or direct knowledge of an older adult's
16 financial records or accounts with the financial institution.

17 "Financial transaction." The term includes an exchange or
18 transfer of money, title, assets or any type of monetary
19 instrument through any means including cash, credit cards, debit
20 cards, checks, electronic or wire transfers or any of the
21 following:

22 (1) A transfer or a request to transfer or disburse
23 funds, money or assets, or any other tangible item of value
24 in an account.

25 (2) A request to initiate a wire transfer, initiate an
26 automated clearinghouse transfer or issue a money order,
27 cashier's check or official check.

28 (3) A request to negotiate a check or other negotiable
29 instrument.

30 (4) A request to change the ownership of, or access to,

1 an account.

2 (5) A request to sell or transfer a security or other
3 asset, or a request to affix a medallion stamp or provide a
4 form of guarantee or endorsement in connection with an
5 attempt to sell or transfer a security or other asset.

6 (6) A request for a loan, extension of credit or draw on
7 a line of credit.

8 (7) A request to encumber movable or immovable property.

9 (8) A request to designate or change the designation of
10 a beneficiary to receive property or a benefit or contractual
11 right.

12 (9) A request for access to a safe deposit box.

13 (10) Except as authorized by this chapter, a request for
14 access regarding nonpublic information regarding an older
15 adult.

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

17 (1) A health care facility as defined under section 103
18 of the Health Care Facilities Act.

19 (2) A person licensed, certified or otherwise regulated
20 to provide health care services under the laws of this
21 Commonwealth.

22 "Hospital." An institution licensed by the Department of
23 Health that has an organized medical staff established for the
24 purpose of providing to inpatients, by or under the supervision
25 of physicians, diagnostic and therapeutic services for the care
26 of persons who are injured, disabled, pregnant, diseased, sick
27 or mentally ill or rehabilitation services for the
28 rehabilitation of persons who are injured, disabled, pregnant,
29 diseased, sick or mentally ill. The term includes a facility for
30 the diagnosis and treatment of disorders within the scope of

1 specific medical specialties. The term does not include a
2 facility caring exclusively for behavioral health patients or a
3 facility whose inpatients are predominantly individuals under 18
4 years of age.

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

9 "Intentionally." As specified in 18 Pa.C.S. § 302 (relating
10 to general requirements of culpability).

11 "Intimidation." An act or omission by a person toward
12 another person intended to threaten or with the knowledge that
13 the act or omission will frighten, obstruct, impede, impair,
14 prevent or interfere with the administration of this act or
15 other law intended to protect older adults from mistreatment.

16 "Knowingly." As specified in 18 Pa.C.S. § 302.

17 "Law enforcement agency." The Office of Attorney General, a
18 district attorney's office or an agency that employs a law
19 enforcement official.

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

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

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

26 (3) An officer of the Pennsylvania State Police.

27 (4) The Attorney General or an agent or deputy of the
28 Attorney General.

29 (5) A sheriff or deputy sheriff.

30 "Least restrictive alternative." The least intrusive

1 interventions, services or environment that can effectively and
2 safely address an older adult's needs.

3 "Mandatory reporter." Any of the following:

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

5 (2) A health care provider.

6 (3) A person licensed, certified or otherwise regulated
7 to provide health care services under the laws of this
8 Commonwealth.

9 (4) An administrator or employee of an area agency on
10 aging.

11 (5) A law enforcement official.

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

21 "Older adult." An individual who is within the jurisdiction
22 of this Commonwealth and is at least 60 years of age.

23 "Older adult in need of protective services." An older adult
24 who, because of one or more functional limitations, needs the
25 assistance of another person to perform or obtain services that
26 are necessary to maintain physical or mental health, for whom
27 there is no responsible caregiver and there is a risk of harm to
28 their person or property or they are at imminent risk under
29 section 404-A(a).

30 "Person who is authorized to have access to the older adult's

1 account." The term includes:

2 (1) An authorized contact provided by an older adult to
3 a financial institution, authorized signatory or beneficiary
4 on an older adult's account.

5 (2) A fiduciary authorized to manage some or all of the
6 financial affairs of an older adult.

7 (3) A co-owner of an account or other person authorized
8 to transact business on an older adult's account.

9 (4) An attorney or financial professional known to
10 represent or have represented or to assist in the management
11 of the financial affairs of an older adult.

12 "Protective services." The activities, resources and
13 supports provided to older adults under this act to detect,
14 address, prevent, remedy, reduce or eliminate abuse.

15 "Recipient." An older adult who receives care, services or
16 treatment in or from a facility or caregiver.

17 "Risk of harm." The strong likelihood that an older adult
18 will experience an action, condition, situation, injury or other
19 outcome that is adverse or detrimental.

20 "Secretary." The Secretary of Aging of the Commonwealth.

21 "Serious bodily injury." Injury that:

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

23 (2) causes serious disfigurement of a body part or
24 organ, protracted loss or impairment of the function of a
25 body part or organ.

26 "Serious injury." An injury that:

27 (1) causes a person severe pain; or

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

30 "Service plan." A written comprehensive assessment by an

1 area agency on aging of an older adult that includes a person-
2 centered and trauma-informed approach that identifies needs,
3 goals to be achieved or maintained and specific services
4 designed to support the older adult's physical and mental
5 health.

6 "Sexual abuse." Nonconsensual sexual interaction, including
7 a touching or nontouching act, with an older adult.

8 "Substantiated perpetrator." A person determined, based on a
9 protective services investigation, to have committed abuse of an
10 older adult.

11 "Suspicious death." An older adult's death that occurs
12 during an active protective services case where there is a
13 potential nexus between the injury inflicted and the death of
14 the older adult.

15 "Willfully." As specified in 18 Pa.C.S. § 302.
16 Section 103-A. Intent.

17 It is not the intent of this act to impose responsibility on
18 an individual if the responsibility would not otherwise exist in
19 law.

20 CHAPTER 2-A

21 DUTIES OF DEPARTMENT

22 Section 201-A. Public education.

23 The department shall conduct an ongoing public education and
24 outreach campaign to older adults and the general public that is
25 designed to promote and create awareness about the reporting of
26 and protection from abuse of older adults.

27 Section 202-A. (Reserved).

28 Section 203-A. Training.

29 (a) Standards.--The department shall establish minimum
30 training requirements and ongoing education for all area agency

1 on aging employees to ensure that the employees possess the
2 competency, knowledge and skills necessary for the effective
3 provision of protective services.

4 (b) Mandatory reporters.--The department shall establish a
5 training program for mandatory reporters regarding reporting
6 requirements under this act.

7 Section 204-A. Confidentiality.

8 The department shall establish procedures which shall be used
9 by an area agency on aging, its designees and its protective
10 services providers to ensure the privacy of older adults
11 receiving services and the confidentiality of records.

12 Section 205-A. Schedule and annual plan.

13 (a) Establishment.--The department shall establish a
14 schedule for the submission and approval of the plans associated
15 with the development of training provided in section 203-A.

16 (b) Protective services annual plan.--

17 (1) An area agency on aging shall develop a protective
18 services annual plan that describes the local implementation
19 of this act, including the organization, staffing, mode of
20 operations and financing of protective services and the
21 provisions made for the purchase of services, interagency
22 relations, interagency agreements, service referral
23 mechanisms and locus of responsibility for cases with
24 multiservice agency needs.

25 (2) The plan shall include a list of each public or
26 private entity that has been identified by the area agency on
27 aging as having substantial contact with older adults who are
28 potentially in need of protective services or persons
29 substantiated as abusers against older adults.

30 (3) The area agency on aging shall submit the list to

1 the department for purposes of the public education campaign
2 under section 201-A.

3 Section 206-A. Waiver application availability.

4 The department shall develop a standardized application
5 process for waivers submitted under section 702-A(b). The
6 department shall make the process publicly available.

7 Section 207-A. Reporting.

8 The department shall annually submit to the General Assembly
9 a report on the training program established under section 203-A
10 and services performed. The report shall include, at minimum,
11 statistical data on abuse, the waiver process and training
12 practices. The department shall make the report publicly
13 available.

14 Section 4. Chapter 3 of the act is repealed:

15 [CHAPTER 3

16 ADMINISTRATION

17 Section 301. Duties of department and area agencies on aging.

18 (a) Public information and interdepartmental consultation.--

19 The department shall conduct an ongoing campaign designed to
20 inform and educate older adults, professionals and the general
21 public about the need for an availability of protective services
22 under this chapter. The department shall consult with other
23 departments of the Commonwealth on the design and implementation
24 of the ongoing public awareness campaign. The department shall
25 also consider the concerns of area agencies on aging and the
26 entities identified by them under subsection (c).

27 (b) Staff training.--The department shall establish minimum
28 standards of training and experience which protective services
29 providers funded by the department shall be required to follow
30 in the selection and assignment of staff for the provision of

1 protective services.

2 (c) Protective services plans.--Each area agency on aging
3 shall include a protective services plan as part of its annual
4 plan. The plan shall describe the local implementation of this
5 chapter, including the organization, staffing, mode of
6 operations and financing of protective services, as well as the
7 provisions made for purchase of services, interagency relations,
8 interagency agreements, service referral mechanisms and locus of
9 responsibility for cases with multiservice agency needs. The
10 description of the methods that will be used by the agency, its
11 designees and its service providers to assure the privacy of
12 older adults receiving services and the confidentiality of all
13 records shall be established by the department. The department
14 shall establish a schedule for the submission and approval of
15 the plans. The plan shall include a list of all entities,
16 whether public or private, that have been identified by the area
17 agency on aging as having substantial contact with potential
18 victims or perpetrators of abuse, neglect, exploitation and
19 abandonment. This list shall be submitted to the department for
20 purposes of the public information campaign under subsection
21 (a).

22 Section 302. Reporting; protection from retaliation; immunity.

23 (a) Reporting.--Any person having reasonable cause to
24 believe that an older adult is in need of protective services
25 may report such information to the agency which is the local
26 provider of protective services. Where applicable, reports shall
27 comply with the provisions of Chapter 7.

28 (b) Receiving reports.--The agency shall be capable of
29 receiving reports of older adults in need of protective services
30 24 hours a day, seven days a week (including holidays). This

1 capability may include the use of a local emergency response
2 system or a crisis intervention agency, provided that access can
3 be made to a protective services caseworker in appropriate
4 emergency situations as set forth in regulations promulgated by
5 the department. All reports received orally under this section
6 shall be reduced to writing immediately by the person who
7 receives the report.

8 (c) Retaliatory action; penalty.--Any person making a report
9 or cooperating with the agency, including providing testimony in
10 any administrative or judicial proceeding, and the victim shall
11 be free from any discriminatory, retaliatory or disciplinary
12 action by an employer or by any other person or entity. Any
13 person who violates this subsection is subject to a civil
14 lawsuit by the reporter or the victim wherein the reporter or
15 victim shall recover treble compensatory damages, compensatory
16 and punitive damages or \$5,000, whichever is greater.

17 (c.1) Intimidation; penalty.--Any person, including the
18 victim, with knowledge sufficient to justify making a report or
19 cooperating with the agency, including possibly providing
20 testimony in any administrative or judicial proceeding, shall be
21 free from any intimidation by an employer or by any other person
22 or entity. Any person who violates this subsection is subject to
23 civil lawsuit by the person intimidated or the victim wherein
24 the person intimidated or the victim shall recover treble
25 compensatory damages, compensatory and punitive damages or
26 \$5,000, whichever is greater.

27 (d) Immunity.--Any person participating in the making of a
28 report or who provides testimony in any administrative or
29 judicial proceeding arising out of a report shall be immune from
30 any civil or criminal liability on account of the report or

1 testimony unless the person acted in bad faith or with malicious
2 purpose. This immunity shall not extend to liability for acts of
3 abuse, neglect, exploitation or abandonment, even if such acts
4 are the subject of the report or testimony.

5 Section 303. Investigations of reports of need for protective
6 services.

7 (a) Investigation.--It shall be the agency's responsibility
8 to provide for an investigation of each report made under
9 section 302. The investigation shall be initiated within 72
10 hours after the receipt of the report and shall be carried out
11 under regulations issued by the department. These regulations
12 shall provide for the methods of conducting investigations under
13 this section and shall assure that steps are taken to avoid any
14 conflict of interest between the investigator and service
15 delivery functions. Reports and investigations under this
16 section shall comply with Chapter 7, where applicable.

17 (b) Investigation involving licensed facilities.--Any report
18 concerning older adults residing in a State-licensed facility
19 shall be investigated under procedures developed by the
20 department in consultation with the State agency licensing such
21 facility. If the report concerns a resident of a State-licensed
22 facility for whom the area agency on aging provides ombudsman
23 services, the ombudsman of the area agency on aging must be
24 notified.

25 (c) Unsubstantiated reports.--If, after investigation by the
26 agency, the report is unsubstantiated, the case shall be closed
27 and all information identifying the reporter and the alleged
28 abuser shall be immediately deleted from all records. For
29 purposes of substantiating a pattern of abuse, neglect,
30 exploitation or abandonment, the name of the alleged victim and

1 any information describing the alleged act of abuse, neglect,
2 exploitation or abandonment may be maintained for a period of
3 six months under procedures established by the department.

4 (d) Substantiated reports.--If the report is substantiated
5 by the agency, or if the client assessment is necessary in order
6 to determine whether or not the report is substantiated, the
7 agency shall provide for a timely client assessment if the older
8 adult consents to an assessment. Upon completion of the
9 assessment, written findings shall be prepared which shall
10 include recommended action. This service plan shall provide for
11 the least restrictive alternative, encouraging client self-
12 determination and continuity of care. The service plan shall be
13 in writing and shall include a recommended course of action,
14 which may include the pursuit of civil or criminal remedies. If
15 an older adult found to be in need of protective services does
16 not consent to a client assessment or the development of a
17 service plan, the agency may apply to the case the provisions of
18 section 307.

19 Section 304. Provision of services; access to records and
20 persons.

21 (a) Availability of protective services.--The agency shall
22 offer protective services under any of the following conditions:

23 (1) An older adult requests such services.

24 (2) Another interested person requests such services on
25 behalf of an older adult.

26 (3) If, after investigation of a report, the agency
27 determines the older adult is in need of such services.

28 (b) Consent by request.--Except as provided in section 307,
29 an individual shall receive protective services voluntarily. In
30 no event may protective services be provided under this chapter

1 to any person who does not consent to such services or who,
2 having consented, withdraws such consent, unless such services
3 are ordered by a court, requested by a guardian of the older
4 adult or provided under section 307. Nothing in this chapter
5 shall prevent the agency from petitioning for the appointment of
6 a guardian pursuant to Title 20 of the Pennsylvania Consolidated
7 Statutes (relating to decedents, estates and fiduciaries).

8 (c) Interference with services.--If any person interferes
9 with the provision of services or interferes with the right of
10 an older adult to consent to provision of services, the agency
11 may petition the court for an order enjoining such interference.

12 (d) Access to records.--The agency shall have access to all
13 records relevant to:

14 (1) Investigations of reports under section 303.

15 (2) Assessment of client need.

16 (3) Service planning when an older adult's need for
17 protective services has been or is being established.

18 (4) The delivery of services arranged for under the
19 service plan developed by the agency to respond to an older
20 adult's assessed need for specific services.

21 (e) Access to persons.--The agency shall have access to
22 older persons who have been reported to be in need of protective
23 services in order to:

24 (1) Investigate reports under section 303 and Chapter 7.

25 (2) Assess client need and develop a service plan for
26 addressing needs determined.

27 (3) Provide for the delivery of services by the agency
28 or other service provider arranged for under the service plan
29 developed by the agency.

30 (f) Denial of access to persons.--If the agency is denied

1 access to an older adult reported to be in need of protective
2 services and access is necessary to complete the investigation
3 or the client assessment and service plan, or the delivery of
4 needed services in order to prevent further abuse, neglect,
5 exploitation or abandonment of the older adult reported to be in
6 need of protective services, the agency may petition the court
7 for an order to require the appropriate access when either of
8 the following conditions apply:

9 (1) The caretaker or a third party has interfered with
10 the completion of the investigation or the client assessment
11 and service plan or the delivery of services.

12 (2) The agency can demonstrate that the older adult
13 reported to be in need of protective services is denying
14 access because of coercion, extortion or justifiable fear of
15 future abuse, neglect, or exploitation or abandonment.

16 (g) Access by consent.--The agency's access to confidential
17 records held by other agencies or individuals and the agency's
18 access to an older adult reported to be in need of protective
19 services shall require the consent of the older adult or a
20 court-appointed guardian except as provided for under this
21 section or section 307.

22 (h) Denial of access to records.--If the agency is denied
23 access to records necessary for the completion of a proper
24 investigation of a report or a client assessment and service
25 plan, or the delivery of needed services in order to prevent
26 further abuse, neglect, exploitation or abandonment of the older
27 adult reported to be in need of protective services, the agency
28 may petition the court of common pleas for an order requiring
29 the appropriate access when either of the following conditions
30 apply:

1 (1) The older adult has provided written consent for any
2 confidential records to be disclosed and the keeper of the
3 records denies access.

4 (2) The agency can demonstrate that the older adult is
5 denying access to records because of incompetence, coercion,
6 extortion or justifiable fear of future abuse, neglect,
7 exploitation or abandonment.

8 Section 305. Immunity from civil and criminal liability.

9 In the absence of willful misconduct or gross negligence, the
10 agency, the director, employees of the agency, protective
11 services workers or employees of the department shall not be
12 civilly or criminally liable for any decision or action or
13 resulting consequence of decisions or action when acting under
14 and according to the provisions of this chapter.

15 Section 306. Confidentiality of records.

16 (a) General rule.--Information contained in reports, records
17 of investigation, client assessment and service plans shall be
18 considered confidential and shall be maintained under
19 regulations promulgated by the department to safeguard
20 confidentiality. Except as provided below, this information
21 shall not be disclosed to anyone outside the agency other than
22 to a court of competent jurisdiction or pursuant to a court
23 order.

24 (b) Limited access to the agency's protective services
25 records.--

26 (1) In the event that an investigation by the agency
27 results in a report of criminal conduct, law enforcement
28 officials shall have access to all relevant records
29 maintained by the agency or the department.

30 (2) In arranging specific services to carry out service

1 plans, the agency may disclose to appropriate service
2 providers such information as may be necessary to initiate
3 the delivery of services.

4 (3) A subject of a report made under section 302 may
5 receive, upon written request, all information contained in
6 the report except that prohibited from being disclosed by
7 paragraph (4).

8 (4) The release of information that would identify the
9 person who made a report of suspected abuse, neglect,
10 exploitation or abandonment or person who cooperated in a
11 subsequent investigation, is hereby prohibited unless the
12 secretary can determine that such a release will not be
13 detrimental to the safety of such person.

14 (5) When the department is involved in the hearing of an
15 appeal by a subject of a report made under section 302, the
16 appropriate department staff shall have access to all
17 information in the report record relevant to the appeal.

18 (6) For the purposes of monitoring agency performance,
19 appropriate staff of the department may access agency
20 protective services records.

21 Section 307. Involuntary intervention by emergency court order.

22 (a) Emergency petition.--Where there was clear and
23 convincing evidence that if protective services are not
24 provided, the person to be protected is at imminent risk of
25 death or serious physical harm, the agency may petition the
26 court for an emergency order to provide the necessary services.
27 The courts of common pleas of each judicial district shall
28 ensure that a judge or district justice is available on a 24-
29 hour-a-day, 365-day-a-year basis to accept and decide on
30 petitions for an emergency court order under this section

1 whenever the agency determines that a delay until normal court
2 hours would significantly increase the danger the older adult
3 faces.

4 (b) Limited order.--The court, after finding clear and
5 convincing evidence of the need for an emergency order, shall
6 order only such services as are necessary to remove the
7 conditions creating the established need.

8 (c) Right to counsel.--In order to protect the rights of an
9 older adult for whom protective services are being ordered, an
10 emergency court order under this section shall provide that the
11 older adult has the right to legal counsel. If the older adult
12 is unable to provide for counsel, such counsel shall be
13 appointed by the court.

14 (d) Forcible entry.--Where it is necessary to forcibly enter
15 premises after obtaining a court order, a peace officer may do
16 so, accompanied by a representative of the agency.

17 (e) Health and safety requirements.--The agency shall take
18 reasonable steps to assure that while the person is receiving
19 services under an emergency court order, the health and safety
20 needs of any of the person's dependents are met and that
21 personal property and the dwelling the person occupies are
22 secure.

23 (f) Exclusion of remedy.--Nothing in this chapter shall be
24 interpreted to deny any older adult access to the emergency
25 medical services or police protection that would be provided to
26 anyone, regardless of age, in similar circumstances.

27 Section 308. Individual rights.

28 (a) Rights of protective services clients.--The agency shall
29 observe the following minimum requirements to safeguard the
30 rights of an older adult who is reported to be in need of

1 protective services:

2 (1) The agency shall discreetly notify the older person
3 during the investigation that a report has been made and
4 shall provide the person with a brief summary of the nature
5 of the report.

6 (2) As provided under section 306(b)(3), the older adult
7 may request, and the agency shall provide, additional
8 information contained in the report.

9 (3) Any denial of services by the department or an
10 authorized agency under this chapter may be appealed
11 according to the provisions of the rules and regulations
12 issued by the department under Article XXII-A of the act of
13 April 9, 1929 (P.L.177, No.175), known as The Administrative
14 Code of 1929.

15 (4) Nothing in this act shall limit the right of any
16 older person to file a petition pursuant to the act of
17 October 7, 1976 (P.L.1090, No.218), known as the Protection
18 From Abuse Act.

19 (b) Rights of alleged abusers.--An individual who is alleged
20 in a protective services report to be a perpetrator of the
21 abuse, neglect, exploitation or abandonment of an older adult
22 shall be entitled to the following if the report is
23 substantiated by the agency:

24 (1) Such an individual shall be notified by the agency
25 at the conclusion of the investigation of the report that
26 allegations have been made and shall be given a brief summary
27 of the allegations.

28 (2) As provided under section 306(b)(3), the alleged
29 perpetrator may request, and the agency shall provide,
30 additional information contained in the report.

1 (3) An alleged perpetrator is entitled to file an appeal
2 with the department under 1 Pa. Code Part II (relating to
3 general rules of administrative practice and procedure) to
4 challenge the agency's finding resulting from the
5 investigation of a report made under section 303.

6 Section 309. Financial obligations; liabilities and payments.

7 All individuals receiving services and all agencies providing
8 services under this chapter shall comply with the following
9 provisions regarding liability for the payment of services:

10 (1) Funding to provide or make available protective
11 services under this chapter shall not supplant any public and
12 private entitlements or resources for which persons receiving
13 protective services under this chapter are or may be
14 eligible, and shall not be available until such persons have
15 exhausted their eligibility and receipt of benefits under
16 said public and private entitlements or resources.

17 (2) Funding available to local protective services
18 agencies under this chapter may be used to cover the costs of
19 activities including, but not limited to, the following:

20 (i) Administering protective services plans required
21 under section 301(c).

22 (ii) Receiving and maintaining records of reports of
23 abuse under section 302.

24 (iii) Conducting investigations of reported abuse
25 under section 303.

26 (iv) Carrying out client assessments and developing
27 service plans under section 303.

28 (v) Petitioning the court under sections 304 and
29 307.

30 (vi) Providing emergency involuntary intervention

1 under section 307.

2 (vii) Arranging for available services needed to
3 carry out service plans, which may include, as
4 appropriate, arranging for services for other household
5 members in order to reduce, correct or eliminate abuse,
6 neglect, exploitation or abandonment of an older adult.

7 (viii) Purchasing, on a temporary basis, services
8 determined by a service plan to be necessary to reduce,
9 correct or eliminate abuse, neglect, exploitation or
10 abandonment of an older adult when such services are not
11 available within the existing resources of the agency or
12 other appropriate provider. Purchase of services under
13 this provision is limited to a 30-day period which may be
14 renewed with adequate justification under regulations
15 promulgated by the department.

16 (3) The obligation of the Commonwealth and the counties
17 to provide funds to the department or any agency for services
18 provided pursuant to this chapter shall be entirely
19 discharged by the appropriations made to the department or an
20 agency. Provided that the agency has met its responsibility
21 under the law, no action at law or equity shall be instituted
22 in any court to require the department, any agency, county or
23 the Commonwealth to provide benefits or services under this
24 chapter for which appropriations from the Commonwealth or
25 counties are not available.

26 (4) Protective services clients receiving the same
27 services provided to others under an agency service plan
28 shall not be required to pay a fee for any services not
29 subject to cost sharing for other older adults.

30 Section 310. Regulations; enforcement.

1 (a) Promulgation of regulations.--The department shall
2 promulgate the rules and regulations to carry out this chapter
3 and shall be responsible for presenting to the General Assembly
4 annually a report on the program and services performed.

5 (b) Enforcement.--This chapter shall be enforced only after
6 promulgation of regulations by the department, which shall occur
7 no later than 12 months following passage of this chapter,
8 except that section 301 shall apply when the area agency on
9 aging certifies to the department that it is prepared to fulfill
10 its responsibilities. The certification shall be made within 90
11 days following promulgation of regulations.

12 Section 311. Funds for payment of administration of chapter.

13 Funds necessary to administer this chapter shall be provided
14 by annual appropriation by the General Assembly.]

15 Section 5. The act is amended by adding chapters to read:

16 CHAPTER 3-A

17 DUTIES OF AREA AGENCIES ON AGING

18 Section 301-A. Receipt of reports.

19 An area agency on aging shall receive at all times,
20 electronically and orally, a report of an older adult in need of
21 protective services. The report must be documented in a manner
22 prescribed by the department.

23 Section 302-A. Investigations.

24 (a) Duty to conduct.--

25 (1) An area agency on aging shall investigate a report,
26 in accordance with regulations issued by the department, to
27 determine if an older adult is in need of protective
28 services.

29 (2) The regulations shall provide for the methods of
30 conducting investigations and shall ensure that steps are

1 taken to avoid a conflict of interest.

2 (3) To the extent permitted by law, the department may
3 exchange information with Federal agencies or the
4 Commonwealth as necessary to ensure the health, safety and
5 welfare of an older adult and protect an older adult from
6 financial exploitation under section 603-A.

7 (b) Closure.--Upon closure of a case, the area agency on
8 aging shall retain information for a minimum of six months under
9 procedures established by the department.

10 (c) Timely assessment.--

11 (1) If a report is substantiated by an area agency on
12 aging or an assessment is necessary in order to determine
13 whether or not the report is substantiated, the area agency
14 on aging shall provide for a timely assessment, provided the
15 older adult consents to an assessment.

16 (2) Upon completion of the assessment, the area agency
17 on aging shall prepare written findings and recommended
18 action. The service plan shall:

19 (i) provide for the least restrictive alternative,
20 encouraging self-determination and continuity of care;

21 (ii) be in writing; and

22 (iii) include a recommended course of action that
23 may include the pursuit of civil or criminal remedies.

24 (3) If an older adult found to be in need of protective
25 services does not consent to an assessment or the development
26 of a service plan, the area agency on aging may apply section
27 404-A 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 Section 303-A. Investigations involving facilities.

4 (a) Duty to conduct.--If a report under section 301-A
5 concerns a facility, the area agency on aging shall notify the
6 local ombudsman and the licensing agency and the investigation
7 concerning the facility shall be coordinated with the licensing
8 agency and conducted under procedures developed by the
9 department in consultation with the Commonwealth agency with
10 oversight authority for the facility.

11 (b) Duty of facility.--The facility shall take reasonable
12 steps to protect older adults following receipt of a report of
13 suspected abuse involving an employee, including a plan of
14 supervision or suspension of the employee.

15 Section 304-A. Investigations involving law enforcement
16 officials.

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

22 (b) Notice to law enforcement officials.--Upon receipt of a
23 report of any of the following, the area agency on aging shall
24 immediately notify a law enforcement official:

25 (1) Suspicious death.

26 (2) Serious bodily injury.

27 (3) Serious injury.

28 (4) Rape, involuntarily deviate sexual intercourse,
29 sexual assault, institutional sexual assault, statutory
30 sexual assault, aggravate indecent assault, indecent assault

1 or incest as defined by 18 Pa.C.S. (relating to crimes and
2 offenses).

3 (c) Actions following referral.--

4 (1) Following a referral to a law enforcement official,
5 the area agency on aging shall contact the law enforcement
6 official to obtain information about any action taken and the
7 outcome, including any decision regarding criminal charges,
8 and the law enforcement official shall provide the
9 information to the extent that the information is available.

10 (2) An area agency on aging shall report the information
11 under paragraph (1) to the department in a manner prescribed
12 by the department.

13 Section 305-A. Access to older adults.

14 (a) Power of area agency on aging.--

15 (1) An area agency on aging shall have access to an
16 older adult who has been reported to be in need of protective
17 services in order to:

18 (i) Investigate a report.

19 (ii) Assess needs of the older adult and develop a
20 service plan for addressing the needs.

21 (iii) Provide for the delivery of services by the
22 area agency on aging or other protective services
23 provider under the service plan.

24 (2) If the area agency on aging is denied access to an
25 older adult reported to be in need of protective services,
26 the area agency on aging may petition the court for an order
27 to require the appropriate access when either of the
28 following conditions apply:

29 (i) The caregiver or a third party has interfered
30 with the completion of the investigation, the assessment

1 and service plan or the delivery of services.

2 (ii) The area agency on aging demonstrates the older
3 adult reported to be in need of protective services is
4 being denied access because of undue influence, coercion,
5 extortion or justifiable fear of future abuse.

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

8 (1) Access to the older adult.

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

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

11 Section 306-A. Access to records.

12 (a) Area agency on aging access.--An area agency on aging
13 shall, with the consent of an older adult, have access to all
14 records for the purposes of:

15 (1) Assessing the older adult's need for services.

16 (2) Planning and delivery of services.

17 (3) Investigating a report relating to the older adult.

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

26 (1) The older adult has provided written consent for
27 confidential records to be disclosed and the keeper of the
28 records denies access.

29 (2) The area agency on aging demonstrates that the older
30 adult is being denied access to records because the older

1 adult is unable to give informed consent due to cognitive
2 impairment or because of undue influence, coercion, extortion
3 or justifiable fear of future abuse.

4 (c) Request of certain records.--

5 (1) If an area agency on aging reasonably believes
6 records from a Commonwealth agency, private organization,
7 financial institution, fiduciary, medical institution and
8 practitioner or person reasonably suspected of engaging in or
9 facilitating the abuse of an older adult, are necessary to
10 complete an investigation, assessment, or service plan, the
11 area agency on aging shall request in written form the
12 records, and the records shall be made available to the area
13 agency on aging, unless the disclosure is prohibited by any
14 other provision of Federal or State law.

15 (2) Except as provided by a court order, access to a
16 financial record shall be limited to a record relating to the
17 most recent financial transaction or financial transactions
18 that may comprise financial exploitation, not to exceed 60
19 calendar days prior to the first financial transaction
20 reported and 60 calendar days after the last financial
21 transaction reported.

22 (d) Medical records.--To facilitate an area agency on
23 aging's protective services investigation, assessment or service
24 plan under this subsection, a medical institution and
25 practitioner shall provide an older adult's medical records
26 within five business days, in accordance with Federal and State
27 law, upon receipt of written consent.

28 (e) Compensation.--The area agency on aging or the
29 department may compensate a person requested or ordered to
30 provide records to the area agency on aging for the reasonable

1 costs of producing records in a manner consistent with the
2 requirements of 12 U.S.C. § 3415 (relating to cost
3 reimbursement).

4 Section 307-A. Rights of older adults.

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

9 (b) Information.--

10 (1) As provided in section 405-A, an older adult who is
11 the subject of a report, or the older adult's guardian if the
12 guardian is not named as an abuser in the report, may
13 receive, upon written request, a summary of the report of
14 need except information that would identify the individual
15 who made a report of suspected abuse or persons who
16 cooperated in a subsequent investigation.

17 (2) Upon request, the mandated reporter who filed the
18 report of abuse may be informed whether a case had been
19 opened as a result of the report.

20 (c) Appeal.--A denial of services by the department or an
21 area agency on aging under this chapter may be appealed in
22 accordance with the rules and regulations issued by the
23 department under Article XXII-A of the act of April 9, 1929
24 (P.L.177, No.175), known as The Administrative Code of 1929.
25 Section 308-A. Substantiated perpetrators.

26 If an investigation by an area agency on aging finds that an
27 individual is a substantiated perpetrator, the individual may
28 appeal the findings of the investigation and shall be entitled
29 to the following:

30 (1) Notification by the area agency on aging at the

1 conclusion of the investigation that the individual has been
2 determined to be a substantiated perpetrator and a brief
3 summary of the investigative findings.

4 (2) The right to file an appeal with the department
5 under 1 Pa. Code Pt. II (relating to general rules of
6 administrative practice and procedure) to challenge the
7 determination.

8 (3) The right to request additional information related
9 to the determination, upon the filing of an appeal. Upon
10 request, the area agency on aging shall provide, consistent
11 with the confidentiality requirements of this act, a brief
12 summary of the information that supports the determination.

13 Section 309-A. Electronic records.

14 A requirement of this act that information be prepared,
15 filed, submitted, requested, maintained or signed in writing may
16 be satisfied by the use of an electronic record or signature to
17 the extent permitted by law, unless the department, an area
18 agency on aging or a law enforcement agency requires the use of
19 a non-electronic record or original signature.

20 Section 310-A. Confidentiality standards required.

21 An area agency on aging shall utilize the department's
22 confidentiality standards established under section 204-A.

23 Section 311-A. Availability of protective services.

24 An area agency on aging shall offer protective services to an
25 individual determined by the area agency on aging to be an older
26 adult in need of protective services under this act.

27 CHAPTER 4-A

28 PROTECTIVE SERVICES

29 Section 401-A. Consent by request.

30 An older adult shall receive protective services voluntarily

1 unless the services are ordered by a court of competent
2 jurisdiction.

3 Section 402-A. Interference with services.

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

8 Section 403-A. Financial obligations, liabilities and payments.

9 An older adult receiving protective services and an agency
10 providing services under this chapter shall comply with the
11 following provisions regarding liability for the payment of
12 services:

13 (1) Funding to provide protective services under this
14 chapter may not be used in place of any public or private
15 entitlement or benefit for which the older adult receiving
16 protective services under this chapter is or may be eligible.

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

20 (3) Funding available to local area agencies on aging
21 under this chapter 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.

26 (iii) Conducting investigations of reported abuse.

27 (iv) Carrying out assessments and developing service
28 plans.

29 (v) Petitioning the court.

30 (vi) Providing for emergency involuntary

1 intervention.

2 (vii) Arranging for available services needed to
3 carry out service plans, including, as appropriate,
4 arranging for services for other individuals in the
5 household unit in order to reduce, correct or eliminate
6 abuse of an older adult.

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

16 (4) An older adult receiving protective services may not
17 be charged a fee when the receipt of the services is not
18 subject to cost sharing.

19 Section 404-A. Involuntary intervention by emergency court
20 order.

21 (a) Emergency petition.--

22 (1) An area agency on aging may petition a court of
23 common pleas for an emergency order to provide protective
24 services to an older adult who is at imminent risk of death,
25 serious injury or serious bodily injury; or rape, involuntary
26 deviate sexual intercourse, sexual assault, institutional
27 sexual assault, statutory sexual assault, aggravated indecent
28 assault, indecent assault or incest, as defined by 18 Pa.C.S.
29 (relating to crimes and offenses).

30 (2) The court of common pleas shall grant the petition

1 if the court finds, by clear and convincing evidence, that
2 failure to provide protective services will place the older
3 adult at imminent risk of death, serious injury or serious
4 bodily injury; or rape, involuntary deviate sexual
5 intercourse, sexual assault, institutional sexual assault,
6 statutory sexual assault, aggravated indecent assault,
7 indecent assault or incest, as defined by 18 Pa.C.S.

8 (3) A court of common pleas shall ensure that a judge or
9 magisterial district judge is available at all times to
10 accept and rule on petitions for emergency court orders under
11 this section if the area agency on aging determines that a
12 delay until normal court hours may significantly increase
13 danger to the older adult.

14 (b) Limited order.--The court, after finding clear and
15 convincing evidence of the need for an emergency order, shall
16 order only services necessary to remove the conditions creating
17 the established need.

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

24 (d) Forcible entry.--A law enforcement official may forcibly
25 enter a premises if:

26 (1) necessary to forcibly enter the premises after
27 obtaining a court order; and

28 (2) the law enforcement official is accompanied by a
29 representative of the area agency on aging.

30 (e) Health and safety requirements.--

1 (1) The area agency on aging shall take reasonable steps
2 to ensure that while the older adult is receiving services
3 under an emergency court order:

4 (i) the health and safety needs of the older adult's
5 dependents are met; and

6 (ii) the personal property and dwelling of the older
7 adult are secure.

8 (2) If a dependent of the older adult has health and
9 safety needs, the area agency on aging shall make a report as
10 follows:

11 (i) A report of suspected child abuse shall be made
12 in accordance with 23 Pa.C.S. Ch. 63 (relating to child
13 protective services).

14 (ii) A report of need for adult protective services
15 shall be made in accordance with the act of October 7,
16 2010 (P.L.484, No.70), known as the Adult Protective
17 Services Act.

18 Section 405-A. Confidentiality of records.

19 (a) Requirement.--

20 (1) Information contained in a report, record of
21 investigation, assessment and service plan created under this
22 chapter shall be considered privileged and confidential and
23 shall be maintained in accordance with regulations
24 promulgated by the department.

25 (2) The department or the area agency on aging may not
26 release confidential information related to the older adult
27 except by court order or to a law enforcement official or
28 coroner under subsection (b)(2), and the confidential
29 information may be used by the department in a civil
30 proceeding, subject to a protective order.

1 (3) Information contained in a protective service record
2 is subject to other Federal and State privacy and
3 confidentiality laws.

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

5 (1) A protective services record may be provided to a
6 court of competent jurisdiction or to another party pursuant
7 to a court order.

8 (2) A protective services record may be provided to a
9 law enforcement official or coroner if the information is
10 relevant to the official's or coroner's investigation of
11 abuse or death of the older adult. The protective services
12 record is not subject to inspection and duplication under the
13 act of February 14, 2008 (P.L.6, No.3), known as the Right-
14 to-Know Law.

15 (3) In arranging specific services to carry out a
16 service plan, the area agency on aging may disclose
17 information to an appropriate service provider as may be
18 necessary for the provision of services.

19 (4) The older adult who is the subject of a report or,
20 if the guardian is not named as an abuser in the report, the
21 older adult's guardian, may receive, upon written request, a
22 summary of the report of need except information that would
23 identify the individual who made a report of suspected abuse
24 or any person that cooperated in a subsequent investigation.

25 (5) A mandatory reporter who makes a report of suspected
26 abuse may receive, upon written request, confirmation from
27 the area agency on aging that the report was received and the
28 area agency on aging is acting in accordance with this
29 chapter. No additional information beyond the confirmation
30 shall be provided under this paragraph.

1 (6) For purposes of monitoring area agency on aging
2 performance or conducting other official duties, appropriate
3 staff of the department, as designated by the secretary, may
4 access protective services records.

5 (7) The department or the area agency on aging may
6 collaborate or share information included in protective
7 services records with Commonwealth agencies for purposes of
8 official Commonwealth business, to the extent permitted by
9 law.

10 (8) For purposes of coordination and continuity of
11 service delivery, the department and the Department of Human
12 Services shall each exchange protective services records,
13 including assessments, service plans, reports of need and
14 medical records of the following:

15 (i) Older adults in need of protective services.

16 (ii) Older adults in potential need of protective
17 services.

18 (iii) Adults in need of protective services as
19 defined under the act of October 7, 2010 (P.L.484,
20 No.70), known as the Adult Protective Services Act.

21 (iv) Adults who are potentially in need of
22 protective services under the Adult Protective Services
23 Act.

24 (9) The department or the area agency on aging may share
25 a summary of protective services information with another
26 area agency on aging performing a duty under this chapter
27 relevant to older adults within the area agency on aging's
28 jurisdiction.

29 (10) An employee of an agency of another state who
30 performs older adult protective services similar to those

1 under this chapter may access a summary of protective
2 services information relevant to an older adult within the
3 area agency on aging's jurisdiction.

4 (11) A protective services record of an older adult may
5 be provided to a health care provider that is examining or
6 treating the older adult and suspects the older adult is in
7 need of protection under this chapter.

8 (12) A protective services record of an older adult may
9 be provided to the director, or an individual specifically
10 designated in writing by the director, of a hospital or other
11 medical institution where an older adult is being treated if
12 the director or designee suspects that the recipient is in
13 need of protection under this act.

14 (13) Unless prohibited by Federal law, a protective
15 services record relating to financial exploitation may be
16 provided to a financial institution or fiduciary as necessary
17 to exercise the authority to prohibit disbursement of funds
18 and financial transactions provided under section 603-A.

19 (c) Definition.--For purposes of this section, "court order"
20 does not include a subpoena.

21 Section 406-A. Older adult fatality review team and written
22 report.

23 (a) Convening of team.--

24 (1) An older adult fatality review team shall be
25 convened by an area agency on aging in accordance with a
26 protocol developed by the area agency on aging, the
27 department and the district attorney for a case in which an
28 older adult dies as a direct result of suspected or
29 substantiated abuse during an active protective services
30 case.

1 (2) The team may convene after the area agency on aging
2 makes a determination of a direct connection between an older
3 adult's death and suspected or substantiated abuse, and shall
4 convene no later than 30 days from the receipt of the oral
5 report to the department of the suspected or substantiated
6 abuse of an older adult.

7 (3) The area agency on aging in the county where the
8 abuse occurred and in any county where the older adult
9 resided within the six months preceding the fatality shall
10 convene an older adult fatality review team.

11 (4) An area agency on aging may establish an independent
12 older adult fatality review team or jointly with other area
13 agencies on aging. If a joint area agency on aging older
14 adult fatality review team is established, the multicounty
15 team members shall execute an agreement between participating
16 counties regarding team membership, staffing and operations.

17 (5) A fatality review team shall be multidisciplinary
18 and culturally diverse and include professionals and
19 representatives from organizations that provide services or
20 community resources for older adults in the community served
21 by the fatality review team. A team shall consist of at least
22 six individuals who are broadly representative of the county
23 where the team is established and have expertise in
24 prevention and treatment of abuse of older adults.

25 (6) With consideration given to the circumstances of
26 each case and availability of individuals to serve as
27 members, the team may consist of the following individuals:

28 (i) A staff person from the area agency on aging.

29 (ii) A member of the advisory committee or board of
30 the area agency on aging.

1 (iii) A health care professional who is licensed to
2 practice in this Commonwealth.

3 (iv) A representative of the Pennsylvania Council on
4 Aging.

5 (v) A representative of law enforcement or the
6 district attorney.

7 (vi) An attorney-at-law trained in legal
8 representation of older adults who is licensed to
9 practice in this Commonwealth.

10 (vii) A mental health professional who is licensed
11 to practice in this Commonwealth.

12 (viii) A representative of an entity specializing in
13 older adult advocacy that provides services to older
14 adults in the county. The individual under this
15 subparagraph must not be an employee of the area agency
16 on aging.

17 (ix) The county coroner, medical examiner or
18 forensic pathologist who is licensed to practice in this
19 Commonwealth.

20 (x) A representative of a local domestic violence
21 program.

22 (xi) A representative of a local drug and alcohol
23 program.

24 (xii) An individual representing caregivers.

25 (xiii) Any individual who the area agency on aging
26 or older adult fatality review team determines is
27 necessary to assist the team in performing its duties.

28 (7) Members of the team shall be responsible for all of
29 the following:

30 (i) Maintaining confidentiality of information under

1 section 405-A.

2 (ii) Providing and discussing relevant case-specific
3 information.

4 (iii) Attending and participating in all meetings
5 and activities as required.

6 (iv) Assisting in the development of the report
7 under paragraph (4)(v).

8 (8) The area agency on aging, in accordance with the
9 protocol and in consultation with the team, shall appoint an
10 individual who is not an employee of the area agency on aging
11 to serve as chairperson of the team.

12 (9) The team shall perform the following duties:

13 (i) Review the circumstances of the older adult's
14 fatality resulting from suspected or substantiated abuse.

15 (ii) Review the delivery of services provided to the
16 abused older adult by the area agency on aging and review
17 any services provided by an area agency on aging in each
18 county where the older adult resided or received services
19 within the six months preceding the fatality. This
20 subparagraph includes law enforcement, mental health
21 services, programs for older adults and older adults with
22 special needs, drug and alcohol programs, senior centers
23 and health care providers.

24 (iii) Review relevant court records and documents
25 related to the abused older adult.

26 (iv) Review the area agency on aging's compliance
27 with statutes and regulations and with relevant policies
28 and procedures of the area agency on aging.

29 (b) Submission of report.--

30 (1) Not later than 90 days after convening, submit a

1 final written report on the older adult fatality to the
2 department and designated county officials under subsection
3 (e).

4 (2) Not later than 30 days after submission of the
5 report to the department, the area agency on aging shall make
6 the report available, upon request, to other individuals to
7 whom confidential reports may be released, as specified by
8 subsection (e).

9 (3) The area agency on aging shall make available to the
10 public a summary of the report, but shall remove identifying
11 information from the contents of the report.

12 (4) The area agency on aging may not release the report
13 under paragraph (3) to the public if the district attorney
14 certifies that release of the report may compromise a pending
15 criminal investigation or proceeding. Certification by the
16 district attorney shall stay the release of the report for a
17 period of 60 days, at which time the report shall be released
18 unless a new certification is made by the district attorney.

19 (5) The report under this subsection shall include:

20 (i) Any deficiency and strength in:

21 (A) compliance with statutes and regulations;

22 and

23 (B) protective services to older adults.

24 (ii) Any recommendation to improve protective
25 services systems and community resources to reduce older
26 adult abuse and related fatalities in the fatality review
27 team's jurisdiction.

28 (iii) Any proposed solution for inadequacies in the
29 protective services systems.

30 (iv) Any recommendation to improve sources of

1 information regarding the reporting and investigations of
2 reported older adult abuse cases including standards for
3 the uniform and consistent reporting and investigations
4 by law enforcement or other emergency service responders
5 within the fatality review team's jurisdiction.

6 (v) Any recommendation for improvements to State
7 laws and local partnerships, policies and practices to
8 prevent older adult abuse and related deaths.

9 (c) Response by department.--

10 (1) Not later than 45 days after receipt of a report of
11 an older adult fatality under subsection (a), the department
12 shall review the findings and recommendations of the report
13 and provide a written response to the area agency on aging
14 and the older adult fatality review team.

15 (2) The department shall make the response, upon
16 request, available to other individuals to whom confidential
17 reports may be released, as specified by subsection (e).

18 (3) A summary of the response shall be made available to
19 the public, but the department shall remove identifying
20 information from the contents of the response. The department
21 may not release the response to the public if the district
22 attorney certifies that release of the response may
23 compromise a pending criminal investigation or proceeding.
24 Certification by the district attorney shall stay the release
25 of the report for a period of 60 days, at which time the
26 report shall be released, unless a new certification is made
27 by the district attorney.

28 (d) Construction.--

29 (1) This section shall be construed to assist in the
30 improvement of protective services designed to identify and

1 prevent older adult abuse.

2 (2) This section shall not be construed to impede or
3 interfere with criminal prosecutions of persons who have
4 committed older adult abuse.

5 (e) Release of information in confidential reports.--

6 (1) A report specified in this section shall only be
7 made available to:

8 (i) An authorized official of a county, of a Federal
9 agency that has a need for the information to carry out
10 its duties under law to protect older adults, from abuse
11 or of an agency of another state that performs protective
12 services analogous to the services performed by area
13 agencies on aging or the department in the course of the
14 official's duties, a multidisciplinary team member
15 assigned to the case and any duly authorized person
16 providing services under this act.

17 (ii) An authorized official or agent of the
18 department in accordance with department regulations or
19 in accordance with the conduct of a performance
20 monitoring under this act.

21 (iii) A court of competent jurisdiction.

22 (iv) A person pursuant to court order or subpoena.

23 (v) A law enforcement agency or a law enforcement
24 official of a jurisdiction, in the course of performing
25 an official duty, as long as the information is relevant
26 to performance of the duty.

27 (vi) A standing committee of the General Assembly
28 that specifically has department legislative oversight.

29 (vii) A Federal auditor if required for Federal
30 financial participation in funding of an agency, except

1 that a Federal auditor may not remove an identifiable
2 report or copy of the report from the department or area
3 agency on aging.

4 (viii) A designated county official, in reviewing
5 the competence of the area agency on aging or its
6 employees under this act. An official under this
7 paragraph is limited to the following:

8 (A) The board of commissioners of a county other
9 than a county of the first class.

10 (B) The board of directors of a nonprofit area
11 agency on aging.

12 (ix) An appropriate official of another county or
13 state regarding an investigation related to older adult
14 abuse when an older adult had moved to the other county
15 or state. A report released under this subparagraph shall
16 include a general protective service report and related
17 information. The report and information shall be provided
18 within seven calendar days. The department shall
19 promulgate regulations as necessary to carry out the
20 purposes of this subparagraph.

21 (x) A member of an older adult fatality review team
22 under this section.

23 (xi) The Department of the Auditor General in
24 conjunction with the performances of the duties
25 designated to the Office of Auditor General, except that
26 the Auditor General may not remove an identifiable report
27 or copy of the report from the department or agency area
28 agency on aging.

29 (2) Upon a written request, the estate of the subject of
30 a report may receive a copy of all information, except for

1 information prohibited from disclosure under section 307-A.

2 (3) Subject to section 506-A, a person under this
3 section that has access to the information shall treat all
4 reporting sources as confidential informants.

5 (f) Duties of department.--The department, in consultation
6 with State or local government agencies, shall have all of the
7 following duties:

8 (1) Provide necessary technical assistance to a fatality
9 review team.

10 (2) Promulgate regulations as necessary to implement
11 this section.

12 (3) Submit an annual report to the Governor and the
13 General Assembly that includes a summary of reports received
14 from each area agency on aging's fatality review teams and
15 recommendations relating to the reduction of risk of older
16 adult abuse and related deaths.

17 (g) Authority to access records.--To the extent permitted by
18 Federal law, a fatality review team may access records as
19 follows:

20 (1) Notwithstanding any other provision of law and
21 consistent with the Health Insurance Portability and
22 Accountability Act of 1996 (Public Law 104-191, 110 Stat.
23 1936), the Department of Health shall provide the records of
24 a deceased individual under review without the need for
25 authorization of any person, including the executor,
26 administrator or personal representative of the deceased
27 individual for purposes of review under this section.

28 (2) Notwithstanding any other provision of law and
29 consistent with the Health Insurance Portability and
30 Accountability Act of 1996, the team may review and inspect

1 mental health care service files and records of a deceased
2 individual under review without the need for authorization of
3 any person, including the executor, administrator or personal
4 representative of the deceased individual for purposes of
5 review under this section.

6 (3) Notwithstanding any other provision of law and
7 consistent with the Health Insurance Portability and
8 Accountability Act of 1996, a health care facility and health
9 care provider, pharmacy and mental health care provider shall
10 provide medical records of a deceased individual under review
11 without the need for authorization of any person, including
12 the executor, administrator or personal representative of the
13 deceased individual for purposes of review under this
14 section.

15 (4) If deemed necessary for its review, the team may
16 petition the court for leave to review and inspect all files
17 and records of the court relating to a deceased individual
18 under review in accordance with 42 Pa.C.S. § 6307 (relating
19 to inspection of court files and records).

20 (5) Other records pertaining to the deceased under
21 review for the purposes of this section shall be open to
22 inspection and duplication as permitted by law.

23 (h) Requests for records.--

24 (1) The following shall be provided, to the extent
25 permitted by Federal law, to a fatality review team on
26 written request of the chairperson or designee of a fatality
27 review team:

28 (i) A record regarding the physical health and
29 mental health, maintained by a health care provider,
30 hospital or health system, for a deceased individual

1 under review by the fatality review team.

2 (ii) A record maintained by a State or local
3 government agency or entity, including death
4 investigative information, medical examiner investigative
5 information, law enforcement investigative information,
6 emergency medical services report, fire department
7 record, prosecutorial record, parole and probation
8 information and record, court record and relevant
9 information and record of a social services agency,
10 including the Department of Human Services, if the agency
11 or entity previously provided services to a deceased
12 individual under review by the fatality review team.

13 (iii) The following persons and entities shall
14 comply with a records request by a fatality review team
15 made under this subsection:

16 (A) Coroner or medical examiner.

17 (B) Fire department.

18 (C) Health system.

19 (D) Hospital.

20 (E) Law enforcement agency.

21 (F) State or local governmental agency,
22 including the department, the Department of Health,
23 Department of Human Services and the Department of
24 Corrections.

25 (G) Mental health provider.

26 (H) Health care provider.

27 (I) Substance use disorder treatment provider.

28 (J) EMS provider.

29 (K) Social services provider.

30 (L) Any other person or entity in possession of

1 a record pertinent to the fatality review team
2 investigation of an older adult's death.

3 (2) A person or entity subject to a records request by a
4 fatality review team under subsection (a) may charge the
5 fatality review team a reasonable fee for the service of
6 duplicating any record requested by the fatality review team
7 for which duplication is required.

8 (3) If requested in writing by the chairperson or
9 designee of the fatality review team, a person or entity
10 shall provide information within five business days of
11 receipt of the written request, excluding weekends and
12 holidays, unless an extension is granted by the chairperson
13 or designee. For purposes of this paragraph, a written
14 request includes a request submitted via email or any other
15 type of transmission.

16 (4) A fatality review team shall not need an
17 administrative subpoena or other form of legal compulsion to
18 receive requested records under this section. This paragraph
19 shall not be construed to impair any power or duty the
20 fatality review team has to obtain an administrative subpoena
21 or other form of legal compulsion.

22 (5) Information received in response to a request under
23 this section may be shared at a fatality review team meeting
24 in accordance with this section.

25 (6) A record may not be released during the pendency of
26 an investigation if the release of the record would hinder
27 the progress of an active investigation or criminal
28 proceeding.

29 (7) This subsection shall apply to the extent permitted
30 by Federal law.

1 (i) Confidentiality of fatality review team records and
2 meetings.--

3 (1) A fatality review team meeting shall be closed to
4 the public and information discussed at the meeting shall be
5 confidential.

6 (2) The proceedings, records and information maintained
7 by and shared with a fatality review team are not subject to:

8 (i) Inspection and duplication under the act of
9 February 14, 2008 (P.L.6, No.3), known as the Right-
10 to-Know Law.

11 (ii) Discovery, subpoena or introduction into
12 evidence in a criminal or civil proceeding.

13 (3) Information presented in or an opinion formed as a
14 result of a meeting of a fatality review team may not be
15 subject to subpoena or discovery or admissible in evidence in
16 a civil or criminal action.

17 (4) Nothing in this subsection shall be construed to
18 prevent a member of a fatality review team from testifying in
19 a criminal or civil proceeding to information obtained
20 independently of participation in the fatality review team or
21 to information which is publicly available.

22 (j) Criminal and civil liability protections.

23 (1) An individual who is not a member of a fatality
24 review team may, in good faith, provide information to a
25 fatality review team for the purposes of this section. A
26 member of a fatality review team may discuss confidential
27 matters during a meeting of the fatality review team. The
28 following shall apply:

29 (i) A member of a fatality review team shall comply
30 with applicable Federal and State laws regarding

1 confidentiality.

2 (ii) Except as provided under paragraph (2), a
3 member of a fatality review team or an individual who, in
4 good faith, provides information to a fatality review
5 team may not be disciplined, criminally prosecuted or
6 held administratively or civilly liable for complying
7 with this section.

8 (2) The immunity specified under this subsection does
9 not apply to a member of a fatality review team or an
10 individual providing information to a fatality review team by
11 invitation who:

12 (i) rediscloses confidential information in a manner
13 not in accordance with Federal or State law; or

14 (ii) discloses confidential information to the
15 fatality review team with malice, in bad faith or in a
16 negligent manner.

17 Section 6. Chapter 5 of the act is repealed:

18 [CHAPTER 5

19 CRIMINAL HISTORY FOR EMPLOYEES

20 Section 501. Definitions.

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

24 "Applicant." An individual who submits an application, which
25 is being considered for employment, to a facility.

26 "State Police." The Pennsylvania State Police.

27 Section 502. Information relating to prospective facility
28 personnel.

29 (a) General rule.--A facility shall require all applicants
30 to submit with their applications, and shall require all

1 administrators and any operators who have or may have direct
2 contact with a recipient to submit, the following information
3 obtained within the preceding one-year period:

4 (1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal
5 history record information), a report of criminal history
6 record information from the State Police or a statement from
7 the State Police that their central repository contains no
8 such information relating to that person. The criminal
9 history record information shall be limited to that which is
10 disseminated pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to
11 general regulations).

12 (2) Where the applicant is not and for the two years
13 immediately preceding the date of application has not been a
14 resident of this Commonwealth, administration shall require
15 the applicant to submit with the application for employment a
16 report of Federal criminal history record information
17 pursuant to the Federal Bureau of Investigation's
18 appropriation under the Departments of State, Justice, and
19 Commerce, the Judiciary, and Related Agencies Appropriation
20 Act, 1973 (Public Law 92-544, 86 Stat. 1109). The department
21 shall be the intermediary for the purposes of this paragraph.
22 For the purposes of this paragraph, the applicant shall
23 submit a full set of fingerprints in a manner prescribed by
24 the department. The Commonwealth shall submit the
25 fingerprints to the Federal Bureau of Investigation for a
26 national criminal history record check. The information
27 obtained from the criminal record check shall be used by the
28 department to determine the applicant's eligibility. The
29 determination shall be submitted to the administrator by the
30 applicant prior to commencing employment. The administrator

1 shall insure confidentiality of the information. The
2 provisions of 18 Pa.C.S. § 9121(b)(2) shall not apply if the
3 request for a report of Federal criminal history record
4 information is made pursuant to this section.

5 (b) (Reserved).

6 Section 503. Grounds for denying employment.

7 (a) General rule.--In no case shall a facility hire an
8 applicant or retain an employee required to submit information
9 pursuant to section 502(a) if the applicant's or employee's
10 criminal history record information indicates the applicant or
11 employee has been convicted of any of the following offenses:

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

15 (2) An offense under one or more of the following
16 provisions of 18 Pa.C.S. (relating to crimes and offenses):

17 Chapter 25 (relating to criminal homicide).

18 Section 2702 (relating to aggravated assault).

19 Section 2901 (relating to kidnapping).

20 Section 2902 (relating to unlawful restraint).

21 Section 3121 (relating to rape).

22 Section 3122.1 (relating to statutory sexual
23 assault).

24 Section 3123 (relating to involuntary deviate sexual
25 intercourse).

26 Section 3124.1 (relating to sexual assault).

27 Section 3125 (relating to aggravated indecent
28 assault).

29 Section 3126 (relating to indecent assault).

30 Section 3127 (relating to indecent exposure).

1 Section 3301 (relating to arson and related
2 offenses).

3 Section 3502 (relating to burglary).

4 Section 3701 (relating to robbery).

5 A felony offense under Chapter 39 (relating to theft
6 and related offenses) or two or more misdemeanors under
7 Chapter 39.

8 Section 4101 (relating to forgery).

9 Section 4114 (relating to securing execution of
10 documents by deception).

11 Section 4302 (relating to incest).

12 Section 4303 (relating to concealing death of child).

13 Section 4304 (relating to endangering welfare of
14 children).

15 Section 4305 (relating to dealing in infant
16 children).

17 Section 4952 (relating to intimidation of witnesses
18 or victims).

19 Section 4953 (relating to retaliation against witness
20 or victim).

21 A felony offense under section 5902(b) (relating to
22 prostitution and related offenses).

23 Section 5903(c) or (d) (relating to obscene and other
24 sexual materials and performances).

25 Section 6301 (relating to corruption of minors).

26 Section 6312 (relating to sexual abuse of children).

27 (3) A Federal or out-of-State offense similar in nature
28 to those crimes listed in paragraphs (1) and (2).

29 (c) Immunity.--An administrator or a facility shall not be
30 held civilly liable for any action directly related to good

1 faith compliance with this section.

2 Section 504. Regulations.

3 The department, in consultation with the Department of Health
4 and the Department of Public Welfare, shall promulgate the
5 regulations necessary to carry out this chapter.

6 Section 505. Violations.

7 (a) Administrative.--

8 (1) An administrator who intentionally or willfully
9 fails to comply or obstructs compliance with the provisions
10 of this chapter commits a violation of this chapter and shall
11 be subject to an administrative penalty under paragraph (3).

12 (2) A facility owner that intentionally or willfully
13 fails to comply with or obstructs compliance with this
14 chapter commits a violation of this chapter and shall be
15 subject to an administrative penalty under paragraph (3).

16 (3) The Commonwealth agency or Commonwealth agencies
17 which license the facility have jurisdiction to determine
18 violations of this chapter and may issue an order assessing a
19 civil penalty of not more than \$2,500. An order under this
20 paragraph is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to
21 practice and procedure of Commonwealth agencies) and Ch. 7
22 Subch. A (relating to judicial review of Commonwealth agency
23 action).

24 (b) Criminal.--

25 (1) An administrator who intentionally or willfully
26 fails to comply or obstructs compliance with this chapter
27 commits a misdemeanor of the third degree and shall, upon
28 conviction, be sentenced to pay a fine of \$2,500 or to
29 imprisonment for not more than one year, or both.

30 (2) A facility owner that intentionally or willfully

1 fails to comply with or obstructs compliance with this
2 chapter commits a misdemeanor of the third degree and shall,
3 upon conviction, be sentenced to pay a fine of \$2,500 or to
4 imprisonment for not more than one year, or both.

5 Section 506. Provisional employees for limited periods.

6 Notwithstanding section 502, administrators may employ
7 applicants on a provisional basis for a single period not to
8 exceed 30 days or, for applicants under section 502(a)(2), a
9 period of 90 days, if all of the following conditions are met:

10 (1) The applicant has applied for the information
11 required under section 502 and the applicant provides a copy
12 of the appropriate completed request forms to the
13 administrator.

14 (2) The administrator has no knowledge of information
15 pertaining to the applicant which would disqualify him from
16 employment pursuant to section 503, subject to 18 Pa.C.S. §
17 4911 (relating to tampering with public records or
18 information).

19 (3) The applicant swears or affirms in writing that he
20 is not disqualified from employment under section 503.

21 (4) If the information obtained under section 502
22 reveals that the applicant is disqualified from employment
23 under section 503, the applicant shall be immediately
24 dismissed by the administrator.

25 (5) The department shall develop guidelines regarding
26 the supervision of applicants. For a home health care agency,
27 supervision shall include random direct supervision by an
28 employee who has been employed by the facility for a period
29 of one year.

30 Section 507. State Police.

1 No later than one year following the effective date of this
2 chapter, the State Police and the department shall report to the
3 Aging and Youth Committee of the Senate and the Aging and Youth
4 Committee of the House of Representatives with their findings
5 and recommendations regarding the implementation of this
6 chapter.

7 **Section 508. Applicability.**

8 This chapter shall apply as follows:

9 (1) An individual who, on the effective date of this
10 chapter, has continuously for a period of one year been an
11 employee of the same facility shall be exempt from section
12 502 as a condition of continued employment.

13 (2) If an employee is not exempt under paragraph (1),
14 the employee and the facility shall comply with section 502
15 within one year of the effective date of this chapter.

16 (3) If an employee who is exempt under paragraph (1)
17 seeks employment with a different facility, the employee and
18 the facility shall comply with section 502.

19 (4) An employee who has obtained the information
20 required under section 502 may transfer to another facility
21 established and supervised by the same owner and is not
22 required to obtain additional reports before making the
23 transfer.]

24 Section 7. The act is amended by adding chapters to read:

25 CHAPTER 5-A

26 REPORTING

27 Section 501-A. Voluntary reporting.

28 A person who knows or has reasonable cause to believe that an
29 older adult may be a victim of abuse may make an oral or
30 electronic report to an area agency on aging.

1 Section 502-A. Mandatory reporting.

2 (a) Duty.--A mandatory reporter who knows or has reasonable
3 cause to suspect that an older adult may be a victim of abuse
4 shall:

5 (1) Immediately make an oral or electronic report to the
6 area agency on aging in accordance with the department's
7 process and procedures.

8 (2) Complete a written mandatory abuse report under
9 section 504-A to the area agency on aging within 48 hours in
10 accordance with the department's process and procedures.

11 (b) Assistance.--A mandatory reporter employee may request
12 assistance from the employee's administrator to complete a
13 written mandatory abuse report.

14 Section 503-A. Mandatory reporting to law enforcement officials
15 and department.

16 (a) Duty.--In addition to the reports to the area agency on
17 aging under section 502-A, a mandatory reporter who knows or has
18 reasonable cause to believe that an older adult may be a victim
19 of suspicious death, serious bodily injury, serious injury; or
20 rape, involuntary deviate sexual intercourse, sexual assault,
21 institutional sexual assault, statutory sexual assault,
22 aggravated indecent assault, indecent assault or incest as
23 defined by 18 Pa.C.S. (relating to crimes and offenses), shall:

24 (1) Immediately contact law enforcement officials and
25 the department to make an oral report.

26 (2) Make a written mandatory abuse report to law
27 enforcement officials within 48 hours.

28 (b) Duty of area agency on aging.--The area agency on aging
29 shall make a written mandatory abuse report under section 504-A
30 to the department within 48 hours in accordance with the

1 department's process and procedures.

2 Section 504-A. Contents of report.

3 A written mandatory abuse report under this chapter shall be
4 prepared in a manner and on forms prescribed by the department.

5 At a minimum, the written mandatory abuse report shall include
6 the following information, as well as additional information
7 required by regulation:

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

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

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

12 (4) Nature and location of the reported incident and any
13 specific comment or observation directly related to the
14 alleged incident and the older adult involved.

15 (5) Any relevant information related to the identity of
16 the alleged abuser, including, name, age, sex and
17 relationship to the older adult.

18 (6) Name of the individual making the written mandatory
19 abuse report, contact information for the reporter and
20 information regarding any action taken by the reporter in
21 response to the incident, except as provided in section 506-
22 A(b).

23 Section 505-A. Coroner.

24 If there is reasonable cause to suspect that an older adult
25 died as a result of abuse, including a death within a coroner's
26 jurisdiction under 16 Pa.C.S. Ch. 139 (relating to coroner), an
27 area agency on aging shall give an oral or electronic report and
28 forward a copy of the written mandatory abuse report as provided
29 in section 504-A to the appropriate coroner within 24 hours. The
30 coroner shall maintain the confidentiality of the written

1 mandatory abuse report.

2 Section 506-A. Protecting identity of reporter and cooperating
3 witnesses.

4 (a) Prohibition.--Except for disclosures to law enforcement
5 officials and coroners, the release of records that would
6 identify a person who made a report under this chapter or a
7 person that cooperated in a subsequent investigation is
8 prohibited and the records are exempt from inspection and
9 duplication under the act of February 14, 2008 (P.L.6, No.3),
10 known as the Right-to-Know Law.

11 (b) Identity protection.--If a record is provided pursuant
12 to a court order, the identity of the reporter and cooperating
13 witnesses shall be deleted unless otherwise ordered by the court
14 after an in camera review.

15 CHAPTER 6-A

16 FINANCIAL INSTITUTIONS

17 Section 601-A. (Reserved).

18 Section 602-A. Reporting suspected financial exploitation.

19 (a) Report to designated representative.--If a financial
20 institution employee has reason to believe that financial
21 exploitation of an older adult may have occurred, may have been
22 attempted or is being attempted, the financial institution
23 employee shall, within the same business day, promptly report to
24 a designated representative of the financial institution.

25 (b) Review of report from financial institution employee and
26 further reporting.--

27 (1) No later than five business days after receipt of
28 the report from the financial institution employee, the
29 designated representative of the financial institution shall
30 evaluate the report.

1 (2) If, upon review, the designated representative of
2 the financial institution concludes there is reasonable cause
3 to believe financial exploitation may have occurred, has been
4 attempted or is being attempted, the designated
5 representative of the financial institution shall immediately
6 report the information to an area agency on aging and a law
7 enforcement agency, who shall follow reporting protocols
8 specified by the department.

9 (3) A report made to an agency under this subsection
10 shall provide:

11 (i) The name, age and address of the older adult.

12 (ii) The name and address, if known, of the older
13 adult's guardian, fiduciary or next of kin.

14 (iii) The name and address of the financial
15 institution and contact information for the individual
16 submitting the report.

17 (iv) The nature of the suspected financial
18 exploitation of the older adult.

19 (v) Any specific comment, observation or other
20 information directly related to the alleged incident, the
21 older adult and suspected perpetrator of the financial
22 exploitation the financial institution determines is
23 needed to facilitate investigation of the report.

24 (vi) Whether a financial institution took an action
25 authorized under section 603-A.

26 (c) Construction.--Nothing in this section shall be
27 construed to prevent a designated representative of the
28 financial institution from voluntarily filing a report of need
29 for an older adult potentially in need of protective services.
30 Section 603-A. Holding transactions.

1 (a) Authorization to financial institutions.--If a financial
2 institution or a financial institution employee has reasonable
3 cause to believe that financial exploitation of an older adult
4 may have occurred, may have been attempted or is being
5 attempted, the financial institution may take, subject to
6 subsection (c), any of the following actions to temporarily hold
7 a financial transaction pending an investigation:

8 (1) Hold or temporarily refuse one or more financial
9 transactions of the older adult.

10 (2) Hold the withdrawal or disbursement of money
11 contained in the older adult's account.

12 (3) Hold a change in ownership of the older adult's
13 account.

14 (4) Hold a transfer of money from the older adult's
15 account to an account owned wholly or partially by another
16 person.

17 (5) Hold complying with instructions given to the
18 financial institution by a person who is authorized to have
19 access to the older adult's account.

20 (6) Hold the designation or change the designation of
21 beneficiaries to receive any property, benefit, or contract
22 rights for an older adult at death.

23 (b) Duty to report.--If a financial institution takes action
24 under subsection (a), the financial institution shall file a
25 report under section 602-A no later than the next business day.

26 (c) Conditions of holding a financial transaction.--
27 Authority to hold a financial transaction under subsection (a)
28 shall be as follows:

29 (1) Subject to paragraphs (2) and (3), the financial
30 transaction hold shall last for no longer than seven days

1 after the date of the initial hold.

2 (2) The authority granted to a financial institution
3 under subsection (a) regarding holding financial transactions
4 may be extended beyond seven days for an additional 15
5 business days at the request of an area agency on aging, a
6 law enforcement agency or a legal representative of the older
7 adult, or if the financial institution has not received a
8 request to extend or terminate a hold from an area agency on
9 aging, a law enforcement official or a legal representative
10 of the older adult. A request by an area agency on aging, a
11 law enforcement agency or a legal representative of an older
12 adult to hold or authorize a financial transaction must be
13 based on cause and be documented in writing.

14 (3) A hold issued under subsection (a) may end sooner
15 than the period described in paragraph (1) or (2) if any of
16 the following applies:

17 (i) The financial institution has reasonable cause
18 to believe the financial transaction will not result in
19 the financial exploitation of an older adult.

20 (ii) The financial institution is instructed by a
21 person who is authorized to have access to the older
22 adult's account and is not suspected to be the
23 perpetrator, an area agency on aging, law enforcement, or
24 the department to cease its hold of a financial
25 transaction or action taken under subsection (a).

26 (iii) The financial institution is ordered by a
27 court of competent jurisdiction to cease the hold.

28 (d) Notification.--

29 (1) Except as provided under Federal or State law, if a
30 financial institution takes an action authorized under

1 subsection (a), the designated representative of the
2 financial institution shall have the following duties:

3 (i) Within one business day, notify the older adult
4 and any person authorized to transact business on the
5 account, except for a person reasonably believed to have
6 engaged in suspected or attempted financial exploitation
7 of the older adult.

8 (ii) Within five business days, notify any person
9 authorized by the older adult to receive notifications
10 regarding account activity, except for a person
11 reasonably believed to have engaged in suspected or
12 attempted financial exploitation of the older adult.

13 (2) The notification under paragraph (1) shall:

14 (i) State the financial institution has temporarily
15 blocked the disbursement of money or held the execution
16 of a financial transaction as authorized by this section
17 to protect the older adult from financial exploitation.

18 (ii) Provide the name of the financial institution
19 and the telephone number or other contact information of
20 the financial institution for details about the action
21 taken under this section.

22 (iii) Identify the account or financial transaction
23 to which the notification applies.

24 (3) Notifications required by this subsection may be
25 given:

26 (i) in writing;

27 (ii) in an electronic record in the manner
28 authorized by section 304 of the act of December 16, 1999
29 (P.L.971, No.69), known as the Electronic Transactions
30 Act; or

1 (iii) orally, if a record of the oral communication
2 is contemporaneously made and is retained by the
3 financial institution.

4 Section 604-A. Model training program.

5 The department, in consultation with the Department of
6 Banking and Securities and representatives of the financial
7 services industry, shall develop a model training program for
8 financial institution employees and designated representatives
9 of financial institutions regarding the identification of
10 activities that constitute financial exploitation of older
11 adults.

12 Section 605-A. Assistance by a person who is authorized to have
13 access to the older adult's account.

14 (a) Authorization.--Notwithstanding any other provision of
15 law limiting or prohibiting disclosure, a designated
16 representative of a financial institution may provide
17 information relating to the account of an older adult to a
18 person authorized to access the older adult's account sufficient
19 to enable the person to:

20 (1) consult with or assist the older adult in avoiding
21 or remedying suspected financial exploitation; or

22 (2) exercise the person's authority to protect the older
23 adult.

24 (b) Applicability.--Subsection (a) does not apply if the
25 financial institution has reason to believe the person is
26 knowingly engaged in or facilitating the financial exploitation
27 of the older adult.

28 (c) Disclosure of information.--Except when contacting an
29 authorized contact provided by an older adult to a financial
30 institution, a fiduciary authorized to manage some or all of the

1 financial affairs of the older adult or a co-owner, additional
2 authorized signatory or other person authorized to transact
3 business on the account of the older adult, a designated
4 representative of a financial institution:

5 (1) May disclose only that there is reasonable cause to
6 suspect that the older adult may be a victim or target of
7 financial exploitation and the nature of the suspected
8 financial exploitation.

9 (2) May not disclose other details or confidential
10 personal information regarding the financial affairs of the
11 older adult.

12 Section 606-A. Access to records.

13 (a) Authorization.--Notwithstanding section 306-A, a
14 financial institution that submitted a report to an area agency
15 on aging under section 602-A regarding the financial
16 exploitation or attempted financial exploitation of an older
17 adult may:

18 (1) Include in the report copies of records of financial
19 transactions that are relevant to the suspected financial
20 exploitation or attempted financial exploitation of the older
21 adult.

22 (2) Provide access to the records described under
23 paragraph (1) to the area agency on aging to which the report
24 is submitted.

25 (b) Copies.--

26 (1) A financial institution shall:

27 (i) Upon written request of the area agency on aging
28 or a law enforcement agency, provide, at no cost, access
29 to or copies of records that are reasonably relevant to
30 the suspected financial exploitation or attempted

1 financial exploitation of the older adult to an area
2 agency on aging, a law enforcement agency or the
3 department, for the purpose of performing an
4 investigation of the suspected financial exploitation or
5 attempted financial exploitation.

6 (ii) In response to a request for records under this
7 section, provide access to or copies of records under
8 this section within two business days. Records under this
9 section may include records regarding the most recent
10 financial transaction or other prior financial
11 transactions that may constitute financial exploitation,
12 not to exceed 60 calendar days prior to the first
13 financial transaction that was reported or 60 calendar
14 days after the last financial transaction that was
15 reported, whichever is earlier.

16 (2) Records under this section may also include, or may
17 be subsequently supplemented by, records of the older adult
18 that a financial institution believes, upon consultation with
19 an area agency on aging, are needed to provide protective
20 services to the older adult.

21 (c) Confidentiality.--

22 (1) Information and records submitted by a financial
23 institution to an area agency on aging, the department or a
24 law enforcement agency shall be privileged and given
25 confidential treatment and:

26 (i) Shall not be subject to discovery or admissible
27 as evidence in a private civil action.

28 (ii) Shall not be subject to subpoena.

29 (iii) Shall be exempt from access under the act of
30 February 14, 2008 (P.L.6, No.3), known as the Right-to-

1 Know Law.

2 (iv) Except as provided in paragraph (3), shall not
3 be made public by the any person without the prior
4 written consent of the financial institution.

5 (2) An employee of an area agency on aging, the
6 department, a law enforcement agency, or any other person who
7 receives information under chapter while acting under the
8 authority of the area agency on aging, the department, a law
9 enforcement agency or a person with whom the information is
10 shared under this chapter may not testify in a private civil
11 action concerning confidential information in the
12 transparency report.

13 (3) To assist in the performance of duties, an area
14 agency on aging, the department or a law enforcement agency
15 may:

16 (i) Use information submitted under this section in
17 furtherance of a administrative or legal action brought
18 under this act or the laws of this Commonwealth.

19 (ii) Share information submitted under this section
20 with other government agencies or law enforcement
21 officials of this Commonwealth or other jurisdictions and
22 third-party consultants if, prior to receiving the
23 reports from a financial institution under this chapter,
24 the recipient demonstrates by written statement the
25 necessary authority and intent to give confidential
26 treatment to the information as required by this section.

27 (4) Sharing of information by a financial institution
28 under this section with, to or by an area agency on aging,
29 the department or a law enforcement agency as authorized by
30 this chapter does not constitute a waiver of any applicable

1 privilege or claim of confidentiality.

2 (d) Disclosures regarding investigations.--Notwithstanding
3 the requirements of section 306-A, an area agency on aging may
4 disclose and discuss with a financial institution reports of the
5 financial exploitation of an older adult and the results of the
6 investigation of reports to the extent reasonably necessary to
7 facilitate the financial institution's authority under section
8 602-A(b) to:

9 (1) hold a financial transaction;

10 (2) consult with a person authorized to have access to
11 the older adult's account under section 602-A(c); or

12 (3) produce records requested under section 603-A.

13 Section 607-A. Annual Reporting on Financial Exploitation.

14 No later than six months following the effective date of this
15 subsection and by December 31 thereafter, a financial
16 institution shall submit information to the department, which
17 shall be included in the department's older adult protective
18 services annual report. Information reported by a financial
19 institution under this section shall include the following:

20 (1) The number of reports made by the financial
21 institution under section 603-A including:

22 (i) The number of occasions in which the financial
23 institution was contacted as part of an investigation of
24 potential financial exploitation by an area agency on
25 aging or law enforcement agency resulting from a report
26 made by the financial institution.

27 (ii) The average time in between the financial
28 institution making a report under section 602-A and the
29 first contact by an area agency on aging or law
30 enforcement agency.

1 (2) The total number, dollar value and types of
2 financial transaction held by the financial institution under
3 section 602-A(b) during the preceding 12 months. This shall
4 include:

5 (i) Each category of transaction.

6 (ii) The number and dollar value of the transactions
7 that were confirmed after investigation to represent
8 financial exploitation or attempted financial
9 exploitation.

10 (iii) The number and dollar value of the
11 transactions that were confirmed after investigation to
12 not represent financial exploitation or attempted
13 financial exploitation.

14 (iv) The number and categories of transactions in
15 which an extension was requested in accordance with
16 section 603-A(c).

17 (v) The number and value of transactions that were
18 released in seven business days or less.

19 Section 608-A. Estate planning by affidavit.

20 A financial institution may rely on an affidavit executed by
21 an attorney for an older adult, or certification or legal
22 opinion by an attorney acting as an agent for an older adult as
23 provided under 20 Pa.C.S. § 5608 (relating to acceptance of and
24 reliance upon power of attorney), as conclusive proof that a
25 transaction does not represent financial exploitation if the
26 following apply:

27 (1) The affidavit states that the transaction in
28 question is for the purpose of establishing, implementing or
29 continuing an estate plan intended to reduce taxes or to
30 qualify the older adult or the spouse of the older adult for

1 public or private benefits.

2 (2) The attorney, as part of estate planning under this
3 section, furnishes the affidavit to a designated
4 representative of the financial institution relying upon the
5 affidavit on demand.

6 Section 609-A. Penalties.

7 (a) Failure to report.--If a designated representative of a
8 financial institution willfully or intentionally fails to file a
9 report required under section 603-A, the financial institution
10 shall be subject to a penalty levied by the department, which
11 shall not be less than \$500 nor exceed \$2,500.

12 (b) Additional penalties.--A designated representative of
13 the financial institution or officer of a financial institution
14 who willfully or intentionally aids in the financial
15 exploitation of an older adult or commits retaliatory actions
16 against a designated representative or other employee of the
17 financial institution because of an attempt to comply with this
18 chapter shall be subject to criminal and civil penalties under
19 section 801-A, along with any other applicable provision of law.

20 (c) Consultation.--The department shall consult and notify
21 the primary regulator of a financial institution for:

22 (1) An investigation of the financial institution for
23 potential violations of this chapter, including notifying the
24 financial institution's primary regulator that an
25 investigation into a potential penalty under this chapter has
26 been initiated.

27 (2) Penalties under this section assessed against a
28 financial institution utilizing a matrix developed by the
29 department in consultation with the Department of Banking and
30 Securities.

1 Section 610-A. Immunity.

2 A person acting in good faith, according to this chapter,
3 shall have immunity from liability for providing access to
4 records or holding a transaction in accordance with this
5 chapter.

6 Section 611-A. Financial institution compliance policies.

7 A financial institution shall create and implement internal
8 compliance policies, plans and procedures to comply with this
9 act.

10 Section 8. Chapter 7 of the act is repealed:

11 [CHAPTER 7

12 REPORTING SUSPECTED ABUSE BY EMPLOYEES

13 Section 701. Reporting by employees.

14 (a) Mandatory reporting to agency.--

15 (1) An employee or an administrator who has reasonable
16 cause to suspect that a recipient is a victim of abuse shall
17 immediately make an oral report to the agency. If applicable,
18 the agency shall advise the employee or administrator of
19 additional reporting requirements that may pertain under
20 subsection (b). An employee shall notify the administrator
21 immediately following the report to the agency.

22 (2) Within 48 hours of making the oral report, the
23 employee or administrator shall make a written report to the
24 agency. The agency shall notify the administrator that a
25 report of abuse has been made with the agency.

26 (3) The employee may request the administrator to make
27 or to assist the employee to make the oral and written
28 reports required by this subsection.

29 (b) Mandatory reports to law enforcement officials.--

30 (1) An employee or an administrator who has reasonable

1 cause to suspect that a recipient is the victim of sexual
2 abuse, serious physical injury or serious bodily injury or
3 that a death is suspicious shall, in addition to contacting
4 the agency and the department, immediately contact law
5 enforcement officials to make an oral report. An employee
6 shall notify the administrator immediately following the
7 report to law enforcement officials.

8 (2) Within 48 hours of making the oral report, the
9 employee and an administrator shall make a written report to
10 appropriate law enforcement officials.

11 (3) The law enforcement officials shall notify the
12 administrator that a report has been made with the law
13 enforcement officials.

14 (4) The employee may request the administrator to make
15 or to assist the employee to make the oral and written
16 reports to law enforcement required by this subsection.

17 (c) Contents of report.--A written report under this section
18 shall be in a manner and on forms prescribed by the department.
19 The report shall include, at a minimum, the following
20 information:

21 (1) Name, age and address of the recipient.

22 (2) Name and address of the recipient's guardian or next
23 of kin.

24 (3) Name and address of the facility.

25 (4) Nature of the alleged offense.

26 (5) Any specific comments or observations that are
27 directly related to the alleged incident and the individual
28 involved.

29 Section 702. Reports to department and coroner.

30 (a) Department.--

1 (1) Within 48 hours of receipt of a written report under
2 section 701(a) involving sexual abuse, serious physical
3 injury, serious bodily injury or suspicious death, the agency
4 shall transmit a written report to the department.
5 Supplemental reports shall be transmitted as they are
6 obtained by the agency.

7 (2) A report under this subsection shall be made in a
8 manner and on forms prescribed by the department. The report
9 shall include, at a minimum, the following information:

10 (i) The name and address of the alleged victim.

11 (ii) Where the suspected abuse occurred.

12 (iii) The age and sex of the alleged perpetrator and
13 victim.

14 (iv) The nature and extent of the suspected abuse,
15 including any evidence of prior abuse.

16 (v) The name and relationship of the individual
17 responsible for causing the alleged abuse to the victim,
18 if known, and any evidence of prior abuse by that
19 individual.

20 (vi) The source of the report.

21 (vii) The individual making the report and where
22 that individual can be reached.

23 (viii) The actions taken by the reporting source,
24 including taking of photographs and x-rays, removal of
25 recipient and notification under subsection (b).

26 (ix) Any other information which the department may
27 require by regulation.

28 (b) Coroner.--For a report under section 701(a) which
29 concerns the death of a recipient, if there is reasonable cause
30 to suspect that the recipient died as a result of abuse, the

1 agency shall give the oral report and forward a copy of the
2 written report to the appropriate coroner within 24 hours.

3 Section 703. Investigation.

4 (a) Law enforcement officials.--Upon receipt of a report
5 under section 701(b), law enforcement officials shall conduct an
6 investigation to determine what criminal charges, if any, will
7 be filed.

8 (b) Notification.--If law enforcement officials have
9 reasonable cause to suspect that a recipient has suffered sexual
10 abuse, serious physical injury, serious bodily injury or a
11 suspicious death, law enforcement officials shall notify the
12 agency.

13 (c) Cooperation.--To the fullest extent possible, law
14 enforcement officials, the facility and the agency shall
15 coordinate their respective investigations. Law enforcement
16 officials, the facility and the agency shall advise each other
17 and provide any applicable additional information on an ongoing
18 basis.

19 (d) Further notification.--Law enforcement officials shall
20 notify the agency and the facility of a decision regarding
21 criminal charges. The agency and the department shall keep a
22 record of any decision regarding criminal charges.

23 (e) Compliance with Chapter 3.--In addition to the
24 provisions of this section, the agency shall comply with Chapter
25 3.

26 Section 704. Restrictions on employees.

27 (a) Plan of supervision.--Upon notification that an employee
28 is alleged to have committed abuse, the facility shall
29 immediately implement a plan of supervision or, where
30 appropriate, suspension of the employee, subject to approval by

1 the agency and by the Commonwealth agency with regulatory
2 authority over the facility. A plan of supervision for a home
3 health care agency must include periodic random direct
4 inspections of care-dependent individuals by a facility employee
5 who has been continuously employed by that facility for a period
6 of at least one year.

7 (b) Prohibition.--Upon the filing of criminal charges
8 against an employee, the Commonwealth agency which licenses the
9 facility shall order the facility to immediately prohibit that
10 employee from having access to recipients at the facility. If
11 that employee is a director, operator, administrator or
12 supervisor, that employee shall be subject to restrictions
13 deemed appropriate by the Commonwealth agency which licenses the
14 facility to assure the safety of recipients of the facility.

15 Section 705. Confidentiality of and access to confidential
16 reports.

17 (a) General rule.--Except as provided in subsection (b), a
18 report under this chapter shall be confidential.

19 (b) Exceptions.--A report under this chapter shall be made
20 available to all of the following:

21 (1) An employee of the department or of an agency in the
22 course of official duties in connection with responsibilities
23 under this chapter.

24 (2) An employee of the Department of Health or the
25 Department of Public Welfare in the course of official
26 duties.

27 (3) An employee of an agency of another state which
28 performs protective services similar to those under this
29 chapter.

30 (4) A practitioner of the healing arts who is examining

1 or treating a recipient and who suspects that the recipient
2 is in need of protection under this chapter.

3 (5) The director, or an individual specifically
4 designated in writing by the director, of any hospital or
5 other medical institution where a victim is being treated if
6 the director or designee suspects that the recipient is in
7 need of protection under this chapter.

8 (6) A guardian of the recipient.

9 (7) A court of competent jurisdiction pursuant to a
10 court order.

11 (8) The Attorney General.

12 (9) Law enforcement officials of any jurisdiction as
13 long as the information is relevant in the course of
14 investigating cases of abuse.

15 (10) A mandated reporter under Chapter 3 who made a
16 report of suspected abuse. Information released under this
17 paragraph shall be limited to the following:

18 (i) The final status of the report following the
19 investigation.

20 (ii) Services provided or to be provided by the
21 agency.

22 (c) Excision of certain names.--The name of the person
23 suspected of committing the abuse shall be excised from a report
24 made available under subsection (b) (4), (5) and (10).

25 (d) Release of information to alleged perpetrator and
26 victim.--Upon written request, an alleged perpetrator and victim
27 may receive a copy of all information except that prohibited
28 from being disclosed by subsection (e).

29 (e) Protecting identity of person making report.--Except for
30 reports to law enforcement officials, the release of data that

1 would identify the individual who made a report under this
2 chapter or an individual who cooperated in a subsequent
3 investigation is prohibited. Law enforcement officials shall
4 treat all reporting sources as confidential information.

5 Section 706. Penalties.

6 (a) Administrative.--

7 (1) An administrator who intentionally or willfully
8 fails to comply or obstructs compliance with the provisions
9 of this chapter or who intimidates or commits a retaliatory
10 act against an employee who complies in good faith with the
11 provisions of this chapter commits a violation of this
12 chapter and shall be subject to an administrative penalty
13 under paragraph (3).

14 (2) A facility owner that intentionally or willfully
15 fails to comply with or obstructs compliance with this
16 chapter or that intimidates or commits a retaliatory act
17 against an employee who complies in good faith with this
18 chapter commits a violation of this chapter and shall be
19 subject to an administrative penalty under paragraph (3).

20 (3) The Commonwealth agency or Commonwealth agencies
21 which regulate the facility have jurisdiction to determine
22 violations of this chapter and may issue an order assessing a
23 civil penalty of not more than \$2,500. An order under this
24 paragraph is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to
25 practice and procedure of Commonwealth agencies) and Ch. 7
26 Subch. A (relating to judicial review of Commonwealth agency
27 action).

28 (b) Criminal.--

29 (1) An administrator who intentionally or willfully
30 fails to comply or obstructs compliance with this chapter

1 commits a misdemeanor of the third degree and shall, upon
2 conviction, be sentenced to pay a fine of \$2,500 or to
3 imprisonment for not more than one year, or both.

4 (2) A facility owner that intentionally or willfully
5 fails to comply with or obstructs compliance with this
6 chapter commits a misdemeanor of the third degree and shall,
7 upon conviction, be sentenced to pay a fine of \$2,500 or to
8 imprisonment for not more than one year, or both.

9 (c) Penalties for failure to report.--A person required
10 under this chapter to report a case of suspected abuse who
11 willfully fails to do so commits a summary offense for the first
12 violation and a misdemeanor of the third degree for a second or
13 subsequent violation.

14 Section 707. Immunity.

15 An administrator or a facility shall not be held civilly
16 liable for any action directly related to good faith compliance
17 with this chapter.

18 Section 708. Regulations.

19 The Department of Aging, the Department of Health and the
20 Department of Public Welfare shall promulgate the regulations
21 necessary to carry out this chapter.]

22 Section 9. The act is amended by adding chapters to read:

23 CHAPTER 7-A

24 CRIMINAL HISTORY

25 Section 701-A. Criminal history.

26 (a) Submission.--

27 (1) A person listed in subsection (c) shall submit a
28 full set of fingerprints in a manner prescribed by the
29 Pennsylvania State Police.

30 (2) The Pennsylvania State Police shall check the

1 fingerprints against the Pennsylvania State Police central
2 repository for the purpose of a State criminal history record
3 check. Under 18 Pa.C.S. Ch. 91 (relating to criminal history
4 record information), a report of criminal history record
5 information, obtained within the preceding one-year period
6 from the Pennsylvania State Police, or a statement from the
7 Pennsylvania State Police that the central repository
8 contains no information relating to that person shall be
9 submitted to the department. The criminal history record
10 information shall be limited to information which is
11 disseminated under 18 Pa.C.S. § 9121(b)(2) (relating to
12 general regulations).

13 (3) The Pennsylvania State Police shall submit a full
14 set of fingerprints to the Federal Bureau of Investigation
15 for a national criminal history record check. The
16 Pennsylvania State Police will provide the department with
17 the national criminal history record information of the
18 individual. The information under this subsection shall not
19 be limited by 18 Pa.C.S. § 9121(b). The Department shall be
20 guided by federal law, state law, and Criminal Justice
21 Information Services policy.

22 (b) Determination.--The information obtained from the
23 criminal history record checks under subsection (a) shall be
24 used by the department to determine eligibility under section
25 702-A. The determination shall be submitted to the individual
26 and the administrator by the department prior to employment
27 commencing except as specified in section 703-A.

28 (c) Scope.--The following individuals shall submit to the
29 criminal history information inquiry required under subsection
30 (a):

1 (1) An applicant.

2 (2) A prospective administrator who has or may have
3 direct contact with a recipient.

4 (3) A prospective operator who has or may have direct
5 contact with a recipient.

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

7 (1) If an employee is arrested for or convicted of an
8 offense that would constitute grounds for denying employment
9 under section 702-A, the employee shall provide written
10 notice of the arrest or conviction to the administrator or
11 designee not later than 72 hours after the arrest or
12 conviction.

13 (2) If the person responsible for employment decisions
14 or the administrator has a reasonable belief that an employee
15 was convicted of an offense that would constitute grounds for
16 denying employment under section 702-A, or the employee has
17 provided notice as required under paragraph (1), the person
18 or the administrator shall immediately require the employee
19 to submit current information as required under subsection
20 (a).

21 Section 702-A. Grounds for denying employment.

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

25 (1) Subject to subsection (b), a facility may not hire
26 an applicant or retain an employee for a period of 35 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. (relating
5 to crimes and offenses):

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

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

8 (iii) Section 3011 (relating to trafficking in
9 individuals).

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

11 (v) Section 3123 (relating to involuntary deviate
12 sexual intercourse).

13 (vi) Section 3124.2 (relating to institutional
14 sexual assault).

15 (2) Subject to subsection (b), a facility may not hire
16 an applicant or retain an employee for a period of 20 years
17 after the individual's release or discharge from a Federal,
18 State or county correctional institution or from termination
19 of supervised probation or parole, whichever is later, if the
20 department determines that the applicant's or employee's
21 criminal history record information indicates the applicant
22 or employee has been convicted of an offense or attempt,
23 solicitation or conspiracy to commit an offense under one of
24 the following provisions of 18 Pa.C.S.:

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

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

28 (iii) Section 2713 (relating to neglect of care-
29 dependent person).

30 (iv) Section 2715 (relating to threat to use weapons

1 of mass destruction).

2 (v) Section 2716 (relating to weapons of mass
3 destruction).

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

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

6 (viii) Section 2903 (relating to false
7 imprisonment).

8 (ix) Section 3122.1 (relating to statutory sexual
9 assault).

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

11 (xi) Section 3125 (relating to aggravated indecent
12 assault).

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

14 (xiii) Section 3129 (relating to sexual intercourse
15 with animal).

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

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

18 (xvi) Section 4303 (relating to concealing death of
19 child).

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

22 (xviii) Section 4305 (relating to dealing in infant
23 children).

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

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

28 (xxi) Section 6312 (relating to sexual abuse of
29 children).

30 (xxii) Section 6318 (relating to unlawful contact

1 with a minor).

2 (xxiii) Section 6319 (relating to solicitation of
3 minors to traffic drugs).

4 (xxiv) Section 6320 (relating to the sexual
5 exploitation of children).

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

16 (i) Section 2710 (relating to ethnic intimidation).

17 (ii) Section 2902 (relating to unlawful restraint).

18 (iii) A felony offense under section 2904 (relating
19 to interference with custody of children).

20 (iv) Section 2909 (relating to concealment of
21 whereabouts of a child).

22 (v) Section 3127 (relating to indecent exposure).

23 (vi) Section 3131 (relating to unlawful
24 dissemination of intimate image).

25 (vii) Section 3301 (relating to arson and related
26 offenses).

27 (viii) Section 3502 (relating to burglary).

28 (ix) Section 3701 (relating to robbery).

29 (x) Section 3702 (relating to robbery of motor
30 vehicle).

1 (xi) A felony offense under Chapter 39 (relating to
2 theft and related offenses).

3 (xii) Section 4101 (relating to forgery).

4 (xiii) Section 4103 (relating to fraudulent
5 destruction, removal or concealment of recordable
6 instruments).

7 (xiv) Section 4106 (relating to access device
8 fraud).

9 (xv) Section 4114 (relating to securing execution of
10 documents by deception).

11 (xvi) Section 4115 (relating to falsely
12 impersonating persons privately employed).

13 (xvii) Section 4120 (relating to identity theft).

14 (xviii) A misdemeanor of the first degree under
15 section 4304.

16 (xix) Section 4952 (relating to intimidation of
17 witnesses or victims).

18 (xx) Section 4953 (relating to retaliation against
19 witness, victim or party).

20 (xxi) A felony offense under section 5902(b)
21 (relating to prostitution and related offenses).

22 (xxii) Section 5902(b.1).

23 (xxiii) Section 5903(c) or (d).

24 (xxiv) Section 6301 (relating to corruption of
25 minors).

26 (xxv) Two or more misdemeanors under Chapter 39.

27 (4) Subject to subsection (b), a facility may not hire
28 an applicant or retain an employee for a period of five years
29 from the individual's release or discharge from a Federal,
30 State or county correctional institution or from termination

1 of supervised probation or parole, whichever is later, if the
2 department determines that the applicant's or employee's
3 criminal history record information indicates that the
4 applicant or employee has been convicted of an offense under
5 one of the following provisions of 18 Pa.C.S.:

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

8 (A) Section 3735 (relating to homicide by
9 vehicle while driving under influence).

10 (B) Section 3735.1 (relating to aggravated
11 assault by vehicle while driving under the
12 influence).

13 (C) Section 3742 (relating to accidents
14 involving death or personal injury).

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

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

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

23 (iv) Two or more misdemeanors under 18 Pa.C.S. Ch.
24 39 (relating to theft and related offenses).

25 (v) Two or more misdemeanors under 18 Pa.C.S. § 2705
26 (relating to recklessly endangering another person).

27 (vi) Convictions listed under subparagraph (i) shall
28 be prohibited if the position the applicant is applying
29 for or the employee is performing includes driving or
30 transporting older adults.

1 (5) Modifications to prohibited offenses.

2 (i) The secretary may periodically review and, by
3 regulation, modify the lists of prohibited offenses under
4 subsection (a). The secretary may add additional offenses
5 to the lists of prohibited offenses in subsections (a)
6 (1), (a) (2), (a) (3) and (a) (4). The secretary may remove
7 offenses enumerated in the list of prohibited offenses in
8 subsection (a) (3) and (a) (4). In making a decision to
9 promulgate a regulation modifying the list of prohibited
10 offenses, the secretary shall consider whether:

11 (A) The modification poses a significant and
12 unacceptable level of risk to older adults.

13 (B) The modification does not impede safe and
14 efficient job performance.

15 (C) The prohibition is related to the job
16 positions subject to the relevant employment bans
17 under this subsection.

18 (D) The underlying conduct related to the
19 offense makes an individual unfit for a job position
20 subject to the prohibitions on hiring and retention
21 under this subsection.

22 (E) The prohibition is consistent with the
23 business necessity of ensuring protections for older
24 adults.

25 (F) The underlying conduct related to the
26 offense is relevant to a job position subject to the
27 prohibitions on hiring and retention under this
28 subsection.

29 (G) The underlying conduct related to the
30 offense is relevant to the purpose of employment.

1 (ii) After considering the factors in this
2 paragraph, the secretary shall make findings and issue a
3 regulation modifying the list if the secretary finds the
4 modification is consistent with maintaining a qualified
5 workforce that promotes and ensures the safety of older
6 adults.

7 (b) Waiver request.--

8 (1) Unless prohibited by Federal law, the department may
9 grant a waiver of the prohibitions on hiring and retention
10 under subsection (a) in accordance with this subsection after
11 submission of a written waiver request by an applicant,
12 employee or employer.

13 (2) The waiver request must be submitted on a form
14 provided by the department and contain the following:

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

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

19 (iii) If the applicant or employee was incarcerated,
20 a copy of the order from the Federal, State or local
21 jurisdiction that released the individual from
22 incarceration, including the date of release.

23 (iv) Evidence of the applicant's or employee's
24 rehabilitation.

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

26 (vi) The relationship of the offense to the
27 applicant's or employee's current or prospective job
28 position.

29 (vii) A copy of any previously approved waiver
30 request.

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

3 (ix) The facility type for which the applicant is
4 seeking or retaining employment or the facility type that
5 has an interest in potentially hiring or retaining the
6 applicant.

7 (x) A letter from the current or prospective
8 employer indicating, if applicable, an interest in
9 potentially hiring or retaining the applicant or employee
10 if a waiver request is granted.

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

13 (3) The department may review and consider additional
14 relevant information or factors in making its determination.

15 (c) Waiver approval.--The department shall review and issue
16 a decision on approval or denial of the waiver request not later
17 than 30 days after receipt of the written waiver request. The
18 department shall specify each offense waived by the department
19 and each offense that has been denied a waiver request with the
20 department's decision.

21 (d) Applicability.--

22 (1) A waiver request granted under this section applies
23 only to the offense and facility type listed on the waiver
24 application.

25 (2) If granted, the waiver shall remain in place
26 indefinitely and be transferrable to the same or similar
27 position with an employer of an applicable facility type.

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

1 (e) Limitations.--

2 (1) The grant of a waiver request by the department does
3 not guarantee hiring or retention of employment to the
4 applicant or employee.

5 (2) In addition to the notice requirements of Section
6 701-A(d), if any new criminal charges are filed against an
7 applicant or employee who has obtained a waiver from the
8 department, the applicant or employee must report the new
9 criminal charges to both the employer and the department not
10 later than seven days after the charges were filed.

11 (3) If the new conviction is prohibited under this act,
12 the applicant or employee must submit a new waiver request.

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

15 (f) Appeal rights.--

16 (1) If the department denies a request for a waiver
17 under this section, the person whose request was denied shall
18 have 20 days to submit a written appeal to the secretary.

19 (2) Upon receipt of a notice of appeal, the secretary
20 shall have 30 days to complete a review of the relevant facts
21 and circumstances and issue a final decision.

22 (3) If the secretary fails to issue a final decision
23 within the 30 days, the appeal shall be deemed denied.

24 (4) All final decisions by the secretary shall be
25 reviewable in accordance with the laws of this Commonwealth.

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

27 (1) Not later than 60 days after the effective date of
28 this paragraph, the department shall develop a waiver request
29 form.

30 (2) Not later than 90 days after the effective date of

1 this paragraph, the department shall develop a procedure for
2 hearing appeals resulting from department denials of waiver
3 request applications.

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

10 (i) Penalties.--An individual who willfully fails to
11 disclose a conviction for an offense enumerated under subsection
12 (a) shall be subject to termination and may be subject to
13 criminal prosecution under 18 Pa.C.S. § 4904 (relating to
14 unsworn falsification to authorities).

15 (j) Construction.--This section may not be construed to
16 require a current employee of a facility to obtain a waiver
17 pertaining to the employee's current employment or for an
18 application at the same facility for a substantially similar
19 position as the employee's current position.

20 Section 703-A. Provisional employees for limited periods.

21 (1) A facility may employ an applicant on a provisional
22 basis for a single period not to exceed 60 days, if all of
23 the following conditions are met:

24 (i) The applicant has applied and submitted
25 fingerprints for a criminal history record information
26 report required under section 701-A(a) (1) and (2) and
27 provided the facility with a copy of the completed
28 request forms.

29 (ii) The facility has no knowledge about the
30 applicant that would disqualify the applicant from

1 employment under 18 Pa.C.S. § 4911 (relating to tampering
2 with public records or information).

3 (iii) The applicant swears or affirms in writing
4 that the applicant is not disqualified from employment
5 under this act.

6 (2) If the information obtained from the criminal
7 history record information report required under section 701-
8 A reveals that the applicant is disqualified from employment,
9 the applicant shall be dismissed immediately.

10 (3) If an individual has been employed at a facility on
11 a provisional basis in accordance with paragraphs (1) and
12 (2), but the department has not completed its determination
13 prior to the expiration of 60 days under this section, the
14 individual may remain employed on a provisional basis until
15 the department has made a determination or for 30 days,
16 whichever is earlier.

17 (4) The department shall develop guidelines, in
18 consultation with the Department of Health and the Department
19 of Human Services, regarding the supervision of applicants.
20 Supervision shall include direct supervision by an employee
21 who has been employed by the facility for a period of at
22 least one year.

23 Section 704-A. Compliance.

24 (a) Immunity.--A facility may not be held civilly or
25 criminally liable or subject to administrative penalties for
26 hiring decisions under this chapter in which the facility
27 complies or makes a good faith effort in any of the following
28 circumstances to comply with the requirements of this chapter,
29 including any subsequent rule or regulation issued by the
30 department to effectuate the hiring or retention of an

1 applicant, relating to:

2 (1) Hiring or retention of an applicant through the use
3 of a waiver in accordance with section 702-A or regulations
4 promulgated by the department to effectuate section 702-A.

5 (2) A decision by a facility to not hire or retain an
6 applicant or employee even if the applicant or employee
7 receives a waiver.

8 (b) Limitation.--

9 (1) Immunity from civil, criminal or administrative
10 penalties under this section may not be construed as applying
11 beyond the decision to hire or not hire an applicant or
12 retain or not retain an employee under this chapter and does
13 not extend to the conduct of an applicant while employed by a
14 facility.

15 (2) This section may not be construed to be or used as a
16 defense for a facility failing to meet the obligations
17 required under this act pertaining to management and
18 oversight of individuals applying for employment or employed
19 by the facility.

20 CHAPTER 8-A

21 REMEDIES

22 Section 801-A. Penalties.

23 (a) Administrative and civil penalties.--

24 (1) A mandatory reporter who fails to comply or
25 obstructs compliance with the provisions of this act or who
26 intimidates or commits a retaliatory act against an
27 individual who complies in good faith with this act commits a
28 violation of this act and shall be subject to an
29 administrative penalty.

30 (2) The department shall have jurisdiction to determine

1 violations of this act and may issue an order assessing a
2 civil penalty of not more than \$5,000. An order under this
3 paragraph is subject to 2 Pa.C.S. Chs. 5 Subch. A (relating
4 to practice and procedure of Commonwealth agencies) and 7
5 Subch. A (relating to judicial review of Commonwealth agency
6 action).

7 (3) A Commonwealth agency that licenses a facility shall
8 have jurisdiction regarding violations of section 701-A and
9 may issue an order assessing a civil penalty not to exceed
10 \$5,000.

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

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

1 \$5,000, whichever is greater.

2 (b) Criminal penalties.--

3 (1) A mandatory reporter who intentionally fails to
4 report suspected abuse of an older adult commits a summary
5 offense for the first violation and a misdemeanor of the
6 second degree for a second or subsequent violation and shall,
7 upon conviction, be sentenced to pay a fine of not more than
8 \$5,000 or to imprisonment for not more than one year, or
9 both.

10 (2) A person who intentionally makes a false statement
11 or representation of a material fact in a report of need
12 commits a misdemeanor of the first degree and shall, upon
13 conviction, be sentenced to pay a fine of not more than
14 \$10,000 or to imprisonment for not more than five years, or
15 both.

16 Section 802-A. Immunity from civil and criminal liability.

17 (1) A person who makes a report of need or who provides
18 testimony in an administrative or judicial proceeding in a
19 court of this Commonwealth arising out of a report of need
20 shall be immune from any civil or criminal liability on
21 account of the report of need or testimony related to good
22 faith compliance with this act. The immunity shall not extend
23 to liability for an act of abuse of an older adult, even if
24 the act is the subject of the report of need or testimony.

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

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 a decision or action when acting under and
5 according to the provisions of this act.

6 Section 10. The department shall promulgate regulations to
7 carry out the provisions of this act and shall annually present
8 to the General Assembly a report on the program and services
9 performed. Commonwealth agencies with oversight authority over
10 entities impacted by this act shall promulgate regulations
11 necessary to assist the department in implementing this act.

12 Section 11. Nothing in this act shall be construed to expand
13 the jurisdiction of or grant additional arrest powers to law
14 enforcement officials that are not otherwise authorized by law.

15 Section 12. All acts and parts of acts are repealed insofar
16 as they are inconsistent with this act.

17 Section 13. This act shall take effect as follows:

18 (1) The following shall take effect immediately:

19 The addition of sections 602-A, 603-A and 610-A of
20 the act.

21 This section.

22 (2) The remainder of this act shall take effect in 18
23 months.