

ADULT PROTECTIVE SERVICES ACT - ENACTMENT
Act of Oct. 7, 2010, P.L. 484, No. 70
AN ACT

Cl. 23

Providing for protection of abused, neglected, exploited or abandoned adults; establishing a uniform Statewide reporting and investigative system for suspected abuse, neglect, exploitation or abandonment of adults; providing for protective services; and prescribing penalties.

TABLE OF CONTENTS

Chapter 1. Preliminary Provisions

Section 101. Short title.
Section 102. Legislative policy.
Section 103. Definitions.

Chapter 3. Administration

Section 301. Duties of department and agencies.
Section 302. Reporting.
Section 303. Investigations of reports of need for protective services.
Section 304. Provision of services.
Section 305. Immunity from civil and criminal liability.
Section 306. Confidentiality of records.
Section 307. Involuntary intervention by emergency court order.
Section 308. Rights of protective services clients.
Section 309. Financial obligations, liabilities and payments.

Chapter 5. Reporting Suspected Abuse by Employees

Section 501. Reporting by employees.
Section 502. Reports to department and coroner or medical examiner.
Section 503. Investigation.
Section 504. Restrictions on employees.
Section 505. Confidentiality of and access to confidential reports.
Section 506. Penalties.
Section 507. Immunity.

Chapter 7. Miscellaneous Provisions

Section 701. Regulations.
Section 702. Report.
Section 703. Repeals.
Section 704. Effective date.

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

CHAPTER 1
PRELIMINARY PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Adult Protective Services Act.

Section 102. Legislative policy.

It is declared the policy of this Commonwealth that:

(1) Adults who lack the capacity to protect themselves and are at imminent risk of abuse, neglect, exploitation or abandonment must have access to services necessary to protect their health, safety and welfare.

(2) Adults have the right to make choices, subject to the laws and regulations of this Commonwealth, regarding their lifestyles, relationships, bodies and health, even when those choices present risks to themselves or their property.

(3) Adults have the right to refuse some or all protective services.

(4) Information about protective services should be provided in a safe place and in a safe, understandable and responsive manner.

(5) The Commonwealth must provide for the detection, prevention, reduction and elimination of abuse, neglect, exploitation and abandonment and establish a program of protective services for adults in need of them.

(6) Adults have the right to receive services in the most integrated settings and in the manner least restrictive of individual liberties.

Section 103. Definitions.

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

"Abandonment." The desertion of an adult by a caregiver.

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

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

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

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

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

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

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

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

"Agency." A local contracted provider of protective services.

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

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

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

"Department." The Department of Public Welfare of the Commonwealth.

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

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

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

"Exploitation." An act or course of conduct by a caregiver or other person against an adult or an adult's resources, without the informed consent of the adult or with consent obtained through misrepresentation, coercion or threats of force, that results in monetary, personal or other benefit, gain or profit for the perpetrator or monetary or personal loss to the adult.

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

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

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

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

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

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

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

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

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

(9) A residential treatment facility.

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

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

"Law enforcement official." These shall include:

- (1) A police officer of a municipality.
- (2) A district attorney.
- (3) The Pennsylvania State Police.
- (4) A county sheriff.
- (5) The Attorney General.

"Least restrictive alternative." The least intrusive service or environment that can effectively and safely address the adult's needs and preferences.

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

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

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

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

"Secretary." The Secretary of Public Welfare of the Commonwealth.

"Serious bodily injury." Injury that:

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

"Serious injury." An injury that:

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

"Service plan." A written plan that:

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

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

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

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

- (5) Is updated as needed.

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

CHAPTER 3 ADMINISTRATION

Section 301. Duties of department and agencies.

- (a) General rule.--

(1) The department shall administer the adult protective services program in a manner designed to utilize least restrictive alternatives and to ensure services are provided in the most integrated setting.

(2) The department shall, in consultation with other appropriate State agencies, define the geographic areas to be served by agencies and shall select those agencies based upon a competitive bidding process. Successful bidders must:

(i) Demonstrate knowledge of and experience working with adults.

(ii) Be separate from agencies providing direct services to adults and from county mental health and mental retardation programs.

(iii) Demonstrate knowledge of service delivery principles important to adults and their families such as individual choice and use of the least restrictive alternative.

(iv) Demonstrate that the program will be advised by a body that includes at least 51% representation of adults and their family members.

(v) Include letters of support that show collaboration with entities which advocate for adults.

(3) The department shall establish, by regulation, procedures to ensure no conflict of interest in the provision of adult protective services.

(4) The department shall conduct an ongoing campaign designed to inform and educate adults, families, caregivers, professionals and the general public about the need for and availability of protective services under this chapter. The campaign shall require facilities to post notice of the availability of protective services and to provide the notice to recipients and their families. The department shall consult with other departments of the Commonwealth on the design and implementation of the ongoing public awareness campaign. The department shall also consider the concerns of agencies and entities identified by them under subsection (b).

(5) The department shall establish, by regulation, minimum standards of training and experience that agencies funded by the department shall follow in the selection and assignment of staff for the provision of protective services. The standards shall require agencies to collaborate with adults, their families and advocates, and the standards shall be included in developing and delivering training.

(6) The department shall ensure that agencies have access to the incident reporting system.

(7) The department shall work with the Department of Aging to provide coordination with the Older Adults Protective Services system and to ensure that adults who are the subject of a protective services report at the time of their 60th birthday have continuity in the delivery of protective services.

(b) Agency duties.--Each agency shall submit a proposal that includes a protective services plan. The plan shall:

(1) Describe the implementation of this chapter, including, but not limited to, the organization, staffing, mode of operations and financing of protective services, as well as the provisions made for purchase of services, interagency relations, interagency agreements, service referral mechanisms and locus of responsibility for cases

with multiservice agency needs.

(2) Describe the methods that the agency, its designees and service providers will use to assure the privacy of all adults receiving services and the confidentiality of all records.

(3) List all other social service entities, whether public or private, that have been identified by the agency as having substantial contact with potential victims or perpetrators of abuse, neglect, exploitation and abandonment.

(4) Ensure that the entities have information regarding the unique aspects of various disabilities.

The agency shall submit the list to the department for purposes of the public information campaign under subsection (a).

(c) Discretionary authority of the department.--The department may, in its sole discretion, perform any duty granted to an agency in any geographic area by this act until an agency has been selected by the department and is operating to serve that geographic area pursuant to subsection (a)(2).

Section 302. Reporting.

(a) General rule.--A person having reasonable cause to believe that an adult is in need of protective services may report such information to the agency. Where applicable, reports shall comply with the provisions of Chapter 5.

(b) Receiving reports.--The agency shall be capable of receiving reports of adults in need of protective services 24 hours a day, seven days a week, including holidays. This capability may include the use of a local emergency response system or a crisis intervention agency, provided that access can be made to a protective services caseworker in appropriate emergency situations as set forth in regulations promulgated by the department. All reports received orally under this section shall be reduced to writing immediately by the person who receives the report.

(c) Screening.--A person who receives a report shall screen the report during and immediately following receipt of the report to assign it to one of the following referral categories:

(1) Priority. A report placed in this category shall require immediate attention because specific details in the report indicate the possibility that the adult reported to need protective services is at imminent risk of death or serious injury or serious bodily injury. The person receiving a priority report shall immediately contact a protective services caseworker and provide the caseworker with the information contained in the report.

(2) Nonpriority. A report shall be placed in this category when it does not appropriately fall within the priority category and, therefore, does not require immediate attention by the agency. A report in this category shall be referred to a protective services caseworker of an agency within the normal business hours of the agency's current or next day of business under the agency's established procedures for referring these reports.

(3) Another planning and service area. A report in which the adult who is the subject of the report does not reside in the planning and service area of the agency or, at that time, is not in the planning and service area shall be placed in this category. The report shall be referred to the agency that has the designated responsibility for protective services in the planning and service area in which the adult reported to be in need of protective services is located at

the time of the report. A report in this category shall also meet the criteria for placement in one of the other categories in this subsection. The provisions for referral for the other category shall apply to a referral to another planning and service area.

(4) No need for protective services. A report shall be placed in this category when the person reported to be in need of protective services meets either of the following criteria:

(i) has the capacity to perform or obtain, without help, services necessary to maintain physical or mental health;

(ii) is not at imminent risk or danger to his person or property.

A report in this category shall be referred to a protective services caseworker of the agency within the normal business hours of the agency's current or next day of business. The protective services caseworker shall review the details of the report and take all steps necessary to confirm or reject the categorization of no need for protective services. If the caseworker confirms the screening categorization, and upon the request of any interested party and without objection by the adult, appropriate referrals shall be made to other entities. The protective services case shall then be closed. If the caseworker rejects the categorization, the report shall be placed in the appropriate category and shall be handled accordingly. A report may not be placed in this category if the adult is temporarily relocated to a safe environment and will return to the original abusive situation or to a new location which has not been determined to be safe.

(d) Retaliatory action.--

(1) Any person who makes a report or cooperates with the agency, including providing testimony in any administrative or judicial proceeding, and any adult in need of protective services shall not be subject to any discriminatory, retaliatory or disciplinary action by an employer or by any other person or entity.

(2) Any person who violates this subsection is subject to a civil action by the reporter or the adult in need of protective services, in which action the reporter or adult in need of protective services shall recover treble compensatory damages, compensatory and punitive damages or \$5,000, whichever is greater.

(e) Intimidation.--

(1) A person, including an adult in need of protective services, with knowledge sufficient to justify making a report or cooperating with an agency, including possibly providing testimony in an administrative or judicial proceeding, shall not be subject to any intimidation by an employer or by any other person or entity.

(2) A person who violates this subsection is subject to civil action by the reporter or the adult in need of protective services, in which action the reporter or adult in need of protective services shall recover treble compensatory damages, compensatory and punitive damages or \$5,000, whichever is greater.

(f) Immunity.--

(1) A person who participates in the making of a report or who provides testimony in an administrative or judicial

proceeding arising out of a report shall be immune from any civil or criminal liability, subject to paragraph (2), on account of the report or testimony, unless the person acted in bad faith or with malicious purpose.

(2) The immunity established under paragraph (1) shall not extend to liability for an act of abuse, neglect, exploitation or abandonment even if such act is the subject of the report or testimony.

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

(a) Investigation.--

(1) An agency shall investigate each report made under section 302.

(2) The investigation shall be initiated immediately for a priority report, and, to the extent feasible, the agency shall conduct a face-to-face interview with the reported adult in need of protective services.

(3) The investigation shall be initiated within 72 hours for a nonpriority report.

(4) The department shall adopt regulations providing for the methods of conducting investigations under this section and shall assure that steps are taken to avoid any conflict of interest between the investigator and service delivery functions.

(5) Reports and investigations conducted under this section shall comply with the provisions of Chapter 5, where applicable.

(b) Investigation involving licensed facilities.--

(1) A report concerning adults residing in a State-licensed facility shall be reported to the appropriate State licensing department and investigated under procedures developed by the department in consultation with the bureau responsible for the licensure of the facility.

(2) The protective services agency may seek judicial relief to require the facility to protect the health and safety of the adult when the licensed program is believed to continue to jeopardize the adult's health and safety through evidence of risk substantiated.

(c) Unsubstantiated reports.--If after investigation by the agency a report is unsubstantiated, the case shall be closed, and all information shall be maintained for a period of one year under procedures established by the department.

(d) Substantiated reports.--

(1) The agency shall provide for a timely assessment of the adult if a report is substantiated by the agency or if an assessment is necessary in order to determine whether the report is substantiated. An adult may refuse the assessment.

(2) Upon completion of the assessment, written findings shall be prepared that include recommended action. A service plan shall be developed and shall:

(i) Provide for the least restrictive alternative and encourage choice and continuity of care.

(ii) Assure that services and supports are provided in the most integrated setting.

(iii) Absent a court order, not include the relocation of the adult unless the adult consents.

(iv) Be written in plain language whenever possible and prepared in a manner which can be easily understood by an adult in need of protective services or that adult's appointed guardian.

(v) Be in writing and include a recommended course of action that may include the pursuit of civil or criminal remedies.

(3) If an adult who is found to be in need of protective services refuses an assessment or the development of a service plan, the agency may apply to the case the provisions of section 307.

Section 304. Provision of services.

(a) Availability of protective services.--Once need is determined, an agency shall offer protective services if an adult requests services or an interested person requests services on behalf of an adult.

(b) Consent by request.--

(1) Except as provided in section 307, an adult shall only receive protective services voluntarily. In no event may protective services be provided under this chapter to an adult who refuses consent to the services or who, having consented, withdraws the consent, unless the services are ordered by a court or provided under section 307.

(2) Nothing in this chapter shall be construed to prevent an agency from petitioning for the appointment of a guardian pursuant to 20 Pa.C.S. (relating to decedents, estates and fiduciaries).

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

(d) Access to records.--An agency shall have access to all records relevant to:

(1) Investigations of reports under section 303.

(2) Assessment of client need.

(3) Development of a service plan when an adult's need for protective services has been or is being established.

(4) Delivery of services arranged for under the service plan developed by the agency to respond to an adult's assessed need for specific services.

(e) Access to persons.--An agency shall have access to adults who have been reported to be in need of protective services in order to:

(1) Investigate reports under section 303 and Chapter 5.

(2) Assess needs and develop a service plan for addressing them.

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

(f) Denial of access to persons.--If the agency is denied access to an adult reported to be in need of protective services and access is necessary to complete the investigation or the assessment and service plan or the delivery of needed services in order to prevent further abuse, neglect, exploitation or abandonment of the adult, the agency may petition the court for an order to require the appropriate access when either of the following conditions apply:

(1) The caregiver or a third party has interfered with the completion of the investigation or the assessment and service plan or the delivery of services.

(2) The agency can demonstrate that the adult denies access because of coercion, extortion or justifiable fear of further abuse, neglect, exploitation or abandonment.

(g) Access by consent.--An agency's access to confidential

records held by other entities or individuals or an adult reported to be in need of protective services shall require the consent of the adult or a court-appointed guardian except as provided for under this section or section 307.

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

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

(2) The agency can demonstrate that the adult denies access to records because of incompetence, coercion, extortion or justifiable fear of future abuse, neglect, exploitation or abandonment.

Section 305. Immunity from civil and criminal liability.

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

Section 306. Confidentiality of records.

(a) General rule.--Information contained in reports, records of investigation, assessment and service plans shall be considered confidential and shall be maintained under regulations promulgated by the department to safeguard confidentiality. Except as otherwise provided in subsection (b), this information shall not be disclosed to anyone outside the agency other than to a court of competent jurisdiction pursuant to a court order.

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

(1) In the event that an investigation by an agency results in the discovery of suspected criminal conduct, law enforcement officials shall be given access to all relevant records maintained by the agency or the department.

(2) In arranging specific services to carry out service plans, an agency may disclose to appropriate service providers such information as may be necessary to initiate the delivery of services.

(3) An adult who is the subject of a report made under section 302 may receive, upon written request, all information contained in the report except that prohibited from disclosure under paragraph (4).

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

(5) When the department is involved in the hearing of an appeal by an adult who is the subject of a report made under section 302, the appropriate department staff shall be given access to all information in the report record relevant to the appeal.

(6) For the purpose of monitoring agency performance, appropriate staff of the department may access agency protective services records.
Section 307. Involuntary intervention by emergency court order.

(a) Emergency petition.--

(1) Where there is clear and convincing evidence that, if protective services are not provided, the adult is at imminent risk of death, serious injury or serious bodily injury, the agency may petition the court for an emergency order to provide the necessary services.

(2) The court of common pleas of each judicial district shall ensure that a judge or magisterial district judge is available on a 24-hour-a-day, 365-day-a-year basis to accept and decide on petitions for an emergency court order under this section whenever the agency determines that a delay until normal court hours would significantly increase the danger the adult faces.

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

(c) Right to counsel.--In order to protect the rights of an adult in need of protective services, an emergency court order under this section shall provide that the adult has the right to legal counsel which shall be appointed by the court at public expense.

(d) Forcible entry.--Where it is necessary to forcibly enter a premises, law enforcement shall obtain a court order and may be accompanied by a representative of an agency.

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

(f) Nonrestrictive setting.--In those cases in which an adult must be relocated, the court shall order the adult to be relocated to the most integrated setting and the least restrictive alternative that will ensure the adult's health and safety and appropriate care.

(g) Exclusion of remedy.--Nothing in this chapter shall be construed to deny an adult access to emergency medical services or police protection that would be provided to anyone, regardless of age, in similar circumstances.

Section 308. Rights of protective services clients.

(a) Minimum requirements.--The agency shall observe the following minimum requirements to safeguard the rights of an adult who is reported to be in need of protective services:

(1) The agency shall to the extent possible, notify the adult privately during the investigation that a report has been made and provide the adult with a brief summary of the nature of the report.

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

(3) An appeal of a denial of services by the department or an authorized agency under this chapter shall be conducted according to the provisions of the rules and regulations issued by the department under the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

(b) Construction.--Nothing in this act shall be construed to

limit the right of an adult to file a petition pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse).
Section 309. Financial obligations, liabilities and payments.

An adult receiving services and each agency providing services under this chapter shall comply with the following provisions regarding liability for the payment of services:

(1) Funding to provide or make available protective services under this chapter shall not:

(i) Supplant any public and private entitlements or resources for which adults receiving protective services under this chapter are or may be eligible.

(ii) Be available until an adult has exhausted the adult's eligibility and receipt of benefits under public and private entitlements or resources.

(2) (i) The obligation of the Commonwealth or a county to provide funding for services provided pursuant to this chapter shall be entirely discharged by the appropriations made to the department or an agency.

(ii) Provided that the agency has met its responsibility under the law, no action at law or equity may be instituted in a court to require the department, agency, county or Commonwealth to provide benefits or services under this chapter for which appropriations from the Commonwealth or counties are not available.

(3) Protective services clients receiving the same services provided to others under an agency services plan shall not be required to pay a fee for any services not subject to cost sharing for other adults.

CHAPTER 5 REPORTING SUSPECTED ABUSE BY EMPLOYEES

Section 501. Reporting by employees.

(a) Mandatory reporting to agency.--

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

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

(3) The provisions of this section shall be satisfied when the administrator or employee submits a report to the incident reporting system. Nothing in this subsection shall prohibit an employee or administrator who has reasonable cause to suspect that a recipient is a victim of abuse or neglect from also making a report to the agency.

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

(1) An employee or an administrator who has reasonable cause to suspect that a recipient is the victim of sexual abuse, serious injury or serious bodily injury or that a death is suspicious shall, in addition to contacting the agency and the department, immediately contact appropriate law enforcement officials to make an oral report. An employee shall notify the administrator immediately following the report to law enforcement officials, unless such notification

would jeopardize the investigation or subject the recipient to further risk.

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

(3) The law enforcement officials shall notify the administrator that a report has been made with the law enforcement officials, unless such notification would jeopardize the investigation or subject the recipient to further risk.

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

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

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

(2) Name and address of the recipient's guardian, attorney-in-fact or next of kin.

(3) Name and address of the facility.

(4) Nature of the alleged offense.

(5) Any specific comments or observations that are directly related to the alleged incident and those involved.
Section 502. Reports to department and coroner or medical examiner.

(a) Department.--

(1) Within 48 hours of receipt of a written report under section 501(a) involving sexual abuse, serious injury, serious bodily injury or suspicious death, the agency shall transmit a written report to the department. Supplemental reports shall be transmitted as they are obtained by the agency.

(2) A report under this subsection shall be made in a manner and on forms prescribed by the department. The report shall include, at a minimum, that information required to be submitted under section 501.

(b) Coroner or medical examiner.--For a report under section 501(a) concerning the death of a recipient, if there is reasonable cause to suspect that the recipient died as a result of abuse or neglect, the agency shall give the oral report and forward a copy of the written report to the appropriate coroner or medical examiner within 24 hours.

Section 503. Investigation.

(a) Law enforcement officials.--Upon receipt of a report under section 501(b), law enforcement officials shall conduct an investigation to determine what criminal charges, if any, will be filed.

(b) Notification.--If law enforcement officials have reasonable cause to suspect that a recipient has suffered sexual abuse, serious injury, serious bodily injury or a suspicious death, law enforcement officials shall notify the agency, unless such notification would jeopardize the investigation or subject the recipient to further risk.

(c) Cooperation.--To the fullest extent possible, law enforcement officials, facilities and agencies shall coordinate their respective investigations and advise each other and provide any applicable additional information on an ongoing basis.

(d) Further notification.--

(1) Law enforcement officials shall notify an agency and facility of a decision regarding criminal charges.

(2) Upon being notified by law enforcement, the agency shall notify the department and both shall keep a record of any decision regarding criminal charges.

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

Section 504. Restrictions on employees.

(a) Plan of supervision.--

(1) On notification that an employee is alleged to have committed abuse, the facility shall immediately suspend the employee or where appropriate and subject to approval by the agency and by the appropriate State licensing department with regulatory authority over the facility, implement a plan of supervision.

(2) A plan of supervision for a home health care agency shall include periodic random direct inspections of recipients by an employee who has been continuously employed by the facility for a period of at least one year.

(b) Prohibition.--

(1) On the filing of criminal charges against an employee, the appropriate State licensing department that regulates or has fiscal authority over the facility shall order the facility to immediately prohibit the employee from having access to recipients at the facility.

(2) If the employee is a director, operator, administrator or supervisor, the employee shall be subject to restrictions deemed appropriate by the appropriate State licensing department that regulates or has fiscal authority over the facility to assure the safety of the recipients of the facility.

Section 505. Confidentiality of and access to confidential reports.

A report under this chapter shall be made available in the following circumstances:

(1) Information may be disclosed to a court of competent jurisdiction under a court order.

(2) If an investigation by an agency or law enforcement results in a report of criminal conduct, law enforcement officials shall have access to relevant records maintained by the agency or the department.

(3) In arranging specific services to effect service plans, an agency may disclose to appropriate service providers information necessary to initiate the delivery of services.

(4) A subject of a report may receive, upon written request, information contained in the report except that prohibited from being disclosed under paragraph (5).

(5) Except for reports to law enforcement officials, the release of information that would identify the person who made a report under this chapter or who cooperated in a subsequent investigation is prohibited. Law enforcement officials shall treat all reporting sources as confidential information.

(6) When the department is involved in the hearing of an appeal by a subject of a report, the appropriate department staff shall be given access to information in the report record relevant to the appeal.

(7) For the purposes of monitoring agency performance, appropriate staff of the department may be given access to agency protective service records.

Section 506. Penalties.

(a) Administrative.--

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

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

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

(b) Criminal.--

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

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

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

(d) Whistleblower protection.--A person required under this act to report a case of suspected abuse or neglect shall not be subject to any retaliatory action for reporting suspected abuse or neglect and shall have the protections and remedies set forth in the act of December 12, 1986 (P.L.1559, No.169), known as the Whistleblower Law.

Section 507. Immunity.

No administrator or facility shall be held civilly liable for any action directly related to good faith compliance with this chapter.

CHAPTER 7
MISCELLANEOUS PROVISIONS

Section 701. Regulations.

(a) General rule.--The department shall promulgate rules and regulations necessary to implement this act. Regulations shall be developed in consultation with adults, their families and

advocates and all other departments that are affected by this act.

(b) Contracts.--The department shall not be required to contract with agencies to provide adult protective services until final regulations are published by the department in the Pennsylvania Bulletin or funding is appropriated by the General Assembly.

Section 702. Report.

The department shall present a report on the program and services performed to the Public Health and Welfare Committee of the Senate and the Health and Human Services Committee of the House of Representatives on an annual basis.

Section 703. Repeals.

All acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 704. Effective date.

This act shall take effect in six months.