
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2622 Session of
2024

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

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

AN ACT

1 Amending the act of 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," in preliminary provisions, further providing
8 for definitions; in administration, further providing for
9 confidentiality of records; and providing for abuse and
10 neglect registry.

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

13 Section 1. The definitions of "abandonment," "abuse," "care-
14 dependent individual," "exploitation," "facility," "neglect,"
15 "serious bodily injury" and "serious physical injury" in section
16 103 of the act of November 6, 1987 (P.L.381, No.79), known as
17 the Older Adults Protective Services Act, are amended and the
18 section is amended by adding a definition to read:

19 Section 103. Definitions.

20 The following words and phrases when used in this act shall
21 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Abandonment." [The desertion of an older adult by a
3 caretaker.] A person knowingly abandons the person's
4 responsibilities without justification and evades the person's
5 duties to another person which results in an act in which the
6 other person was harmed or was at imminent risk of harm.

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

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

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

15 (3) [Sexual] The willful, reckless or negligent act of
16 sexual harassment, rape or abuse, as defined in the act of
17 October 7, 1976 (P.L.1090, No.218), known as the Protection
18 From Abuse Act.

19 (4) Institutional sexual assault, including sexual
20 relationships between staff and service recipients regardless
21 of consent.

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

26 * * *

27 "Care-dependent individual." An adult who, due to physical
28 [or cognitive], cognitive, sensory, communication or psychiatric
29 disability or impairment, requires assistance to meet needs for
30 food, shelter, clothing, personal care or health care.

1 * * *

2 "Exploitation." [An] A person willfully commits an act or
3 course of conduct by a caretaker or other person against an
4 older adult or an older adult's resources, without the informed
5 consent of the older adult or with consent obtained through
6 misrepresentation, coercion or threats of force, that results in
7 monetary, personal or other benefit, gain or profit for the
8 perpetrator or monetary or personal loss to the older adult.

9 "Facility." Any of the following:

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

13 (2) A home health care agency.

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

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

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

23 * * *

24 "Neglect." The failure to provide for oneself or the failure
25 of a caretaker to willfully or recklessly provide goods or
26 services essential to avoid a clear and serious threat to
27 physical or mental health. No older adult who does not consent
28 to the provision of protective services shall be found to be
29 neglected solely on the grounds of environmental factors which
30 are beyond the control of the older adult or the caretaker, such

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

3 * * *

4 "Registry." The abuse and neglect registry established under
5 Chapter 9.

6 * * *

7 "Serious bodily injury." [Injury] An injury which a person
8 willfully, recklessly or negligently causes that creates a
9 substantial risk of death or which causes serious permanent
10 disfigurement or protracted loss or impairment of the function
11 of a body member or organ.

12 "Serious physical injury." An injury which a person
13 willfully, recklessly or negligently causes that:

14 (1) causes a person severe pain; or

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

17 * * *

18 Section 2. Section 306(b) of the act is amended by adding
19 paragraphs to read:

20 Section 306. Confidentiality of records.

21 * * *

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

24 * * *

25 (7) For the purposes of establishing and maintaining the
26 registry, appropriate staff of the department and appropriate
27 staff of the Department of Human Services may access agency
28 protective services records.

29 (8) An employer may access agency protective services
30 records on the registry for the sole purpose of conducting

1 background checks for prospective or current employees.

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

3 CHAPTER 9

4 ABUSE AND NEGLECT REGISTRY

5 Section 901. Abuse and neglect registry.

6 The department shall establish an abuse and neglect registry
7 in order to track perpetrators of abuse and neglect of care-
8 dependent individuals within this Commonwealth.

9 Section 902. Duties of department.

10 The department shall:

11 (1) Promulgate regulations as necessary to implement
12 this chapter.

13 (2) Enforce this chapter and the regulations promulgated
14 under this chapter.

15 Section 903. Responsibility for investigation.

16 The department shall establish procedures regarding the
17 following different responses to address suspected abuse and
18 neglect of a care-dependent individual by individuals allegedly
19 committing the suspected abuse and neglect:

20 (1) If the suspected abuse and neglect of a care-
21 dependent individual is alleged to be committed by a
22 perpetrator, the appropriate agency shall investigate the
23 allegation as provided in this chapter.

24 (2) If the suspected abuse and neglect of a care-
25 dependent individual is alleged to have been committed by a
26 perpetrator and the behavior constituting the suspected abuse
27 and neglect includes a violation of a criminal offense, the
28 appropriate agency and law enforcement officials shall
29 jointly investigate the allegation with the independent
30 investigative team established in section 906 and as provided

1 in this chapter.

2 (3) If the suspected abuse and neglect of a care-
3 dependent individual is alleged to have been committed by an
4 individual who is a perpetrator and the behavior constituting
5 the suspected abuse and neglect of a care-dependent
6 individual includes a criminal offense, law enforcement
7 officials where the suspected abuse and neglect is alleged to
8 have occurred shall be solely responsible for investigating
9 the allegation.

10 Section 904. Investigating performance of agency.

11 (a) Inquiry.--

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

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

28 (3) The department shall determine in its inquiry
29 whether the agency has sufficiently documented reasons why
30 the investigation has not been completed in the 30-day

1 period.

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

6 Section 905. Registration of certain offenders.

7 (a) Requirement.--An individual shall be placed on the
8 registry if the department finds by clear and convincing
9 evidence that the individual:

10 (1) Is at least 18 years of age at the time of the
11 offense and was the subject of a protective services
12 investigation that substantiated the abuse, neglect,
13 abandonment or exploitation of a care-dependent individual.

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

17 (3) Was convicted of an offense under 18 Pa.C.S. Ch. 27
18 (relating to assault), 31 (relating to sexual offenses), 39
19 (relating to theft and related offenses) or 43 (relating to
20 offenses against the family) where the victim was a care-
21 dependent individual.

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

25 Section 906. Investigation.

26 Prior to placing an individual on the registry, the
27 department shall conduct an investigation. The investigative
28 process shall be performed by trained and qualified independent
29 investigators. The process shall include chain of custody,
30 evidence collection standards, reconciliation of evidence,

1 document retention, protection of privacy and confidentiality
2 and the determination of substantiated abuse.

3 Section 907. Review panel.

4 (a) General rule.--The department and the Department of
5 Human Services shall establish a panel comprised of personnel
6 from the department and the Department of Human Services. The
7 panel shall review findings in which an individual is found by
8 investigation under section 906 to have committed a registrable
9 offense.

10 (b) Procedure.--The department, in conjunction with the
11 Department of Human Services, shall establish a process with
12 parameters and duties for reviewers to confirm the finding of
13 substantiated abuse, neglect, abandonment or exploitation.

14 Section 908. Notification for individuals placed on registry.

15 (a) General rule.--After determination that an individual
16 has committed a registrable offense, the individual shall be
17 notified that the individual is being placed on the registry.

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

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

25 (d) Contents of notification.--Notification under this
26 section shall include the individual's name and the date and
27 type of registrable offense that was substantiated and confirmed
28 by the review panel.

29 Section 909. Appeals process.

30 (a) General rule.--An individual found to have committed a

1 registrable offense shall have 90 days from the date the
2 notification of the determination was sent to appeal the
3 decision.

4 (b) Notification of appeal on registry.--During the 90-day
5 period, the registry shall note the pending appeal and, if the
6 appeal is filed, the designation shall remain until the case is
7 adjudicated.

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

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

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

22 (f) Reversal or transfer of determination.--The following
23 apply:

24 (1) If, through the administrative review, the
25 determination that an individual committed a registrable
26 offense is reversed, the individual's name shall be removed
27 from the registry.

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

1 (g) Form of notification.--

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

5 (2) A notification of a determination to an employer at
6 the time of the incident shall be provided electronically, if
7 electronic contact information is available, and by certified
8 and registered mail.

9 Section 910. Request for reconsideration.

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

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

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

22 (1) Facts surrounding the offense and the nature of the
23 offense.

24 (2) Severity and any recurrence of a pattern of the
25 offense.

26 (3) Activities the individual has undertaken to
27 rehabilitate or otherwise address potential underlying causes
28 of behavior that led to the committing of the registrable
29 offense.

30 (4) Employment or care history since the inclusion on

1 the registry that are relevant to the question of whether the
2 individual poses a danger to care-dependent individuals.

3 Section 911. Access to registry.

4 (a) General rule.--The registry shall be Internet-based and
5 publicly available to an employer with a registered account and
6 to a non-department-licensed or non-department-funded entity
7 that serves care-dependent individuals.

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

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

14 (d) Information that is accessible.--

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

18 (2) A prospective employer may request the date and
19 registrable offense from the department as part of a
20 background check for individuals who appear on the registry.

21 Section 912. Use of registry.

22 An employer and an individual serving care-dependent
23 individuals must check the registry prior to hiring an
24 individual at five-year intervals thereafter.

25 Section 913. Employer obligations.

26 The addition of the registry to the protective services
27 system shall not be construed to impair other law that protects
28 employee rights. An employer that serves care-dependent
29 individuals shall:

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

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

5 Section 914. Fees.

6 (a) General rule.--The department shall establish an annual
7 fee that employers are required to pay in order to have a
8 registered account and access to the registry.

9 (b) Determination of fee.--The department shall determine
10 the amount of a fee imposed under subsection (a) by
11 consideration of the following criteria:

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

14 (2) The administrative burden of managing collection and
15 processing of fees.

16 (3) The burden for small employers or individuals self-
17 directed services.

18 (4) Costs associated with employer compliance with
19 registry requirements.

20 Section 915. Record retention.

21 The secretary shall develop a record retention policy of
22 unsubstantiated reports and substantiated reports of abuse and
23 neglect of a care-dependent individual to allow for tracking of
24 potential offenders over time and for perpetrators of
25 registrable offenses.

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