



Senate Aging and Youth Committee

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Summary SB 1049 PN 1349

This legislation would create the Adult Protective Services Act and require the Department of Aging to develop a system to provide protection and advocacy for adults with cognitive or physical disabilities.

The Department of Aging shall partner with the Department of Public Welfare and other appropriate state agencies to define the geographic areas to be served by local contractors of protective services and shall develop a campaign to educate the public.

Successful bidders for local contracts shall have knowledge and experience regarding this adult population and be separate from agencies providing direct services to adults and from county mental health and mental retardation programs. Their boards of directors must include at least 51% representation of adults with cognitive and physical disabilities and their families. A protective services plan shall be submitted by each chosen agency for use in the public information campaign. The plan shall include information regarding delivery of services and confidentiality.

Agencies shall take reports regarding adults in need of protective services and must have the capability of receiving reports 24 hours a day, seven days a week, and holidays. An person receiving a report shall place the adult in at least one of the following categories; priority, nonpriority, another planning and service area, and no need for protective services. A protective services caseworker shall review all categorizations.

Timeframes are established for the investigation of reports. If a report is substantiated, an agency may offer protective services if an adult requests services or an interested person requests services on behalf of an adult. Unsubstantiated reports shall be maintained for one year.

Individuals making reports are protected against intimidation and retaliatory actions as well as civil or criminal liability. Violators may be given a civil monetary fine. Agencies and their employees are also immune from civil and criminal liability.

All reports are considered confidential and may not be disclosed other than to the subject of the report unless it is pursuant to a court order. If criminal conduct is suspected, law enforcement may be given access to the reports and appropriate department staff may access agency records for the purposes of monitoring performance.

Standards are established for involuntary intervention by emergency court order if there is an imminent risk of death or injury. Minimum standards are also established to protect the rights of adults in need of protective services.

The legislation mandates facility employees report to agencies if they have reasonable cause to believe that a recipient of their services is a victim of abuse or neglect. Time frames are established for this reporting requirement. These employees are also required to report to law enforcement if they believe the recipient is a victim of sexual abuse or serious injury or a death is suspicious. Law enforcement is required to investigate such reports and notify an agency and facility of any decision regarding criminal charges.

Procedures are established addressing the continued employment of individuals accused of abuse as well as for confidentiality of these reports. Penalties are provided if a facility or facility employee intentionally or willfully fails to comply with this requirement. Immunity is given for good faith compliance.

Effective Date

This act shall take effect in six months.

Background

There is a Child Protective Services Law and an Older Adult Protective Services Law. No specific protections currently exist for individuals ages 18 to 59 who have functional limitations.

Amendment

Besides making technical and clarifying changes, this amendment adds the terms assisted living residence and older adult daily living center to the definition of facility. It changes the definition of law enforcement permitting the list of individuals to be expanded and by adding a county sheriff and the Pennsylvania Attorney General to the examples.

The amendment requires the Department of Aging, through regulation, to establish procedures to address potential conflicts of interest in the provision of services.