
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1546 Session of
2019

INTRODUCED BY KRUEGER, KOSIEROWSKI, HARKINS, ULLMAN, BARRAR,
HILL-EVANS, McCLINTON, VITALI, GALLOWAY, CIRESI, DALEY,
FIEDLER, DeLUCA, FREEMAN AND SCHWEYER, JUNE 3, 2019

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JUNE 3, 2019

AN ACT

1 Providing for violence prevention committees in health care
2 facilities, for duties of committees, for workplace violence
3 reporting requirements and for powers and duties of the
4 Department of Labor and Industry; and imposing fines and
5 administrative penalties.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Health
10 Facility Employee Violence Prevention Act.

11 Section 2. Definitions.

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

15 "Committee." The violence prevention committee established
16 by a health facility under this act.

17 "Department." The Department of Labor and Industry of the
18 Commonwealth.

19 "Employee." An individual who is employed by a health

1 facility who is involved in direct patient care or clinical care
2 services.

3 "Health facility." A hospital, long-term care nursing
4 facility or home health care agency as those terms are defined
5 in section 802.1 of the act of July 19, 1979 (P.L.130, No.48),
6 known as the Health Care Facilities Act.

7 "Program." The workplace violence prevention program
8 established by a committee.

9 "Workplace violence." Violence or the threat of violence
10 against an employee.

11 Section 3. Violence prevention committee.

12 (a) Establishment.--Each health facility shall establish a
13 violence prevention committee to establish, review, administer
14 and provide guidance about a program relating to the prevention
15 of workplace violence at the health facility.

16 (b) Membership.--Each committee shall be comprised as
17 follows:

18 (1) At least one member or designee of the committee
19 shall represent management and oversee all aspects of the
20 program.

21 (2) At least 50% of the members of the committee shall
22 have direct patient care responsibilities, with the majority
23 being licensed nurses.

24 (3) The remaining members of the committee shall have
25 experience, expertise or responsibility relevant to violence
26 prevention or other expertise that is considered beneficial
27 to the committee.

28 (4) The committee shall have a proportional
29 representation of union members, selected by their union, and
30 nonunion members, elected by secret ballot by their peers.

1 The proportional representation shall incorporate all
2 employees at risk of becoming a victim of workplace violence.

3 (5) In the case of a health care system that is subject
4 to a collective bargaining agreement, the contractual
5 agreement shall designate the number of union members to
6 serve on the committee, as well as the number of
7 representatives from management. The agreement shall also
8 account for individuals who are employed by the health care
9 system, but who are not members of a union or management.

10 (c) Operation of committee and program.--In the case of a
11 health care system that owns or operates more than one health
12 facility, the committee and program may be operated at the
13 system or department level if:

14 (1) Committee membership includes at least one employee
15 from each health facility who provides direct care to
16 patients.

17 (2) The committee develops a violence prevention plan
18 for each health facility.

19 (3) Data related to violence prevention remains
20 distinctly identifiable for each health facility.

21 Section 4. Duties of committee.

22 (a) Risk assessment evaluation.--Each committee shall
23 annually perform a risk assessment evaluation of the factors
24 that may put an employee at risk of workplace violence. Those
25 factors shall include, but not be limited to:

26 (1) Working in a public setting.

27 (2) Guarding or maintaining property or possessions.

28 (3) Working in a high-crime area.

29 (4) Working late at night or early in the morning.

30 (5) Using commuter lots that are not adequately lit or

1 frequently patrolled.

2 (6) The existence of uncontrolled public access to the
3 workplace.

4 (7) Working in a public area with individuals in crisis.

5 (8) Working in an area where a patient or resident may
6 exhibit violent behavior.

7 (b) Review.--Each committee shall meet quarterly to review
8 any case of workplace violence and to perform duties required
9 under this act.

10 (c) Preparation of report and establishment of program.--
11 Each committee shall:

12 (1) Prepare a report from the risk assessment evaluation
13 and establish a program. If there is more than one health
14 facility within a system, there shall be a program
15 established for each health facility. The program shall be
16 updated annually.

17 (2) Develop and maintain a detailed, written violence
18 prevention plan that:

19 (i) identifies workplace risks;

20 (ii) establishes a system to identify and flag
21 individuals with a history of violence; and

22 (iii) provides specific methods to address workplace
23 risks.

24 (3) Distribute the violence prevention plan and risk
25 assessment report to those employees who are identified to be
26 at risk for workplace violence and to other employees who
27 request the violence prevention plan or risk assessment
28 report.

29 (4) Make the risk assessment report available to the
30 public upon request.

1 (5) Establish a method to expedite reporting and review
2 of a report of workplace violence and make written
3 recommendations to the health facility management on
4 preventing additional incidents of similar workplace
5 violence.

6 (d) Employee training.--The committee shall provide
7 appropriate employee training to employees at the time of hire
8 and annually thereafter.

9 Section 5. Reporting of workplace violence.

10 (a) Reporting.--An employee who reasonably believes that an
11 incident of workplace violence has occurred shall report the
12 occurrence of the incident in accordance with the violence
13 prevention plan of the health facility unless the employee knows
14 a report has already been made. The report shall be made
15 immediately or as soon thereafter as reasonably practicable, but
16 no later than 24 hours after the occurrence or discovery of the
17 incident.

18 (b) Liability.--An employee who reports the occurrence of an
19 incident of workplace violence under subsection (a) may not be
20 subject to retaliatory action for reporting the incident as set
21 forth in the act of December 12, 1986 (P.L.1559, No.169), known
22 as the Whistleblower Law.

23 (c) Limitation.--This section shall not limit a health
24 facility's ability to take appropriate disciplinary action
25 against an employee for failure to meet defined performance
26 expectations or to take corrective action against an employee
27 for unprofessional conduct, including making false reports or
28 failure to report an incident of workplace violence under this
29 section.

30 Section 6. Distribution of reports of workplace violence.

1 A report of an incident of workplace violence that is
2 submitted to management or to the health facility shall be
3 provided to the committee within 72 hours of the submission of
4 the report.

5 Section 7. Penalties.

6 (a) Administrative fine.--The department may levy an
7 administrative fine on a health facility that violates this act
8 or any regulation adopted under this act. The fine shall be not
9 less than \$100 nor more than \$1,000 for each violation.

10 (b) Administrative order.--The department may order a health
11 facility to take an action that the department deems necessary
12 to correct a violation of section 5.

13 (c) Administrative agency law.--This section is subject to 2
14 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of
15 Commonwealth agencies) and 7 Subch. A (relating to judicial
16 review of Commonwealth agency action).

17 Section 8. Remedies.

18 (a) General rule.--If a health facility has engaged in
19 conduct that causes or maintains a substantial risk of further
20 workplace violence, including failing to implement the
21 recommendations of a committee, a court may enjoin the health
22 facility from engaging in the illegal activities and may order
23 any other relief that is appropriate, including, but not limited
24 to:

- 25 (1) reinstatement of an employee;
- 26 (2) removal of the offending party from the employee's
27 work environment;
- 28 (3) reimbursement for lost wages;
- 29 (4) medical expenses;
- 30 (5) compensation for emotional distress; and

1 (6) attorney fees.

2 (b) Appeals to department.--

3 (1) If a committee concludes that a health facility is
4 not acting in good faith in implementing the recommendations
5 of the committee, the committee, by vote of a majority of the
6 members, may appeal the health facility's decision to the
7 department.

8 (2) If, after a hearing, the department determines that
9 the health facility is acting in bad faith and failing to
10 implement safety recommendations suggested by the committee,
11 the department may impose penalties against the health
12 facility, including appropriate fines and administrative
13 penalties.

14 Section 9. Effect on collective bargaining agreements.

15 This act may not be construed to:

16 (1) Supersede a current provision of an employee's
17 existing collective bargaining agreement which provides
18 greater rights and protection than prescribed by this act.

19 (2) Prevent any new provisions of a collective
20 bargaining agreement which provides greater rights and
21 protections from being implemented and applicable to an
22 employee.

23 Section 10. Rules and regulations.

24 The department shall adopt rules and regulations necessary to
25 implement this act. The rules and regulations shall include
26 guidelines the department deems appropriate regarding workplace
27 violence prevention programs required under this act and related
28 to reporting and monitoring systems and employee training.

29 Section 11. Effective date.

30 This act shall take effect in 180 days.