
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 849 Session of
2023

INTRODUCED BY KANE, HAYWOOD, COLLETT, SANTARSIERO, FONTANA,
BREWSTER, KEARNEY, COMITTA, COSTA, MUTH, CAPPELLETTI, DILLON,
HUGHES, SAVAL, L. WILLIAMS AND FARRY, JULY 6, 2023

REFERRED TO LABOR AND INDUSTRY, JULY 6, 2023

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.--The committee shall be composed as follows:

17 (1) At least one member or designee of the committee
18 shall represent management and oversee implementation of the
19 program. The committee shall be led by two cochairs, one
20 representing management and one representing the union
21 employees and nonunion staff in the case of a facility that
22 has no union representing its staff.

23 (2) At least 50% of the members of the committee shall
24 be nonmanagerial staff primarily engaged in direct patient
25 care. The committee shall have a proportional representation
26 of union members, selected by their union and nonunion
27 members, elected by secret ballot by their peers. The
28 proportional representation shall incorporate all employees
29 at risk of becoming a victim of workplace violence and shall
30 include representation from all main areas of the hospital

1 that may be subject to workplace violence.

2 (3) The remaining members of the committee shall be
3 selected by management and shall have experience, expertise
4 or responsibility relevant to violence prevention or other
5 expertise that is considered beneficial to the committee.

6 Section 4. Duties of committee.

7 (a) Risk assessment evaluation.--Each committee shall
8 perform an initial risk assessment based on an analysis of
9 incidents of the prior five years and then annually thereafter,
10 as well as an evaluation of the factors that may put an employee
11 at risk of workplace violence. Those factors shall include, but
12 not be limited to:

13 (1) Working in a public setting.

14 (2) Guarding or maintaining property or possessions.

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

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

17 (5) Using commuter lots that are not adequately lit or
18 frequently patrolled.

19 (6) The existence of uncontrolled public access to the
20 workplace.

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

22 (8) Working in an area where a patient or resident may
23 exhibit violent behavior or where there has been a pattern of
24 violent behavior.

25 (9) Working in a unit that does not have adequate
26 staffing levels.

27 (10) The existence or availability of a security
28 response team that is able to rapidly and effectively respond
29 to incidents of workplace violence.

30 (11) Adequate training of staff to deal with incidents

1 of workplace violence.

2 (12) The physical layout of the facility.

3 (b) Review.--Each committee shall meet quarterly to review
4 all incidents of workplace violence, to review compliance with
5 the program and the effectiveness of the program, to initiate
6 changes to the program where necessary and to perform any other
7 duties required under this act. The committee shall report
8 annually the results of the reviews to the department together
9 with any changes to the program adopted by the committee. If no
10 changes are adopted in response to the review, the committee
11 shall report that fact to the department.

12 (c) Preparation of report and establishment of program.--
13 Each committee shall:

14 (1) Prepare a report from the risk assessment evaluation
15 and establish a written violence prevention program to
16 mitigate risks based on the assessment. If there is more than
17 one health facility within a system, there shall be a program
18 established for each health facility. The program shall be
19 updated annually.

20 (2) Develop and maintain a detailed, written violence
21 prevention plan that:

22 (i) identifies and tracks incidents of workplace
23 violence at the facility;

24 (ii) identifies workplace risks;

25 (iii) establishes a system to identify and flag
26 individuals with a history of violence; and

27 (iv) provides specific methods to address workplace
28 risks.

29 (3) Distribute the violence prevention plan and risk
30 assessment report to all employees.

1 (4) Make the risk assessment report available to the
2 public.

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

8 (6) Promptly after adopting a violence prevention plan,
9 file a copy of the plan with the department.

10 (d) Employee training.--The committee shall provide
11 appropriate employee training to employees at the time of hire
12 and annually thereafter.

13 Section 5. Reporting of workplace violence.

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

22 (b) Local law enforcement reporting.--Acts of workplace
23 violence or threats of workplace violence against any on-duty
24 health facility personnel shall be reported to the local law
25 enforcement agency within 24 hours. It shall be considered a
26 violation of this act to interfere with, discourage or obstruct
27 such reporting.

28 (c) Liability.--An employee who reports the occurrence of an
29 incident of workplace violence under subsection (a) may not be
30 subject to retaliatory action for reporting the incident as

1 specified in the act of December 12, 1986 (P.L.1559, No.169),
2 known as the Whistleblower Law.

3 Section 6. Distribution of reports of workplace violence.

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

8 Section 7. Penalties.

9 (a) Administrative fine.--The department may levy an
10 administrative fine on a health facility that violates this act
11 or any regulation adopted under this act. The fine shall be not
12 less than \$1,000 for each violation. The department may increase
13 fines for repeated violations.

14 (b) Administrative order.--The department may order a health
15 facility to take an action that the department deems necessary
16 to correct a violation of this act.

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

21 Section 8. Remedies.

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

29 (1) reinstatement of an employee;

30 (2) removal of the offending party from the employee's

1 work environment;

2 (3) reimbursement for lost wages;

3 (4) medical expenses;

4 (5) compensation for emotional distress; and

5 (6) attorney fees.

6 (b) Appeals to department.--

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

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

18 (3) Additionally, any individual has the ability to file
19 a complaint with the department for a violation of this act.

20 (4) If an activity, policy or practice has been reported
21 to management and, after reasonable opportunity for
22 correction, the problem has not been corrected or resolved
23 and an employee or a representative of the employee still
24 believes that a violation of the workplace violence
25 prevention program remains or that substantial risk of
26 workplace violence exists, such employee or representative of
27 the employees may request an inspection by giving notice to
28 the department of such a violation or risk. Such notice and
29 request shall be in writing, shall set forth with reasonable
30 particularity the grounds for the notice and shall be signed

1 by the employee or representative of employees. A copy of
2 such notice shall be provided to the employer, except that on
3 the request of the person giving notice, such person's name
4 shall be withheld. If the department finds such a complaint
5 to be credible, an inspection shall be made by the
6 department.

7 (5) A representative of the employer and employees shall
8 be given the opportunity to accompany the department
9 representative during the inspection.

10 Section 9. Effect on collective bargaining agreements.

11 This act may not be construed to:

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

15 (2) Prevent any new provisions of a collective
16 bargaining agreement which provides greater rights and
17 protections from being implemented and applicable to an
18 employee.

19 Section 10. Rules and regulations.

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

25 Section 11. Effective date.

26 This act shall take effect in 90 days.