

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1697 Session of  
2025

INTRODUCED BY BURNS, PASHINSKI AND GIRAL, JULY 2, 2025

REFERRED TO COMMITTEE ON JUDICIARY, JULY 2, 2025

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An  
2 act to consolidate, editorially revise, and codify the public  
3 welfare laws of the Commonwealth," providing for liability  
4 for false claims, for adoption of congressional intent of the  
5 Federal False Claims Act, for damages, costs and civil  
6 penalties, for powers of Attorney General, for qui tam  
7 actions and for civil investigative demands; and establishing  
8 the Fraud Prevention and Recovery Account.

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

11 Section 1. The act of June 13, 1967 (P.L.31, No.21), known  
12 as the Human Services Code, is amended by adding an article to  
13 read:

14 ARTICLE XIV-E

15 LIABILITY FOR FALSE CLAIMS

16 SUBARTICLE A

17 PRELIMINARY PROVISIONS

18 Section 1401-E. Scope of article.

19 This article shall be known and may be cited as the Taxpayer  
20 Prevention Against Fraud Act.

21 Section 1402-E. Declaration of policy.

1 The General Assembly declares that this article adopts the  
2 intent of Congress in enacting the Federal False Claims Act  
3 (Public Law 97-258, 31 U.S.C. § 3729 et seq.) on September 13,  
4 1982, including the amendments enacted October 27, 1986 (Public  
5 Law 99-562, 100 Stat. 3153).

6 Section 1403-E. Definitions.

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

10 "Claim." As follows:

11 (1) A request or demand for money or property, whether  
12 under contract or otherwise and regardless of whether the  
13 Commonwealth has title to the money or property, that is  
14 presented, submitted or otherwise made to any of the  
15 following:

16 (i) An employee, officer or agent of the  
17 Commonwealth.

18 (ii) A contractor, grantee or other recipient, if  
19 any portion of the money or property will be spent or  
20 used on the Commonwealth's behalf or to advance a program  
21 or interest of the Commonwealth, and if the Commonwealth:

22 (A) provides or has provided any portion of the  
23 money or property requested or demanded; or

24 (B) will reimburse the contractor, grantee or  
25 other recipient for any portion of the money or  
26 property that is requested or demanded.

27 (2) The term does not include requests or demands for  
28 money or property that the Commonwealth has paid to an  
29 individual as compensation for employment or as an income  
30 subsidy with no restrictions on the individual's use of the

1 money or property.

2 (3) To the extent that it is not connected to a request  
3 or demand for money or property, a filing with a Commonwealth  
4 agency pursuant to the Commonwealth's insurance laws shall  
5 not constitute a claim.

6 "Knowing" and "knowingly." As follows:

7 (1) Whenever a person, with respect to information, does  
8 any of the following:

9 (i) Has actual knowledge of the information.

10 (ii) Acts in deliberate ignorance of the truth or  
11 falsity of the information.

12 (iii) Acts in reckless disregard of the truth or  
13 falsity of the information.

14 (2) Proof of specific intent to defraud is not required.

15 "Legal claim." A claim for relief at law or equity, whether  
16 contemplated or asserted, including any claim, demand, account,  
17 note or any other cause of action or liability.

18 "Obligation." An established duty, whether or not fixed,  
19 arising from any of the following:

20 (1) An express or implied contractual relationship.

21 (2) An express or implied grantor-grantee relationship.

22 (3) An express or implied licensor-licensee  
23 relationship.

24 (4) A fee-based or similar relationship.

25 (5) A statute or regulation.

26 (6) The retention of an overpayment.

27 "Official use." A use that is consistent with the law and  
28 the regulations and policies of the Office of Attorney General,  
29 including the following:

30 (1) Use in connection with internal memoranda and

1 reports.

2 (2) Communications between the Office of Attorney  
3 General and a Federal, State or local government agency or a  
4 contractor of a Federal, State or local government agency,  
5 undertaken in furtherance of an investigation or prosecution  
6 of an action or case.

7 (3) Interviews of a qui tam plaintiff or other witness.

8 (4) Oral examinations.

9 (5) Depositions.

10 (6) Preparation for and response to civil discovery  
11 requests.

12 (7) Introduction into the record of an action, case or  
13 proceeding.

14 (8) Applications, motions, memoranda and briefs  
15 submitted to a court or other tribunal.

16 (9) Communications with investigators, auditors,  
17 consultants and experts, the counsel of other parties,  
18 arbitrators and mediators, concerning an investigation,  
19 action, case or proceeding.

20 "Original source." An individual who:

21 (1) prior to a public disclosure under section 1412-E(f)  
22 (2), has voluntarily disclosed to the Commonwealth the  
23 information on which the allegations or transactions in a  
24 claim are based; or

25 (2) has knowledge that is independent of and materially  
26 adds to the publicly disclosed allegations or transactions  
27 and who has voluntarily provided the information to the  
28 Commonwealth before filing an action under section 1412-E(b).

29 "Person." A natural person, corporation, firm, association,  
30 organization, partnership, limited liability company, business,

1 trust, business trust, estate or foundation.

2 "Qui tam plaintiff." A person bringing a civil action under  
3 section 1412-E(b).

4 "State." In reference to a jurisdiction, the term includes  
5 the District of Columbia, the Commonwealth of Puerto Rico, the  
6 Virgin Islands and all permanently inhabited territories of the  
7 United States.

8 SUBARTICLE B

9 FALSE CLAIMS

10 Section 1411-E. Acts subjecting persons to liability and  
11 damages.

12 (a) Liability.--Except as provided in subsection (b), a  
13 person shall be liable to the Commonwealth for three times the  
14 amount of damages that the Commonwealth sustains, plus a civil  
15 penalty in an amount determined under subsection (d), for each  
16 violation, if the person commits any of the following acts:

17 (1) Knowingly presents or causes to be presented a false  
18 or fraudulent claim for payment or approval.

19 (2) Knowingly makes, uses or causes to be made or used,  
20 a false record or statement material to a false or fraudulent  
21 claim.

22 (3) Has possession, custody or control of property or  
23 money used or to be used by the Commonwealth and knowingly  
24 delivers or causes to be delivered less than all of the money  
25 or property.

26 (4) Is authorized to make or deliver a document  
27 certifying receipt of property used or to be used by the  
28 Commonwealth and, intending to defraud the Commonwealth,  
29 makes or delivers a receipt without completely knowing that  
30 the information on the receipt is true.

1       (5) Knowingly buys or receives, as a pledge of an  
2       obligation or debt, public property from an officer or  
3       employee of the Commonwealth who lawfully may not sell or  
4       pledge the property.

5       (6) Knowingly makes, uses or causes to be made or used a  
6       false record or statement material to an obligation to pay or  
7       transmit money or property to the Commonwealth or knowingly  
8       conceals, or knowingly and improperly avoids or decreases an  
9       obligation to pay or transmit money or property to the  
10      Commonwealth.

11      (7) Knowingly fails to disclose a fact, event or  
12      occurrence material to an obligation to pay or transmit money  
13      or property to the Commonwealth.

14      (8) Is a beneficiary of an inadvertent submission of a  
15      false claim, subsequently discovers the falsity of the claim  
16      and fails to disclose the false claim to the Commonwealth  
17      within a reasonable time after discovery of the false claim.

18      (9) Conspires to commit a violation of paragraph (1),  
19      (2), (3), (4), (5), (6), (7) or (8).

20      (b) Damages limitation.--A court may assess not less than  
21      two times the amount of damages that the Commonwealth sustains  
22      from a violation of subsection (a) if the court finds all of the  
23      following:

24      (1) The person committing the violation furnished the  
25      Commonwealth officials who are responsible for investigating  
26      false claims violations with all information known to that  
27      person about the violation within 30 days after the date on  
28      which the person first obtained the information.

29      (2) The person fully cooperated with an investigation by  
30      the Commonwealth.

1       (3) At the time the person furnished the Commonwealth  
2       with information about the violation, no criminal  
3       prosecution, civil action or administrative action had  
4       commenced with respect to the violation, and the person did  
5       not have actual knowledge of the existence of an  
6       investigation into the violation.

7       (c) Commonwealth costs.--A person who is liable for damages  
8       or penalties under subsection (a) shall also be liable to the  
9       Commonwealth for the reasonable costs of investigating and  
10       prosecuting violations of subsection (a), including reasonable  
11       costs to the Office of Attorney General.

12       (d) Civil penalties and adjustments.--The civil penalties  
13       payable under subsection (a) shall be equal to the civil penalty  
14       limits provided under 31 U.S.C. § 3729(a)(1) (relating to false  
15       claims), as adjusted by the Federal Civil Penalties Inflation  
16       Act of 1990 (Public Law 101-410, 28 U.S.C. § 2461 note).

17       (e) Exemption from disclosure.--The Office of Attorney  
18       General shall be exempt from disclosing under the act of  
19       February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law,  
20       information that is furnished under subsection (b) or accessed  
21       or shared under section 1414-E(a).

22       (f) Definition.--For purposes of this section, the term  
23       "material" means a natural tendency to influence, or be capable  
24       of influencing, the payment or receipt of money or property.  
25       Section 1412-E. Attorney General investigations and  
26       prosecutions and civil actions.

27       (a) Responsibilities.--The Attorney General shall represent  
28       the Commonwealth with respect to all matters arising under this  
29       article and is authorized to investigate violations of section  
30       1411-E. If the Attorney General finds that a person has violated

1 or is violating section 1411-E, the Attorney General may bring a  
2 civil action under this section against that person for  
3 violating section 1411-E.

4 (b) Action by qui tam plaintiff.--

5 (1) A qui tam plaintiff may bring a civil action for a  
6 violation of section 1411-E for the qui tam plaintiff and for  
7 the Commonwealth in the name of the Commonwealth. Once filed,  
8 the action may be dismissed only if the court and the  
9 Attorney General give written consent to the dismissal and  
10 their reasons for consenting.

11 (2) A copy of the complaint and written disclosure of  
12 substantially all material evidence and information that the  
13 qui tam plaintiff possesses shall be served promptly on the  
14 Attorney General as provided for in the Pennsylvania Rules of  
15 Civil Procedure or applicable court rule. The complaint shall  
16 be filed in camera and shall remain under seal for at least  
17 60 days and shall not be served on the defendant until the  
18 court orders the service. The Commonwealth may elect to  
19 intervene and proceed with the action within 60 days after it  
20 receives the complaint and the material evidence and  
21 information.

22 (3) Upon motion of the Commonwealth, the court, for good  
23 cause shown, shall extend the time during which the complaint  
24 remains sealed under paragraph (2). The motion may be  
25 supported by affidavits or other submissions in camera. The  
26 defendant shall not be required to respond to a complaint  
27 filed under this section until the complaint is unsealed and  
28 served upon the defendant under the Pennsylvania Rules of  
29 Civil Procedure or other applicable court rule.

30 (4) Before the expiration of the 60-day period or any

1 extensions obtained under paragraph (3), the Commonwealth  
2 shall do either of the following:

3 (i) proceed with the action, in which case the  
4 action shall be conducted by the Commonwealth; or

5 (ii) notify the court that the Commonwealth declines  
6 to take over the action, in which case the qui tam  
7 plaintiff shall have the right to conduct the action.

8 (c) Intervention restricted to Commonwealth.--When a qui tam  
9 plaintiff brings an action under subsection (b), only the  
10 Commonwealth may intervene or bring a related action based on  
11 the facts underlying the pending action.

12 (d) Rights of the parties to qui tam actions.--

13 (1) If the Commonwealth proceeds with an action under  
14 subsection (b), it shall have the primary responsibility for  
15 prosecuting the action and shall not be bound by an act of  
16 the qui tam plaintiff. The qui tam plaintiff shall have the  
17 right to continue as a party to the action, subject to the  
18 limitations specified in paragraph (2).

19 (2) The following shall apply:

20 (i) The Commonwealth may move to dismiss the action  
21 despite the qui tam plaintiff's objections, if the  
22 Commonwealth notifies the qui tam plaintiff of the  
23 filing. The court may dismiss the action if the court has  
24 provided the qui tam plaintiff with an opportunity to  
25 oppose the motion at a hearing.

26 (ii) The Commonwealth may settle the action with the  
27 defendant despite the qui tam plaintiff's objections if  
28 the court determines, after a hearing, that the proposed  
29 settlement is fair, adequate and reasonable under all the  
30 circumstances. Upon a showing of good cause, the hearing

1 may be held in camera. Upon the Commonwealth's motion,  
2 the court, for good cause shown, shall order a partial  
3 lifting of the seal to facilitate the investigative  
4 process or settlement.

5 (iii) Upon the Commonwealth's showing that the qui  
6 tam plaintiff's unrestricted participation during the  
7 course of the action would interfere with or unduly delay  
8 the Commonwealth's prosecution of the case or would be  
9 repetitious, irrelevant or for purposes of harassment,  
10 the court may, in its discretion, impose limitations on  
11 the qui tam plaintiff's participation by:

12 (A) limiting the number of witnesses the qui tam  
13 plaintiff may call;

14 (B) limiting the length of witness testimony;

15 (C) limiting the qui tam plaintiff's cross-  
16 examination of witnesses; or

17 (D) otherwise limiting the qui tam plaintiff's  
18 participation in the action.

19 (iv) Upon the defendant's showing that the qui tam  
20 plaintiff's unrestricted participation in the action  
21 would be for purposes of harassment or would cause the  
22 defendant undue burden or unnecessary expense, the court  
23 may limit the qui tam plaintiff's participation in the  
24 action.

25 (3) If the Commonwealth elects not to proceed with the  
26 action, the qui tam plaintiff shall have the right to conduct  
27 the action. If the Commonwealth requests, the Commonwealth  
28 shall be served with copies of all pleadings filed in the  
29 action and shall be supplied with copies of all deposition  
30 transcripts and other discovery produced in the action.

1 Without limiting the qui tam plaintiff's status and rights,  
2 the court shall permit the Commonwealth to intervene at a  
3 later date upon a showing of good cause.

4 (4) Whether or not the Commonwealth proceeds with the  
5 action, upon the Commonwealth's showing, in camera, that  
6 certain actions of discovery by the qui tam plaintiff would  
7 interfere with the Commonwealth's investigation or  
8 prosecution of a criminal or civil matter arising out of the  
9 same facts, the court may stay the discovery for a period of  
10 not more than 60 days. The court may extend the 60-day period  
11 upon the Commonwealth's further showing, in camera, that the  
12 Commonwealth has pursued the criminal or civil investigation  
13 or proceedings with reasonable diligence and that the  
14 discovery proposed in the civil action will interfere with  
15 the ongoing criminal or civil investigations or proceedings.

16 (5) Notwithstanding subsection (b), the Commonwealth may  
17 elect to pursue legal claims through an alternate remedy  
18 available to the Commonwealth, including an administrative  
19 proceeding to determine a civil money penalty. If the  
20 alternate remedy is pursued in another proceeding, the qui  
21 tam plaintiff shall have the same rights in the proceeding as  
22 if the action had continued under this section. A finding of  
23 fact or conclusion of law made in the other proceeding that  
24 has become final shall be conclusive on all parties to an  
25 action under this section. A finding or conclusion is final  
26 if it has been finally determined on appeal to the  
27 appropriate court of the Commonwealth, if the time for filing  
28 the appeal regarding the finding or conclusion has expired  
29 without an appeal having been filed or if the finding or  
30 conclusion is not subject to judicial review.

1 (e) Award to qui tam plaintiff.--

2 (1) The following shall apply:

3 (i) If the Commonwealth proceeds with an action  
4 brought by a qui tam plaintiff, the qui tam plaintiff  
5 shall, subject to the provisions of this subsection,  
6 receive at least 15% but not more than 25% of the  
7 proceeds of the action or settlement of the legal claim,  
8 depending upon the extent to which either or both the qui  
9 tam plaintiff and the qui tam plaintiff's counsel  
10 substantially contributed to the prosecution of the  
11 action.

12 (ii) If the court finds that the action is based  
13 primarily on disclosures of specific information, other  
14 than information provided by the qui tam plaintiff,  
15 relating to allegations or transactions in a criminal,  
16 civil or administrative hearing to which the Commonwealth  
17 is a party, or in a Federal, State or local legislative  
18 or other governmental hearing, report, audit or  
19 investigation or from the news media, the court may award  
20 a sum it considers appropriate, but not more than 10% of  
21 the proceeds of the action or settlement, taking into  
22 account the significance of the information and the qui  
23 tam plaintiff's role in advancing the action.

24 (2) If the Commonwealth does not proceed with an action  
25 under this section, the qui tam plaintiff shall receive at  
26 least 25% but not more than 30% of the proceeds of the action  
27 or settlement of the legal claim, as the court deems  
28 reasonable.

29 (3) Whether or not the Commonwealth proceeds with an  
30 action, if the court finds that the qui tam plaintiff planned

1 and initiated the violation of section 1411-E upon which the  
2 action was brought, the following shall apply:

3 (i) Subject to subparagraph (ii), the court may, to  
4 the extent that it considers appropriate, reduce the  
5 share of the proceeds of the action or settlement of the  
6 legal claim that the qui tam plaintiff would otherwise  
7 receive under paragraph (1) or (2), taking into account  
8 the qui tam plaintiff's role in advancing the action and  
9 any relevant circumstances pertaining to the violation.

10 (ii) If the qui tam plaintiff is convicted of  
11 criminal conduct arising from the qui tam plaintiff's  
12 role in the violation, the qui tam plaintiff shall be  
13 dismissed from the civil action and shall not receive a  
14 share of the proceeds of the action. The dismissal shall  
15 not prejudice the Commonwealth's right to continue the  
16 action.

17 (4) An award to a qui tam plaintiff shall be made from  
18 the proceeds of the action or settlement of the legal claim.  
19 The qui tam plaintiff also shall receive an amount for  
20 reasonable expenses that the court finds were necessarily  
21 incurred, plus reasonable attorney fees and costs. The  
22 expenses, fees and costs shall be awarded against the  
23 defendant.

24 (5) If the Commonwealth does not proceed with the action  
25 and the qui tam plaintiff conducts the action, the court may  
26 award to the defendant reasonable attorney fees and expenses  
27 if the defendant prevails in the action and the court finds  
28 that the qui tam plaintiff's legal claim was clearly  
29 frivolous, clearly vexatious or brought primarily for  
30 purposes of harassment.

1 (f) Certain actions barred.--

2 (1) A court shall not have jurisdiction over an action  
3 filed under subsection (b) against the Governor, the  
4 Lieutenant Governor, the Attorney General, the Auditor  
5 General, the Treasurer, a cabinet member, a deputy secretary,  
6 a member of the General Assembly or a member of the judiciary  
7 if the action is based on evidence or information known to  
8 the Commonwealth when the action was brought.

9 (2) The following shall apply:

10 (i) Subject to subparagraph (ii), the court shall  
11 dismiss an action or legal claim brought under subsection  
12 (b) if substantially the same allegations or transactions  
13 alleged in the action or legal claim were publicly  
14 disclosed in:

15 (A) the news media;

16 (B) a criminal, civil or administrative hearing  
17 in which the Commonwealth is or was a party; or

18 (C) a Federal, State or local legislative or  
19 other governmental hearing, report, audit or  
20 investigation.

21 (ii) The court may not dismiss an action under  
22 subparagraph (i) if:

23 (A) the Attorney General opposes dismissal; or

24 (B) the qui tam plaintiff is an original source  
25 of the information that is publicly disclosed.

26 (3) A qui tam plaintiff may not bring an action under  
27 this section that is based upon allegations or transactions  
28 that are the subject of a civil suit or an administrative  
29 civil money penalty proceeding in which the Commonwealth is  
30 already a party.

1     (g) Commonwealth not liable for certain expenses.--The  
2     Commonwealth is not liable for expenses that a qui tam plaintiff  
3     incurs in bringing an action under this section.

4     (h) Cooperation by agencies.--Commonwealth agencies shall  
5     cooperate in the investigation and prosecution of false claims  
6     under this section, whether the investigation is conducted or  
7     suit is brought by the Attorney General or by a qui tam  
8     plaintiff.

9     (i) Nature of action.--An action under this section is an  
10    action brought by the Commonwealth, as provided in section  
11    204(c) of the act of October 15, 1980 (P.L.950, No.164), known  
12    as the Commonwealth Attorneys Act.

13    Section 1413-E. Civil investigative demands.

14    (a) Issuance and service.--

15        (1) If the Attorney General has reason to believe that a  
16        person may be in possession, custody or control of  
17        documentary material or information relevant to a false  
18        claims investigation under this article, the Attorney General  
19        or a designee may issue in writing and cause to be served  
20        upon the person a civil investigative demand requiring the  
21        person to:

22            (i) produce documentary material for inspection and  
23            copying;

24            (ii) answer in writing written interrogatories with  
25            respect to documentary material or information;

26            (iii) give oral testimony concerning documentary  
27            material or information; or

28            (iv) furnish any combination of materials, answers  
29            or testimony.

30        (2) If a civil investigative demand is an express demand

1 for a product of discovery, the Attorney General or a  
2 designee shall:

3 (i) cause to be served in any manner authorized by  
4 this subsection a copy of the demand upon the person from  
5 whom or which the discovery was obtained; and

6 (ii) notify the demand issuee of the date on which  
7 the copy was served.

8 (b) Contents and deadlines.--

9 (1) A civil investigative demand shall state the nature  
10 of the conduct constituting the alleged violation of this  
11 article that is under investigation and the applicable  
12 provisions of this article alleged to be violated.

13 (2) If the civil investigative demand is for the  
14 production of documentary material, the demand shall:

15 (i) describe each class of documentary material to  
16 be produced with definiteness and certainty as to permit  
17 the material to be fairly identified;

18 (ii) prescribe a return date for each class that  
19 will provide a reasonable time period within which the  
20 material so demanded may be assembled and made available  
21 for inspection and copying; and

22 (iii) identify the false claims investigator to whom  
23 the material shall be available.

24 (3) If the civil investigative demand is for answers to  
25 written interrogatories, the demand shall:

26 (i) set forth with specificity the written  
27 interrogatories to be answered;

28 (ii) prescribe dates on which the answers to the  
29 written interrogatories shall be submitted; and

30 (iii) identify the false claims investigator to whom

1       the answers shall be submitted.

2       (4) If the civil investigative demand is for oral  
3 testimony, the demand shall:

4           (i) prescribe a date, time and place at which the  
5 oral testimony shall be given;

6           (ii) identify a false claims investigator who shall  
7 conduct the examination and the custodian to whom the  
8 transcript of the examination shall be submitted;

9           (iii) specify that attendance and testimony are  
10 necessary to the conduct of the false claims  
11 investigation; and

12           (iv) describe the general purpose for which the  
13 demand is being issued and general nature of the  
14 testimony, including the primary areas of inquiry, that  
15 will be taken under the demand.

16       (5) A civil investigative demand shall contain the  
17 following statement printed at the beginning of the demand:

18           "You have the right to seek the assistance of an  
19 attorney, who may represent you in all phases of the  
20 investigation of which this civil investigative  
21 demand is a part."

22       (6) A civil investigative demand that is an express  
23 demand for a product of discovery shall not be returned or  
24 returnable until 20 days after a copy of the demand has been  
25 served upon the person from whom or which the discovery was  
26 obtained.

27       (7) The date prescribed for commencement of oral  
28 testimony under a civil investigative demand shall not be  
29 less than seven days after the date on which the demand is  
30 served, unless the Attorney General or a designee determines

1 that exceptional circumstances exist and warrant commencing  
2 testimony within a lesser time period.

3 (8) The Attorney General or a designee may not authorize  
4 the issuance of more than one civil investigative demand for  
5 the same person's oral testimony unless:

6 (i) the person requests otherwise; or

7 (ii) the Attorney General or a designee notifies the  
8 person in writing that an additional demand for oral  
9 testimony is necessary.

10 (c) Protected material or information.--

11 (1) A civil investigative demand may not require the  
12 production of documentary material, the submission of answers  
13 to written interrogatories or the giving of oral testimony if  
14 the material, answers or testimony would be protected from  
15 disclosure under the standards applicable to:

16 (i) subpoenas or subpoenas duces tecum issued by a  
17 court of this Commonwealth to aid in a grand jury  
18 investigation; or

19 (ii) discovery under the Pennsylvania Rules of Civil  
20 Procedure or other applicable court rule, to the extent  
21 that the application of the standards to a demand is  
22 appropriate and consistent with the provisions and  
23 purposes of this section.

24 (2) The following shall apply:

25 (i) Except where a statute explicitly precludes the  
26 superseding effect imposed by this paragraph, a civil  
27 investigative demand that is an express demand for a  
28 product of discovery supersedes an inconsistent order,  
29 rule or provision of law, other than in this section,  
30 that prevents or restrains disclosure of the product of

1 discovery to any person.

2 (ii) A person's disclosure of a product of discovery  
3 under an express demand does not constitute a waiver of  
4 any right or privilege to resist discovery of trial  
5 preparation materials that the person may be entitled to  
6 invoke.

7 (d) Service and jurisdiction.--Except as otherwise provided,  
8 the following applies to civil investigative demands issued  
9 under this section and petitions filed under subsection (j):

10 (1) A civil investigative demand may be served by a  
11 false claims investigator, a law enforcement officer or  
12 another individual authorized by law to serve process in the  
13 jurisdiction where the demand is served. A petition may be  
14 served by any person authorized to serve process under the  
15 Pennsylvania Rules of Civil Procedure or other applicable  
16 court rule.

17 (2) A civil investigative demand or petition may be  
18 served upon a person consistent with and in the manner  
19 prescribed by 42 Pa.C.S. Ch. 53 (relating to bases of  
20 jurisdiction and interstate and international procedure) and  
21 the Pennsylvania Rules of Civil Procedure or other applicable  
22 court rule, for personal service inside or outside this  
23 Commonwealth. To the extent that the courts of the  
24 Commonwealth can assert jurisdiction over a person outside  
25 this Commonwealth, a court with jurisdiction over an action  
26 filed under this article shall have the same jurisdiction to  
27 take action respecting the person's compliance with this  
28 section that it would have if the person resided within the  
29 court's jurisdiction.

30 (3) The following shall apply:

1           (i) A civil investigative demand or petition may be  
2 served upon a legal entity by:

3           (A) delivering an executed copy of the demand or  
4 petition to a partner, executive officer, managing  
5 agent or general agent of the legal entity, or to an  
6 employee designated or agent authorized by  
7 appointment or law to receive service of process on  
8 behalf of the legal entity;

9           (B) delivering an executed copy of the demand or  
10 petition to the legal entity's principal office or  
11 place of business;

12           (C) depositing an executed copy of the demand or  
13 petition in the United States mail by registered or  
14 certified mail with a return receipt requested,  
15 addressed to the legal entity at its principal office  
16 or place of business; or

17           (D) any other method provided by the  
18 Pennsylvania Rules of Civil Procedure or other  
19 applicable court rule.

20           (ii) A civil investigative demand or petition may be  
21 served upon a natural person by:

22           (A) delivering an executed copy of the demand or  
23 petition to the person;

24           (B) depositing an executed copy of the demand or  
25 petition in the United States mail by registered or  
26 certified mail with a return receipt requested,  
27 addressed to the person at the person's residence or  
28 principal office or place of business; or

29           (C) any other method provided by the  
30 Pennsylvania Rules of Civil Procedure or other

1           applicable court rule.

2           (4) A verified return by the individual serving a civil  
3 investigative demand or a petition, setting forth the manner  
4 of service, shall be proof of service. In the case of service  
5 by registered or certified mail, the return post office  
6 receipt of the demand or petition's delivery shall accompany  
7 the verified return.

8           (e) Documentary material.--

9           (1) The following shall apply regarding a verified  
10 certificate:

11           (i) The production of documentary material shall be  
12 made under a written and verified certificate, in the  
13 form a civil investigative demand designates, by the  
14 following individuals:

15                   (A) if the demand issuee is a natural person, by  
16 the demand issuee; and

17                   (B) if the demand issuee is not a natural  
18 person, by an individual who has knowledge of facts  
19 and circumstances relating to the production and is  
20 authorized to act on the demand issuee's behalf.

21           (ii) The certificate shall state that all the  
22 documentary material required by the demand and in the  
23 demand issuee's possession, custody or control has been  
24 produced and made available to the false claims  
25 investigator identified in the demand.

26           (2) The following shall apply to production:

27           (i) A demand issuee shall make demanded material  
28 available for inspection and copying to the false claims  
29 investigator identified in the demand:

30                   (A) at the demand issuee's principal place of

1           business;

2                   (B) at another place as the false claims  
3                   investigator and the demand issuee thereafter may  
4                   agree and prescribe in writing; or

5                   (C) as the court may direct under this section.

6                   (ii) The documentary material shall be made  
7                   available on the return date specified in the demand or  
8                   on a later date as the false claims investigator may  
9                   prescribe in writing. The demand issuee may, upon written  
10                   agreement with the false claims investigator, substitute  
11                   copies for originals of all or any part of the material.

12                   (3) If the demand issuee objects to the production of  
13                   any portion of the required documentary material or otherwise  
14                   withholds any portion of the material, the demand issuee  
15                   shall with particularity state the reasons for the objection  
16                   or withholding and identify all withheld material.

17                   (f) Interrogatories.--

18                   (1) Each interrogatory in a civil investigative demand  
19                   shall be answered separately and fully in writing under oath  
20                   and shall be submitted under a verified certificate, in the  
21                   form the demand designates, stating that all information  
22                   required by the demand and in the demand issuee's possession,  
23                   custody, control or knowledge has been submitted by the  
24                   following persons:

25                   (i) if the demand issuee is a natural person, by the  
26                   demand issuee; and

27                   (ii) if the demand issuee is not a natural person,  
28                   by the individuals responsible for answering each  
29                   interrogatory.

30                   (2) If the demand issuee objects to an interrogatory or

1 any portion thereof, or otherwise withholds information, the  
2 demand issuee shall state with particularity the reasons for  
3 the objection or withholding and identify all withheld  
4 information.

5 (g) Oral examinations.--

6 (1) The following shall apply:

7 (i) The examination of a person under a civil  
8 investigative demand for oral testimony shall be taken  
9 before an officer authorized to administer oaths and  
10 affirmations by the laws of this Commonwealth or of the  
11 place where the examination is held.

12 (ii) The officer shall put the witness on oath or  
13 affirmation and, personally or by someone acting under  
14 the officer's direction and in the officer's presence,  
15 shall record the witness's testimony.

16 (iii) The testimony shall be stenographically  
17 transcribed.

18 (iv) When the transcribing is complete, the officer  
19 shall promptly transmit a copy of the transcript to the  
20 custodian.

21 (v) This subsection shall not preclude the taking of  
22 testimony by any means authorized by, and in a manner  
23 consistent with, the Pennsylvania Rules of Civil  
24 Procedure or other applicable court rule.

25 (2) The false claims investigator conducting the  
26 examination shall exclude from the place where the  
27 examination is held all persons except the following:

28 (i) the person giving the testimony;

29 (ii) the attorney for the person giving the  
30 testimony;

1           (iii) an attorney for the Commonwealth;  
2           (iv) the officer before whom the testimony is to be  
3 taken;  
4           (v) the court reporter taking the testimony;  
5           (vi) the custodian, if identified in the demand as  
6 attending; and  
7           (vii) any other person upon which the person giving  
8 the testimony and the attorney for the Commonwealth  
9 agree.

10       (3) A person's oral testimony taken under a civil  
11 investigative demand shall be taken in the county or city  
12 within which the person resides, is found, or transacts  
13 business, or in a place to which the false claims  
14 investigator and the person otherwise agree.

15       (4) The following shall apply:

16           (i) When the transcript of testimony is completed,  
17 the false claims investigator or the officer before whom  
18 the testimony is taken shall afford the witness, who may  
19 be accompanied by counsel, a reasonable opportunity to  
20 examine and read the transcript, unless the witness  
21 waives the reading and examination.

22           (ii) The officer or false claims investigator shall  
23 enter and identify on the transcript any changes in form  
24 or substance that the witness desires to make with a  
25 statement of the reasons the witness gives for making the  
26 changes.

27           (iii) The witness shall sign the transcript after  
28 the changes, if any, are made, unless the witness waives  
29 the signing in writing, is ill, cannot be found or  
30 refuses to sign. If the witness does not sign the

1 transcript within 30 days after being afforded a  
2 reasonable opportunity to sign it, the officer or false  
3 claims investigator shall sign it and state on the record  
4 the fact of the witness's waiver, illness, absence or  
5 refusal to sign, together with the reasons, if any, given  
6 for why the witness did not sign the transcript.

7 (iv) The officer before whom the testimony is taken  
8 shall certify on the transcript that the witness was  
9 sworn by the officer and the transcript is a true record  
10 of the witness's testimony, and the officer shall  
11 promptly deliver the transcript or send the transcript by  
12 registered or certified mail to the custodian.

13 (v) Upon receiving payment of reasonable charges,  
14 the false claims investigator shall furnish a copy of the  
15 transcript to the witness only, except that the Attorney  
16 General or a designee may, for good cause, limit the  
17 witnesses to inspecting the official transcript.

18 (5) The following shall apply:

19 (i) A person compelled to appear for oral testimony  
20 may be accompanied, represented and advised by counsel.  
21 Counsel may advise the person in confidence with respect  
22 to any question asked of the person.

23 (ii) The person or the person's counsel may object  
24 on the record to any question, in whole or in part, and  
25 shall briefly state for the record the reason for the  
26 objection. An objection may be made, received and entered  
27 upon the record when it is asserted that the person is  
28 entitled to refuse to answer on the grounds of a  
29 constitutional or legal right or privilege, including the  
30 privilege against self-incrimination. The person may not

1 otherwise object to or refuse to answer any question and  
2 may not directly or through counsel otherwise interrupt  
3 the oral examination. If the person refuses to answer a  
4 question, a petition may be filed with the court under  
5 this section for an order compelling the person to answer  
6 the question.

7 (6) A person appearing for oral testimony under a civil  
8 investigative demand shall be entitled to the same fees and  
9 allowances that are paid to witnesses in the Courts of Common  
10 Pleas.

11 (h) Refusal to comply on self-incrimination privilege  
12 grounds.--The Attorney General may invoke the provisions of 42  
13 Pa.C.S. § 5947 (relating to immunity of witnesses) if a person,  
14 on the grounds of privilege against self-incrimination, refuses  
15 to do one or more of the following:

16 (1) Furnish documentary material in response to a civil  
17 investigative demand.

18 (2) Answer an interrogatory in response to a civil  
19 investigative demand.

20 (3) Answer a question asked during oral examination made  
21 under a civil investigative demand.

22 (4) Otherwise comply with a civil investigative demand.

23 (i) Custody of documents, answers and transcripts.--

24 (1) Unless the Attorney General designates another  
25 person, the false claims investigator identified on a civil  
26 investigative demand shall serve as custodian of documentary  
27 material, interrogatory answers and oral testimony  
28 transcripts received under this section. The Attorney General  
29 may designate additional persons as the Attorney General  
30 determines to be necessary to serve as deputy, alternative or

1 successor custodians.

2 (2) A false claims investigator who receives documentary  
3 material, interrogatory answers or oral testimony transcripts  
4 under this section shall:

5 (i) if serving as custodian, take possession of the  
6 material, answers or transcripts and be responsible for  
7 their usage and for the return of documentary material;  
8 or

9 (ii) if not serving as custodian, transmit the  
10 materials, answers or transcripts to the custodian, who  
11 shall take possession and responsibility for the  
12 materials, answers or transcripts.

13 (3) The custodian may cause the preparation of copies of  
14 documentary material, interrogatory answers or oral testimony  
15 transcripts as may be required for official use by a false  
16 claims investigator or another officer or employee of the  
17 Office of Attorney General authorized to use the materials,  
18 answers or transcripts in connection with the taking of oral  
19 testimony under this section.

20 (4) Under reasonable terms and conditions as the  
21 Attorney General prescribes, a custodian possessing  
22 documentary material, interrogatory answers or oral testimony  
23 transcripts shall make the material, answers and transcripts  
24 available for examination by the person that produced them or  
25 by the person's representative.

26 (5) The following shall apply:

27 (i) Notwithstanding 18 Pa.C.S. Ch. 91 (relating to  
28 criminal history record information), a designee who is  
29 designated or called to appear before a court, grand jury  
30 or Commonwealth agency in a case or proceeding may, in

1 connection with the case or proceeding, obtain from the  
2 custodian and use any documentary material, interrogatory  
3 answers or oral testimony transcripts that the designee  
4 determines is required.

5 (ii) Upon the case or proceeding's completion, an  
6 attorney under subparagraph (i) shall return to the  
7 custodian documentary material, interrogatory answers or  
8 oral testimony transcripts that have not passed into the  
9 court's, grand jury's or agency's control through  
10 introduction into the case or proceeding's record.

11 (6) The following shall apply:

12 (i) Subject to subparagraphs (ii) and (iii), upon  
13 the written request of a person that produced documentary  
14 material in connection with a false claims investigation,  
15 the custodian shall return the material.

16 (ii) The custodian shall return the material only  
17 if:

18 (A) all cases or proceedings arising out of the  
19 false claims investigation have been completed; or

20 (B) no case or proceeding in which the material  
21 may be used has been commenced within a reasonable  
22 time after completion of the examination and analysis  
23 of all documentary material and other information  
24 assembled in the course of the false claims  
25 investigation.

26 (iii) The custodian shall not be required to return  
27 either of the following:

28 (A) material that has passed into a court, grand  
29 jury or Commonwealth agency's control through  
30 introduction into a case or proceeding's record; and

1                   (B) copies furnished to the false claims  
2                   investigator or made in accordance with this  
3                   subsection for the Attorney General or a designee.

4   (j) Judicial proceedings.--

5           (1) The Commonwealth may file and serve upon a person a  
6   petition for a court order enforcing a civil investigative  
7   demand if:

8           (i) the person fails to comply with a demand served  
9   upon the person; or

10          (ii) satisfactory copying or reproduction of the  
11   material requested in the demand cannot be done and the  
12   person refuses to surrender the material.

13          (2) The following shall apply:

14          (i) A demand issuee who has received a civil  
15   investigative demand may file and serve upon the false  
16   claims investigator identified in the demand a petition  
17   for a court order modifying or setting aside the demand.

18          (ii) If a demand is an express demand for a product  
19   of discovery, the person from whom discovery was obtained  
20   may, upon receipt of the demand, file and serve upon the  
21   false claims investigator identified in the demand a  
22   petition for a court order modifying or setting aside  
23   those portions of the demand requiring production of the  
24   product of discovery.

25          (iii) A petition under this paragraph must be filed  
26   within:

27           (A) the earlier of 20 days after the civil  
28   investigative demand is served on the person or any  
29   time before the return date specified in the demand;  
30   or

1           (B) a longer period if the false claims  
2           investigator so prescribes in writing in the demand.

3           (iv) A petition under this paragraph shall specify  
4           each ground the petitioner relies on in seeking relief  
5           and may be based on either of the following:

6           (A) failure of the civil investigative demand,  
7           or any portion thereof, to comply with this section's  
8           provisions; or

9           (B) a constitutional or other legal right or  
10          privilege of the petitioner.

11          (v) During the pendency of a petition under this  
12          paragraph, the following shall apply:

13          (A) The court may stay, as it deems proper,  
14          compliance with all or part of the demand and the  
15          running of time allowed for compliance therewith.

16          (B) The petitioner must comply with any portion  
17          of the demand that is not sought to be modified or  
18          set aside, or otherwise subject to a stay issued by  
19          the court.

20          (3) At any time a custodian possesses or is in custody  
21          or control of documentary material, interrogatory answers or  
22          transcripts of oral testimony given under a civil  
23          investigative demand, the following persons may file and  
24          serve upon the custodian a petition for a court order  
25          requiring the custodian to perform a duty imposed on the  
26          custodian by this section:

27          (i) the demand issuee that furnished the material,  
28          answers or testimony; and

29          (ii) in the case of an express demand for a product  
30          of discovery, the person from whom discovery was

1       obtained.

2       (4) The following shall apply:

3           (i) The court shall have jurisdiction to hear and  
4       determine a petition filed under this section and, after  
5       a hearing at which all parties have the opportunity to be  
6       heard, to enter orders as may be required to carry out  
7       the provisions of this section.

8           (ii) A final order entered by Commonwealth Court  
9       under this section shall be subject to appeal to the  
10       Supreme Court under 42 Pa.C.S. § 723(a) (relating to  
11       appeals from Commonwealth Court).

12       (k) Exemption from disclosure.--The Office of Attorney  
13       General shall be exempt from disclosing under the act of  
14       February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law,  
15       documentary material, interrogatory answers and oral testimony  
16       provided under a civil investigative demand.

17       (l) Construction.--Nothing in this section shall be  
18       construed to limit the regulatory or investigative authority of  
19       a department or agency of the Commonwealth whose functions may  
20       relate to persons, enterprises or matters falling within the  
21       scope of this article.

22       (m) Definitions.--For purposes of this section, the  
23       following words and phrases shall have the meanings given to  
24       them in this subsection unless the context clearly indicates  
25       otherwise:

26       "Custodian." The false claims investigator or other  
27       custodian or a deputy or alternate custodian designated under  
28       subsection (i) by the Attorney General.

29       "Demand issuee." A person to whom or which a civil  
30       investigative demand is issued or directed.

1     "Designee." An attorney of the Office of Attorney General  
2 designated by the Attorney General to perform duties vested in  
3 the Attorney General under this section.

4     "Documentary material." Includes the original or a copy of a  
5 book, record, report, memorandum, paper, communication,  
6 tabulation, chart or other document or data compilations stored  
7 or accessible through computer or other information retrieval  
8 systems, together with appropriate and succinct instructions and  
9 all other materials necessary to use or interpret the data  
10 compilations, and a product of discovery.

11     "False claims investigation." An inquiry conducted by a  
12 false claims investigator for the purposes of ascertaining  
13 whether a person is or has been engaged in a violation of this  
14 article.

15     "False claims investigator." An individual charged with the  
16 duty of enforcing or carrying out the provisions of this article  
17 who is either of the following:

18             (1) An attorney or investigator employed by the Office  
19 of Attorney General.

20             (2) An officer or employee of the Commonwealth acting  
21 under the attorney or investigator's direction and  
22 supervision in connection with a false claims investigation.

23     "Legal entity." A person other than a natural person.

24     "Person." As defined in 1 Pa.C.S. § 1991 (relating to  
25 definitions).

26     "Product of discovery." The term includes:

27             (1) The original or duplicate of a deposition,  
28 interrogatory, document, thing, result of the inspection of  
29 land or other property, examination or admission that is  
30 obtained by any method of discovery in a judicial or

1 administrative proceeding of an adversarial nature.

2 (2) A digest, analysis, selection, compilation or  
3 derivation of an item listed in paragraph (1).

4 (3) An index or other manner of access to an item listed  
5 in paragraph (1).

6 "Verified." Supported by oath or affirmation and averred  
7 subject to the penalties of 18 Pa.C.S. § 4904 (relating to  
8 unsworn falsification to authorities).

9 Section 1414-E. Access and sharing of information.

10 (a) Criminal information.--

11 (1) Subject to paragraph (2) and as necessary for  
12 official use, the provisions of 18 Pa.C.S. Ch. 91 (relating  
13 to criminal history record information) shall not impair the  
14 Office of Attorney General's ability to access and to share  
15 data, records, documents or other information obtained during  
16 the course of a criminal investigation or prosecution with  
17 the following:

18 (i) A section, unit, subunit or individual employee  
19 or agent of the Office of Attorney General authorized by  
20 the Attorney General to enforce this article.

21 (ii) Officials of the United States, other States,  
22 the Commonwealth, or a political subdivision thereof  
23 charged the responsibility for enforcing Federal, State  
24 or local laws respecting fraud or false claims upon  
25 Federal, State or local governments.

26 (iii) A qui tam plaintiff.

27 (2) A recipient under paragraph (1) who is subject to  
28 the jurisdiction of this Commonwealth shall be subject to the  
29 provisions of 18 Pa.C.S. Ch. 91, dissemination and sharing of  
30 the information with noncriminal justice agencies,

1 departments and individuals, except as permitted under  
2 paragraph (1).

3 (b) Civil investigative information.--

4 (1) Except as otherwise provided in this section or  
5 section 1413-E or as necessary for official use, documentary  
6 material, interrogatory answers and oral testimony  
7 transcripts or copies of the foregoing shall not be accessed  
8 by, shared with or made available for examination by an  
9 individual other than a false claims investigator or other  
10 officer or employee of the Office of Attorney General.

11 (2) The prohibition in paragraph (1) shall not apply if  
12 the person that produced the material, answers or  
13 transcripts, or, in the case of a product of discovery  
14 produced under an express demand for the material, the person  
15 from whom or which the discovery was obtained, consents.

16 (3) Nothing in this subsection shall be construed to  
17 prevent disclosure to the General Assembly, or a committee or  
18 subcommittee thereof, or to a Commonwealth agency for the  
19 agency's use in furtherance of its statutory or  
20 constitutional responsibilities, except that disclosure shall  
21 be subject to 18 Pa.C.S. Ch. 91.

22 (4) The Attorney General or a designee may share  
23 information obtained under section 1413-E with a qui tam  
24 plaintiff, if the Attorney General or designee determines  
25 that it is necessary as part of a false claims investigation  
26 or action conducted under this article.

27 Section 1415-E. Distribution and deposit of Commonwealth's  
28 share of proceeds.

29 (a) Distribution and deposit.--The Commonwealth's share of  
30 the proceeds of an action or settlement under this article, not

1 including the enforcement costs and less any amount legally  
2 required to be paid from the Commonwealth's share, shall be  
3 distributed and deposited as follows:

4 (1) An amount equal to 20% of the total enforcement  
5 costs shall be distributed from the Commonwealth's share to  
6 the Office of Attorney General.

7 (2) After distribution under paragraph (1):

8 (i) each portion of the Commonwealth's share  
9 attributable to a claim paid from or related to a  
10 Commonwealth fund or account other than the General Fund  
11 shall be deposited into the other fund or account; and

12 (ii) each portion of the Commonwealth's share  
13 attributable to a claim paid from or related to the  
14 General Fund shall be deposited in the Fraud Prevention  
15 and Recovery Account.

16 (b) Pro rata basis.--The amount deposited in each affected  
17 fund or account under subsection (a)(2) shall be proportionate  
18 to the fund or account's percentage of the total damages  
19 sustained due to the violation of section 1411-E underlying the  
20 action or settlement.

21 (c) Use by Commonwealth agencies.--A Commonwealth agency to  
22 which money under subsection (a)(2) is distributed for deposit  
23 in a fund or account shall use the money to reimburse the  
24 agency-administered programs whose funds or accounts were  
25 diminished as a result of the violation.

26 (d) Definition.--As used in this section, the term  
27 "enforcement costs" means the costs awarded under section 1411-  
28 E(c) to the Office of Attorney General.

29 Section 1416-E. Fraud Prevention and Recovery Account.

30 The Fraud Prevention and Recovery Account is established as a

restricted account within the General Fund. Money in the Fraud Prevention and Recovery Account may only be used as appropriated by the General Assembly.

Section 1417-E. Annual report.

(a) Report required.--Within two years after the effective date of this subsection, and thereafter annually by December 31 of each year, the Attorney General shall prepare a report concerning actions taken under this article. The report shall be submitted to the following:

(1) The Governor.

(2) The chairperson and minority chairperson of the Judiciary Committee of the Senate.

(3) The chairperson and minority chairperson of the Judiciary Committee of the House of Representatives.

(4) The chairperson and minority chairperson of the Appropriations Committee of the Senate.

(5) The chairperson and minority chairperson of the Appropriations Committee of the House of Representatives.

(b) Contents.--The report shall include the following:

(1) The number of actions filed under this article by the Attorney General.

(2) The number of actions filed under this article by the Attorney General that were completed.

(3) The amount that was recovered in actions filed under this article by the Attorney General through settlement or through a judgment and, if known, the amount recovered for damages, penalties and litigation costs.

(4) The number of actions filed under section 1412-E by a qui tam plaintiff.

(5) The number of actions filed under section 1412-E by

1 a qui tam plaintiff that were completed.

2 (6) The amounts that were recovered in actions filed  
3 under section 1412-E by a qui tam plaintiff through  
4 settlement or through a judgment and, if known, the amounts  
5 recovered for damages, penalties and litigation costs and the  
6 amounts recovered by the Commonwealth and the qui tam  
7 plaintiff.

8 (7) The amount expended by the Commonwealth for  
9 investigation, litigation and all other costs for legal  
10 claims under this article.

11 (8) A narrative describing the most notable or prevalent  
12 violations of section 1411-E and recommendations on how  
13 Commonwealth agencies may prevent similar violations from  
14 occurring.

15 (9) Legislative recommendations that the Attorney  
16 General may have for amendments to this article and any other  
17 law as it relates to this article.

18 Section 1418-E. Statute of limitations, burden of proof and  
19 estoppel.

20 (a) Statute of limitations.--

21 (1) Subject to paragraph (2), a civil action under  
22 section 1412-E may not be brought more than 10 years after  
23 the date on which the violation was committed.

24 (2) If a violation is part of a continuing course of  
25 conduct, a civil action under section 1412-E may not be  
26 brought more than 10 years after the date on which the last  
27 violation in the continuing course of conduct was committed.

28 (3) If the Commonwealth elects to intervene and proceed  
29 with an action brought under section 1412-E(b):

30 (i) The Commonwealth may file its own complaint or

1 amend the qui tam plaintiff's complaint in order to  
2 clarify or add detail to the legal claims and to add any  
3 additional legal claims with respect to which the  
4 Commonwealth contends it is entitled to relief.

5 (ii) The Commonwealth's pleading shall relate back  
6 to the filing date of the qui tam plaintiff's complaint  
7 to the extent that the Commonwealth's legal claims arise  
8 out of the conduct, transactions or occurrences set  
9 forth, or attempted to be set forth, in the qui tam  
10 plaintiff's complaint.

11 (b) Burden of proof.--In an action brought under section  
12 1412-E, the Commonwealth or the qui tam plaintiff shall be  
13 required to prove all essential elements of the cause of action,  
14 including damages, by a preponderance of the evidence.

15 (c) Estoppel.--Notwithstanding any other provision of law, a  
16 final judgment rendered in the Commonwealth's favor in a  
17 criminal proceeding charging false statements or fraud, whether  
18 upon a verdict after trial or upon a plea of guilty or nolo  
19 contendere, shall estop the defendant from denying the essential  
20 elements of the offense in an action brought under section 1412-  
21 E that involves the same transaction as in the criminal  
22 proceeding.

23 Section 1419-E. Certain rules, policies and agreements  
24 prohibited.

25 (a) Prohibition.--An employer may not engage in either of  
26 the following:

27 (1) Making, adopting or enforcing a rule, regulation or  
28 policy preventing an employee, contractor or agent from  
29 disclosing information to a government agency or law  
30 enforcement agency related to, or from acting to stop, a

1 violation of section 1411-E.

2 (2) Requiring as a condition of employment, during the  
3 term of employment or at or upon the termination of  
4 employment, that an employee, contractor or agent agree to,  
5 accept or execute an agreement that limits or denies the  
6 employee, contractor or agent's ability to:

7 (i) disclose to a government agency or law  
8 enforcement agency information related to an alleged or  
9 actual violation of section 1411-E; or

10 (ii) bring an action under section 1412-E(b) or  
11 1420-E.

12 (b) Rules, policies or agreements void.--A rule, regulation,  
13 policy or agreement that violates subsection (a) is void to the  
14 extent of the violation.

15 (c) Construction.--Subsection (a)(2)(ii) shall not be  
16 construed to prohibit, as a term of good-faith settlement of a  
17 disputed legal claim, the release and discharge of an employee,  
18 contractor or agent's legal claim under section 1420-E.

19 Section 1420-E. Relief from retaliation.

20 (a) Relief.--An employee, contractor or agent shall be  
21 entitled to all relief necessary to make the employee,  
22 contractor or agent whole, if the employee, contractor or agent  
23 is discharged, demoted, suspended, threatened, harassed or in  
24 any other manner discriminated against in the terms and  
25 conditions of employment, contract or agency because of lawful  
26 acts done by the employee, contractor, agent or associated  
27 others in furtherance of an action under this article or other  
28 efforts to stop a violation of this article.

29 (b) Reinstatement.--Relief under subsection (a) shall  
30 include reinstatement with the same seniority status that the

1 employee, contractor or agent would have had but for the  
2 discrimination, two times the amount of back pay, interest on  
3 the back pay and compensation for special damages sustained as a  
4 result of the discrimination, including litigation costs, and  
5 reasonable attorney fees.

6 (c) Burden of proof.--In an action under this section, a  
7 plaintiff shall be required to prove all essential elements of  
8 the cause of action, including damages, by a preponderance of  
9 the evidence.

10 (d) Limitation.--An action under this section may not be  
11 brought more than three years after the date on which the  
12 employee, contractor or agent learns the retaliation occurred.  
13 Section 1421-E. Actions and remedies under other laws.

14 (a) Actions and remedies not exclusive.--The provisions of  
15 this article are not exclusive and the actions and remedies  
16 provided for in this article shall be in addition to any other  
17 actions and remedies provided for in any other law or available  
18 under the common law.

19 (b) Construction.--The availability of an action or remedy  
20 provided for in any other law or available under the common law  
21 shall not be construed to exclude, impair or limit the  
22 availability or use of the provisions of this article.

23 (c) Existing privileges and immunities unaffected.--This  
24 article shall not abrogate nor modify any existing statutory or  
25 common law privilege or immunity.

26 Section 1422-E. Qualification of article for increased share of  
27 recoveries.

28 (a) Submission.--Within 30 days after the effective date of  
29 this subsection, the Attorney General shall submit a copy of  
30 this article and any other relevant information to the Office of

1 Inspector General, United States Department of Health and Human  
2 Services and request a determination that this article meets the  
3 requirements of section 1909(b) of the Social Security Act of  
4 1935 (49 Stat. 620, 42 U.S.C. § 1396h(b)), in order to qualify  
5 the Commonwealth for an increased share of amounts recovered  
6 under this article with respect to false or fraudulent claims  
7 submitted to the medical assistance program.

8 (b) Review and recommendations.--If the Office of Inspector  
9 General, United States Department of Health and Human Services  
10 determines that this article does not meet the requirements of  
11 section 1909(b) of the Social Security Act of 1935, the Attorney  
12 General shall prepare and transmit to the officials designated  
13 in section 1417-E(a) a report explaining the reasons for the  
14 denial and suggested revisions to this article that would cause  
15 this article to meet the requirements of section 1909(b) of the  
16 Social Security Act of 1935.

17 Section 1423-E. Rules of procedure.

18 Except as otherwise specified in, or where clearly  
19 inconsistent with, this article, original proceedings under this  
20 article shall be governed by the Pennsylvania Rules of Civil  
21 Procedure or other applicable court rule.

22 Section 1424-E. Trial by jury.

23 A party to an action under this article shall be entitled to  
24 trial by jury.

25 Section 1425-E. Implementation.

26 (a) Regulations.--The Attorney General is empowered and  
27 authorized to promulgate regulations as necessary to carry out  
28 the purposes of this article.

29 (b) Temporary regulations.--

30 (1) The following shall apply:

1       (i) In order to facilitate the speedy implementation  
2 of this article, the Attorney General is authorized to  
3 adopt temporary regulations within three years after the  
4 effective date of this section. A temporary regulation  
5 promulgated under this section shall not be subject to  
6 any of the following:

7           (A) Section 612 of the act of April 9, 1929  
8 (P.L.177, No.175), known as The Administrative Code  
9 of 1929.

10          (B) Sections 201, 202, 203, 204 and 205 of the  
11 act of July 31, 1968 (P.L.769, No.240), referred to  
12 as the Commonwealth Documents Law.

13          (C) Sections 204(b) and 301(10) of the act of  
14 October 15, 1980 (P.L.950, No.164), known as the  
15 Commonwealth Attorneys Act.

16          (D) The act of June 25, 1982 (P.L.633, No.181),  
17 known as the Regulatory Review Act.

18       (ii) The Attorney General is authorized to adopt  
19 necessary amendments to a temporary regulation at any  
20 time before the temporary regulation's expiration.

21       (iii) The Attorney General shall transmit temporary  
22 regulations and amendments thereto to the Legislative  
23 Reference Bureau for publication in the next available  
24 issue of the Pennsylvania Bulletin.

25       (iv) A temporary regulation or amendment thereto  
26 shall take effect upon its publication in the  
27 Pennsylvania Bulletin.

28       (v) Except as otherwise provided in paragraph (2),  
29 temporary regulations and amendments thereto shall expire  
30 the earlier of three years after the publication in the

1 Pennsylvania Bulletin, or a date the Attorney General  
2 designates.

3 (2) At any time before a temporary regulation expires  
4 under paragraph (1)(v), the Attorney General may promulgate a  
5 final version of the temporary regulation, in which case the  
6 temporary regulation shall expire when the final version  
7 takes effect, is finally disapproved or is withdrawn by the  
8 Attorney General.

9 (c) Construction.--This section is not intended to impair  
10 the Attorney General's discretion to adopt policies as necessary  
11 to implement the provisions of this article.

12 Section 1426-E. Jurisdiction and Attorney General as relator in  
13 Federal false claims actions.

14 (a) Jurisdiction.--An action or petition under this article  
15 shall be filed in a court of competent jurisdiction. The  
16 following shall apply:

17 (1) Commonwealth Court shall have original jurisdiction  
18 of an action under section 1412-E or petition under section  
19 1413-E. The courts of common pleas shall have original  
20 jurisdiction of an action under section 1420-E.

21 (2) A court exercising jurisdiction of an action under  
22 this article shall have ancillary jurisdiction over legal  
23 claims asserted under the laws of the United States, a State  
24 or a local government that arise from the same transaction or  
25 occurrence as the action.

26 (b) Attorney General as relator.--To the extent permitted by  
27 Federal law, the Attorney General may bring an action as a  
28 relator under 31 U.S.C. § 3730 (relating to civil actions for  
29 false claims) with respect to any act for which a person may be  
30 held liable under 31 U.S.C. Ch. 37 (relating to claims).

1     (c) Service on other authorities.--With respect to the  
2 Federal Government or a State or local government that is named  
3 as a co-plaintiff with the Commonwealth in an action brought  
4 under this article, the following shall apply to a seal on the  
5 action ordered by the court under section 1412-E(b):

6         (1) The seal shall not preclude the Commonwealth or the  
7 qui tam plaintiff from:

8             (i) Serving the complaint or other pleadings or  
9 filings upon officials who are charged with the  
10 responsibility for enforcing the law of that Federal,  
11 State or local government respecting fraud or false  
12 claims upon Federal, State or local governments.

13            (ii) Disclosing to the officials under subparagraph  
14 (i) substantially all material evidence and information  
15 that the Commonwealth or the qui tam plaintiff possesses.

16         (2) The seal shall apply to the officials under  
17 paragraph (1) served to the same extent as the seal applies  
18 to other parties in the action.

19     Section 2. This act shall take effect in 120 days.