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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1437 Session of  
2023

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INTRODUCED BY GROVE, GREINER, STAMBAUGH, STAATS, KEEFER, JAMES,  
FLICK, MOUL, ROWE, GLEIM, LEADBETER, SCIALABBA AND STRUZZI,  
JUNE 20, 2023

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REFERRED TO COMMITTEE ON JUDICIARY, JUNE 20, 2023

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AN ACT

1 Amending Title 71 (State Government) of the Pennsylvania  
2 Consolidated Statutes, providing for liability for false  
3 claims, for adoption of congressional intent of the Federal  
4 False Claims Act, for damages, costs and civil penalties, for  
5 powers of Attorney General, for qui tam actions and for civil  
6 investigative demands.

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

9 Section 1. Title 71 of the Pennsylvania Consolidated  
10 Statutes is amended by adding a part to read:

11 PART XXVII

12 FINANCES OF STATE GOVERNMENT

13 Chapter

14 61. (Reserved)

15 63. False Claims Against Commonwealth

16 CHAPTER 61

17 (Reserved)

18 CHAPTER 63

19 FALSE CLAIMS AGAINST COMMONWEALTH

1 Subchapter

2 A. Preliminary Provisions

3 B. False Claims

4 SUBCHAPTER A

5 PRELIMINARY PROVISIONS

6 Sec.

7 6301. Short title of chapter.

8 6302. Declaration of policy.

9 6303. Definitions.

10 § 6301. Short title of chapter.

11 This chapter shall be known and may be cited as the

12 Commonwealth Fraud Prevention Act.

13 § 6302. Declaration of policy.

14 The General Assembly declares that this chapter adopts the  
15 intent of the United States Congress in enacting the Federal  
16 False Claims Act (Public Law 97-258, 31 U.S.C. § 3729 et seq.).

17 § 6303. Definitions.

18 The following words and phrases when used in this chapter  
19 shall have the meanings given to them in this section unless the  
20 context clearly indicates otherwise:

21 "Claim." As follows:

22 (1) A request or demand for money or property, whether  
23 under contract or otherwise and regardless of whether the  
24 Commonwealth has title to the money or property, that is  
25 presented, submitted or otherwise made to:

26 (i) An employee, officer or agent of the  
27 Commonwealth.

28 (ii) A contractor, grantee or other recipient, and  
29 any portion of the money or property will be spent or  
30 used on the Commonwealth's behalf or to advance a program

1 or interest of the Commonwealth, and the Commonwealth:

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

4 (B) will reimburse the contractor, grantee or  
5 other recipient for any portion of the money or  
6 property which is requested or demanded.

7 (2) The term does not include requests or demands for  
8 money or property that the Commonwealth has paid to an  
9 individual as compensation for employment or as an income  
10 subsidy with no restrictions on the individual's use of the  
11 money or property.

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

16 "Designated district attorney." A district attorney  
17 designated by the Attorney General under section 6312(a)(2)  
18 (relating to Attorney General investigations and prosecutions  
19 and civil actions).

20 "Designee." Any of the following individuals designated by  
21 the Attorney General to perform duties under this chapter:

22 (1) An attorney of the Office of Attorney General.

23 (2) A designated district attorney.

24 (3) An attorney from a designated district attorney's  
25 office.

26 "Knowing" or "knowingly." As follows:

27 (1) When a person, with respect to information, does any  
28 of the following:

29 (i) Has actual knowledge of the information.

30 (ii) Acts in deliberate ignorance of the truth or

1           falsity of the information.

2           (iii) Acts in reckless disregard of the truth or  
3           falsity of the information.

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

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

8           "Material." A natural tendency to influence, or be capable  
9           of influencing, the payment or receipt of money or property.

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

12           (1) An express or implied contractual relationship.

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

14           (3) An express or implied licensor-licensee  
15          relationship.

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

17           (5) A statute or regulation.

18           (6) The retention of an overpayment.

19          "Official use." A use that is consistent with the law and  
20          the regulations and policies of the Office of Attorney General,  
21          including the following:

22           (1) Use in connection with internal memoranda and  
23          reports of the Office of Attorney General or designated  
24          district attorney.

25           (2) Communications between the Office of Attorney  
26          General or designated district attorney and a Federal, State  
27          or local government agency or a contractor of a Federal,  
28          State or local government agency, undertaken in furtherance  
29          of an investigation or prosecution of an action.

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

1           (4) Oral examinations.

2           (5) Depositions.

3           (6) Preparation for and response to civil discovery  
4 requests.

5           (7) Introduction into the record of an action or  
6 proceeding.

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

9           (9) Communications with investigators, auditors,  
10 consultants and experts, the counsel of other parties,  
11 arbitrators and mediators, concerning an investigation,  
12 action, case or proceeding.

13 "Original source." A qui tam plaintiff who:

14           (1) prior to a public disclosure under section 6312(f)  
15 (2), has voluntarily disclosed to the Commonwealth the  
16 information on which the allegations or transactions in a  
17 claim are based; or

18           (2) has knowledge that is independent of and materially  
19 adds to the publicly disclosed allegations or transactions  
20 and who has voluntarily provided the information to the  
21 Commonwealth before filing an action under section 6312(b).

22 "Person." A natural person, corporation, firm, association,  
23 organization, partnership, limited liability company, business,  
24 trust, business trust, estate or foundation.

25 "Qui tam plaintiff." A person bringing a civil action under  
26 section 6312(b).

27 "State." In reference to a jurisdiction, the term includes  
28 the District of Columbia, the Commonwealth of Puerto Rico, the  
29 Virgin Islands and all other insular territories of the United  
30 States.

1 SUBCHAPTER B

2 FALSE CLAIMS

3 Sec.

4 6311. Acts subjecting persons to liability and damages.

5 6312. Attorney General investigations and prosecutions and  
6 civil actions.

7 6313. Civil investigative demands.

8 6314. Access to and sharing of information.

9 6315. Deposit of Commonwealth's share of proceeds.

10 6316. Annual report.

11 6317. Statute of limitations, burden of proof and estoppel.

12 6318. Certain rules, policies and agreements prohibited.

13 6319. Relief from retaliatory actions.

14 6320. Actions and remedies under other laws.

15 6321. Qualification of chapter for increased share of  
16 recoveries.

17 6322. Rules of procedure.

18 6323. Trial by jury.

19 6324. Implementation.

20 6325. Jurisdiction and Attorney General as relator in false  
21 claims actions.

22 6326. Expiration.

23 § 6311. Acts subjecting persons to liability and damages.

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

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

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

4       (3) Has possession, custody or control of property or  
5 money used or to be used by the Commonwealth and knowingly  
6 delivers or causes to be delivered less than all of the money  
7 or property.

8       (4) Is authorized to make or deliver a document  
9 certifying receipt of property used or to be used by the  
10 Commonwealth and, intending to defraud the Commonwealth,  
11 makes or delivers a receipt without completely knowing that  
12 the information on the receipt is true.

13       (5) Knowingly buys or receives as a pledge of an  
14 obligation or debt, public property from an officer or  
15 employee of the Commonwealth who lawfully may not sell or  
16 pledge the property.

17       (6) Knowingly makes, uses or causes to be made or used a  
18 false record or statement material to an obligation to pay or  
19 transmit money or property to the Commonwealth or knowingly  
20 conceals, or knowingly and improperly avoids or decreases, an  
21 obligation to pay or transmit money or property to the  
22 Commonwealth.

23       (7) Knowingly fails to disclose a fact, event or  
24 occurrence material to an obligation to pay or transmit money  
25 or property to the Commonwealth.

26       (8) Is a beneficiary of an inadvertent submission of a  
27 false claim, subsequently discovers the falsity of the claim  
28 and fails to disclose the false claim to the Commonwealth  
29 within a reasonable time after discovery of the false claim.

30       (9) Conspires to commit a violation of paragraph (1),

1 (2), (3), (4), (5), (6), (7) or (8).

2 (b) Damages limitation.--Notwithstanding the damages  
3 provision of subsection (a), the court may assess not less than  
4 two times the amount of damages the Commonwealth sustains from a  
5 violation of subsection (a) if the court finds all of the  
6 following:

7 (1) The person committing the violation furnished the  
8 Commonwealth officials who are responsible for investigating  
9 false claims violations with all information known to that  
10 person about the violation within 30 days after the date on  
11 which the person first obtained the information.

12 (2) The person fully cooperated with an investigation by  
13 the Commonwealth.

14 (3) At the time the person furnished the Commonwealth  
15 with information about the violation, no criminal  
16 prosecution, civil action or administrative action had  
17 commenced with respect to the violation, and the person did  
18 not have actual knowledge of the existence of an  
19 investigation into the violation.

20 (c) Commonwealth costs.--A person who is liable for damages  
21 or penalties under subsection (a) shall also be liable to the  
22 Commonwealth for the reasonable costs of investigating and  
23 prosecuting violations of subsection (a), including reasonable  
24 costs to the Office of Attorney General and, if applicable, to a  
25 designated district attorney under section 6312(a)(2) (relating  
26 to Attorney General investigations and prosecutions and civil  
27 actions).

28 (d) Adjustment of penalties.--

29 (1) The upper and lower limits on civil penalties  
30 imposed under subsection (b) shall be equal to, and shall

1 adjust consistently with, the civil penalty limits imposed  
2 under 31 U.S.C. § 3729(a)(1) (relating to false claims), as  
3 the limits under that provision are periodically adjusted by  
4 the Federal Civil Penalties Inflation Adjustment Act of 1990  
5 (Public Law 101-410, 28 U.S.C. § 2461 note (relating to  
6 recovery))).

7 (2) The Office of Attorney General shall transmit a  
8 notice of any adjustment under this subsection to the  
9 Legislative Reference Bureau for publication in the next  
10 available issue of the Pennsylvania Bulletin.

11 (e) Exemption from disclosure.--The Office of Attorney  
12 General and, if applicable, a designated district attorney's  
13 office shall be exempt from disclosing information under the act  
14 of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know  
15 Law, that is furnished under subsection (b) or accessed or  
16 shared under section 6314(a) (relating to access to and sharing  
17 of information).

18 § 6312. Attorney General investigations and prosecutions and  
19 civil actions.

20 (a) Responsibilities.--

21 (1) The Attorney General shall represent the  
22 Commonwealth with respect to all matters arising under this  
23 chapter and may investigate a violation of section 6311  
24 (relating to acts subjecting persons to liability and  
25 damages). If the Attorney General finds that a person has  
26 violated or is violating section 6311, the Attorney General  
27 may bring a civil action under this section against that  
28 person for violating section 6311.

29 (2) The Attorney General may enter into an agreement  
30 with a district attorney to designate the district attorney

1 to serve as the Attorney General's designee, investigate a  
2 violation of section 6311 and bring a civil action under this  
3 section against a person that has violated or is violating  
4 section 6311. The Attorney General at any time may rescind  
5 the designation made under this paragraph.

6 (3) Nothing in section 1407 of the act of June 13, 1967  
7 (P.L.31, No.21), known as the Human Services Code, shall be  
8 construed to limit the Attorney General's authority to  
9 investigate or prosecute violations of section 6311.

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

11 (1) A qui tam plaintiff may bring a civil action for a  
12 violation of section 6311 for the qui tam plaintiff and for  
13 the Commonwealth in the name of the Commonwealth. Once filed,  
14 the action may be dismissed only if the court and the  
15 Attorney General give written consent to the dismissal and  
16 their reasons for consenting.

17 (2) A copy of the complaint and written disclosure of  
18 substantially all material evidence and information the qui  
19 tam plaintiff possesses shall be served promptly on the  
20 Attorney General as provided for in the Pennsylvania Rules of  
21 Civil Procedure or applicable court rule. The complaint shall  
22 be filed in camera and shall remain under seal for at least  
23 120 days and shall not be served on the defendant until the  
24 court orders the service. The Commonwealth may elect to  
25 intervene and proceed with the action within 120 days after  
26 the Commonwealth receives the complaint and the material  
27 evidence and information.

28 (3) Upon motion of the Commonwealth, the court, for good  
29 cause shown, shall extend the time during which the complaint  
30 remains sealed under paragraph (2). The motion may be

1 supported by affidavits or other submissions in camera. The  
2 defendant shall not be required to respond to a complaint  
3 filed under this section until the complaint is unsealed and  
4 served upon the defendant under the Pennsylvania Rules of  
5 Civil Procedure or applicable court rule.

6 (4) Before the expiration of the 120-day period or any  
7 extensions obtained under paragraph (3), the Commonwealth  
8 shall do either of the following:

9 (i) Proceed with the action.

10 (ii) Notify the court that the Commonwealth declines  
11 to take over the action, in which case the qui tam  
12 plaintiff shall have the right to conduct the action.

13 (c) Intervention restricted to Commonwealth.--When a qui tam  
14 plaintiff brings an action under subsection (b), no person other  
15 than the Commonwealth may intervene or bring a related action  
16 based on the facts underlying the pending action.

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

18 (1) If the Commonwealth proceeds with the action, the  
19 Commonwealth shall have the primary responsibility for  
20 prosecuting the action and shall not be bound by an act of  
21 the qui tam plaintiff. The qui tam plaintiff shall have the  
22 right to continue as a party to the action, subject to the  
23 limitations specified in paragraphs (2), (3), (4) and (5).

24 (2) The Commonwealth may move to dismiss the action  
25 despite the qui tam plaintiff's objections if the  
26 Commonwealth notifies the qui tam plaintiff of the filing.  
27 The court may dismiss the action if the court has provided  
28 the qui tam plaintiff with an opportunity to oppose the  
29 motion at a hearing.

30 (3) The Commonwealth may settle the action with the

1 defendant despite the qui tam plaintiff's objections if the  
2 court determines, after a hearing, that the proposed  
3 settlement is fair, adequate and reasonable under the  
4 circumstances. Upon a showing of good cause, the hearing may  
5 be held in camera. Upon motion of the Commonwealth, the  
6 court, for good cause shown, shall order a partial lifting of  
7 the seal to facilitate the investigative process or  
8 settlement.

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

16 (i) limiting the number of witnesses the qui tam  
17 plaintiff may call;

18 (ii) limiting the length of witness testimony;

19 (iii) limiting the qui tam plaintiff's cross-  
20 examination of witnesses; or

21 (iv) otherwise limiting the qui tam plaintiff's  
22 participation in the action.

23 (5) Upon the defendant's showing that the qui tam  
24 plaintiff's unrestricted participation in the action would be  
25 for purposes of harassment or would cause the defendant undue  
26 burden or unnecessary expense, the court may limit the qui  
27 tam plaintiff's participation in the action.

28 (6) If the Commonwealth elects not to proceed with the  
29 action, the qui tam plaintiff shall have the right to conduct  
30 the action. If the Commonwealth requests, the Commonwealth

1 shall be served with copies of all pleadings filed in the  
2 action and shall be supplied, at the Commonwealth's expense,  
3 with copies of all deposition transcripts and other discovery  
4 produced in the action. Without limiting the qui tam  
5 plaintiff's status and rights, the court shall permit the  
6 Commonwealth to intervene at a later date upon a showing of  
7 good cause.

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

20 (8) Notwithstanding subsection (b), the Commonwealth may  
21 elect to pursue its legal claims through an alternate remedy  
22 available to the Commonwealth, including an administrative  
23 proceeding to determine a civil money penalty. If the  
24 alternate remedy is pursued in another proceeding, the qui  
25 tam plaintiff shall have the same rights in the proceeding as  
26 if the action had continued under this section. A finding of  
27 fact or conclusion of law made in the other proceeding that  
28 has become final shall be conclusive on all parties to an  
29 action under this section. A finding or conclusion is final  
30 if it has been finally determined on appeal to the

1 appropriate court of the Commonwealth, if the time for filing  
2 the appeal regarding the finding or conclusion has expired  
3 without an appeal having been filed or if the finding or  
4 conclusion is not subject to judicial review.

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

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

14 (2) If the court finds that the action is based  
15 primarily on disclosures of specific information, other than  
16 information provided by the qui tam plaintiff, relating to  
17 allegations or transactions in a criminal, civil or  
18 administrative hearing to which the Commonwealth is a party,  
19 or in a Federal, State or local legislative or other  
20 governmental hearing, audit or investigation or from the news  
21 media, the court may award a sum it considers appropriate,  
22 taking into account the information's significance and the  
23 qui tam plaintiff's role in advancing the action, but in no  
24 case more than 10% of the proceeds of the action or  
25 settlement.

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

1       (4) Whether or not the Commonwealth proceeds with the  
2 action, if the court finds that the qui tam plaintiff planned  
3 and initiated the violation of section 6311 upon which the  
4 action was brought, the following shall apply:

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

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

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

26       (6) If the Commonwealth does not proceed with the action  
27 and the qui tam plaintiff conducts the action, the court may  
28 award to the defendant reasonable attorney fees and expenses  
29 if the defendant prevails in the action and the court finds  
30 that the qui tam plaintiff's legal claim was clearly

1 frivolous, clearly vexatious or brought primarily for  
2 purposes of harassment.

3 (f) Certain actions barred.--

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

11 (2) Subject to paragraph (3), the court shall dismiss an  
12 action or legal claim brought under subsection (b) if  
13 substantially the same allegations or transactions alleged in  
14 the action or legal claim were publicly disclosed in:

15 (i) the news media;

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

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

20 (3) The court may not dismiss an action under paragraph  
21 (2) if:

22 (i) the Attorney General or a designated district  
23 attorney brought action;

24 (ii) the Commonwealth opposes dismissal; or

25 (iii) the qui tam plaintiff is an original source of  
26 the information publicly disclosed.

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

1 already a party.

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

5 (h) (Reserved).

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

11 (j) Nature of action.--An action under this section is an  
12 action brought by the Commonwealth, as provided in section  
13 204(c) of the act of October 15, 1980 (P.L.950, No.164), known  
14 as the Commonwealth Attorneys Act.

15 § 6313. Civil investigative demands.

16 (a) Issuance and service.--

17 (1) If the Attorney General or, for purposes of this  
18 subsection, the Attorney General's designee, has reason to  
19 believe that a person may be in possession, custody or  
20 control of documentary material or information relevant to a  
21 false claims investigation under this chapter, the Attorney  
22 General or designee may, before commencing a civil action  
23 under section 6312(a) (relating to Attorney General  
24 investigations and prosecutions and civil actions) or making  
25 an election whether to intervene in an action brought under  
26 section 6312(b), issue in writing and cause to be served upon  
27 the person a civil investigative demand requiring the person  
28 to:

29 (i) produce documentary material for inspection and  
30 copying;

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

3           (iii) give oral testimony concerning documentary  
4           material or information; or

5           (iv) furnish any combination of materials, answers  
6           or testimony.

7           (2) If a civil investigative demand is an express demand  
8           for a product of discovery, the Attorney General or designee  
9           shall:

10           (i) Cause to be served in any manner authorized by  
11           this subsection a copy of the demand upon the person from  
12           whom or which the discovery was obtained.

13           (ii) Notify the demand issuee of the date on which  
14           the copy was served.

15           (b) Contents and deadlines.--

16           (1) A civil investigative demand shall state the nature  
17           of the conduct constituting the alleged violation of this  
18           chapter that is under investigation and the applicable  
19           provisions of this chapter alleged to be violated.

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

22           (i) Describe each class of documentary material to  
23           be produced with definiteness and certainty as to permit  
24           the material to be fairly identified.

25           (ii) Prescribe a return date for each class that  
26           will provide a reasonable time period within which the  
27           material so demanded may be assembled and made available  
28           for inspection and copying.

29           (iii) Identify the false claims investigator to whom  
30           the material shall be available.

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

3           (i) Describe with specificity the written  
4 interrogatories to be answered.

5           (ii) Prescribe dates on which the answers to the  
6 written interrogatories shall be submitted.

7           (iii) Identify the false claims investigator to whom  
8 the answers shall be submitted.

9       (4) If the civil investigative demand is for oral  
10 testimony, the demand shall:

11           (i) Prescribe a date, time and place at which the  
12 oral testimony shall be given.

13           (ii) Identify a false claims investigator who shall  
14 conduct the examination and the custodian to whom the  
15 transcript of the examination shall be submitted.

16           (iii) Specify that attendance and testimony are  
17 necessary to the conduct of the false claims  
18 investigation.

19           (iv) Describe the general purpose for which the  
20 demand is being issued and general nature of the  
21 testimony, including the primary areas of inquiry, which  
22 will be taken under the demand.

23       (5) A civil investigative demand shall contain the  
24 following statement printed at the beginning of the demand:  
25 "You have the right to seek the assistance of an attorney,  
26 who may represent you in all phases of the investigation of  
27 which this civil investigative demand is a part."

28       (6) A civil investigative demand that is an express  
29 demand for a product of discovery shall not be returned or  
30 returnable until 20 days after a copy of the demand has been

1 served upon the person from whom or which the discovery was  
2 obtained.

3 (7) The date prescribed for commencement of oral  
4 testimony under a civil investigative demand shall not be  
5 less than seven days after the date on which the demand is  
6 served, unless the Attorney General or designee determines  
7 that exceptional circumstances exist and warrant commencing  
8 testimony within a lesser time period.

9 (8) The Attorney General, or designee, may not authorize  
10 the issuance of more than one civil investigative demand for  
11 the same person's oral testimony unless:

12 (i) the person requests otherwise; or

13 (ii) the Attorney General or designee notifies the  
14 person in writing that an additional demand for oral  
15 testimony is necessary.

16 (c) Protected material or information.--

17 (1) A civil investigative demand may not require the  
18 production of documentary material, the submission of answers  
19 to written interrogatories or the giving of oral testimony if  
20 the material, answers or testimony would be protected from  
21 disclosure under the standards applicable to:

22 (i) subpoenas or subpoenas duces tecum issued by a  
23 court of this Commonwealth to aid in a grand jury  
24 investigation; or

25 (ii) discovery under the Pennsylvania Rules of Civil  
26 Procedure or other applicable court rule, to the extent  
27 that the application of the standards to a demand is  
28 appropriate and consistent with the provisions and  
29 purposes of this section.

30 (2) Except if a statute explicitly precludes the

1 superseding effect imposed by this paragraph, a civil  
2 investigative demand that is an express demand for a product  
3 of discovery supersedes an inconsistent order, rule or  
4 provision of law, other than in this section, that prevents  
5 or restrains disclosure of the product of discovery to any  
6 person.

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

11 (d) Service and jurisdiction.--Except as otherwise provided,  
12 the following apply to civil investigative demands issued under  
13 this section and petitions filed under subsection (j):

14 (1) A civil investigative demand may be served by a  
15 false claims investigator, a law enforcement officer or  
16 another individual authorized by law to serve process in the  
17 jurisdiction where the demand is served.

18 (2) A petition may be served by any person authorized to  
19 serve process under the Pennsylvania Rules of Civil Procedure  
20 or other applicable court rule.

21 (3) A civil investigative demand or petition may be  
22 served upon a person consistent with and in the manner  
23 prescribed by 42 Pa.C.S. Ch. 53 (relating to bases of  
24 jurisdiction and interstate and international procedure) and  
25 the Pennsylvania Rules of Civil Procedure or other applicable  
26 court rule, for personal service inside or outside this  
27 Commonwealth.

28 (4) To the extent that the courts of this Commonwealth  
29 can assert jurisdiction over a person outside this  
30 Commonwealth, a court with jurisdiction over an action filed

1 under this chapter shall have the same jurisdiction to take  
2 action respecting the person's compliance with this section  
3 that it would have if the person resided within the court's  
4 jurisdiction.

5 (5) A civil investigative demand or petition may be  
6 served upon a legal entity by:

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

12 (ii) delivering an executed copy of the demand or  
13 petition to the legal entity's principal office or place  
14 of business;

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

20 (iv) any other method provided by the Pennsylvania  
21 Rules of Civil Procedure or other applicable court rule.

22 (6) A civil investigative demand or petition may be  
23 served upon a natural person by:

24 (i) delivering an executed copy of the demand or  
25 petition to the person;

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

1           (iii) any other method provided by the Pennsylvania  
2           Rules of Civil Procedure or other applicable court rule.

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

9           (e) Documentary material.--

10           (1) The production of documentary material shall be made  
11           under a written and verified certificate, in the form a civil  
12           investigative demand designates:

13           (i) if the demand issuee is a natural person, by the  
14           demand issuee; or

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

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

24           (3) A demand issuee shall make demanded material  
25           available for inspection and copying to the false claims  
26           investigator identified in the demand:

27           (i) at the demand issuee's principal place of  
28           business;

29           (ii) at another place as the false claims  
30           investigator and the demand issuee thereafter may agree

1 and prescribe in writing; or

2 (iii) as the court may direct under this section.

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

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

14 (f) Interrogatories.--

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

21 (i) if the demand issuee is a natural person, by the  
22 demand issuee; or

23 (ii) if the demand issuee is not a natural person,  
24 by the individuals responsible for answering each  
25 interrogatory.

26 (2) If the demand issuee objects to an interrogatory or  
27 any portion of an interrogatory, or otherwise withholds  
28 information, the demand issuee shall state with particularity  
29 the reasons for the objection or withholding and identify all  
30 withheld information.

1 (g) Oral examinations.--

2 (1) The examination of a person under a civil  
3 investigative demand for oral testimony shall be taken before  
4 an officer authorized to administer oaths and affirmations by  
5 the laws of this Commonwealth or of the place where the  
6 examination is held.

7 (2) The officer shall put the witness on oath or  
8 affirmation and, personally or by someone acting under the  
9 officer's direction and in the officer's presence, shall  
10 record the witness's testimony.

11 (3) The testimony shall be stenographically transcribed.

12 (4) When the transcribing is complete, the officer shall  
13 promptly transmit a copy of the transcript to the custodian.

14 (5) This subsection shall not preclude the taking of  
15 testimony by any means authorized by, and in a manner  
16 consistent with, the Pennsylvania Rules of Civil Procedure or  
17 other applicable court rule.

18 (6) The false claims investigator conducting the  
19 examination shall exclude from the place where the  
20 examination is held all persons except the following:

21 (i) The person giving the testimony.

22 (ii) The attorney for the person giving the  
23 testimony.

24 (iii) An attorney for the Commonwealth.

25 (iv) The officer before whom the testimony is to be  
26 taken.

27 (v) The court reporter taking the testimony.

28 (vi) The custodian, if identified in the demand as  
29 attending.

30 (vii) Any other person upon which the person giving

1       the testimony agreed and the attorney for the  
2       Commonwealth.

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

8       (8) When the transcript of testimony is completed, the  
9       false claims investigator or the officer before whom the  
10       testimony is taken shall afford the witness, who may be  
11       accompanied by counsel, a reasonable opportunity to examine  
12       and read the transcript, unless the witness waives the  
13       reading and examination.

14       (9) The officer or false claims investigator shall enter  
15       and identify on the transcript any changes in form or  
16       substance that the witness desires to make with a statement  
17       of the reasons the witness gives for making the changes.

18       (10) The witness shall sign the transcript after the  
19       changes, if any, are made, unless the witness waives the  
20       signing in writing, is ill, cannot be found or refuses to  
21       sign. If the witness does not sign the transcript within 30  
22       days after being afforded a reasonable opportunity to sign  
23       it, the officer or false claims investigator shall sign the  
24       transcript and state on the record the fact of the witness's  
25       waiver, illness, absence or refusal to sign, together with  
26       the reasons, if any, given for why the witness did not sign  
27       the transcript.

28       (11) The officer before whom the testimony is taken  
29       shall certify on the transcript that the witness was sworn by  
30       the officer and the transcript is a true record of the

1 witness's testimony, and the officer shall promptly deliver  
2 the transcript or send the transcript by registered or  
3 certified mail to the custodian.

4 (12) Upon receiving payment of reasonable charges, the  
5 false claims investigator shall furnish a copy of the  
6 transcript to the witness only, except that the Attorney  
7 General or the Attorney General's designee may, for good  
8 cause, limit the witnesses to inspecting the official  
9 transcript.

10 (13) A person compelled to appear for oral testimony may  
11 be accompanied, represented and advised by counsel. Counsel  
12 may advise the person in confidence with respect to any  
13 question asked of the person.

14 (14) The person or the person's counsel may object on  
15 the record to any question, in whole or in part, and shall  
16 briefly state for the record the reason for the objection. An  
17 objection may be made, received and entered upon the record  
18 when it is asserted that the person is entitled to refuse to  
19 answer on the grounds of a constitutional or legal right or  
20 privilege, including the privilege against self-  
21 incrimination. The person may not otherwise object to or  
22 refuse to answer any question and may not directly or through  
23 counsel otherwise interrupt the oral examination. If a person  
24 refuses to answer a question, a petition may be filed with  
25 the court under this section for an order compelling the  
26 person to answer the question.

27 (15) A person appearing for oral testimony under a civil  
28 investigative demand shall be entitled to the same fees and  
29 allowances that are paid to witnesses in the courts of common  
30 pleas.

1 (h) Refusal to comply on self-incrimination privilege  
2 grounds.--The Attorney General or, with the Attorney General's  
3 authorization, a designated district attorney may invoke the  
4 provisions of 42 Pa.C.S. § 5947 (relating to immunity of  
5 witnesses) if a person, on the grounds of privilege against  
6 self-incrimination, refuses to:

7 (1) furnish documentary material in response to a civil  
8 investigative demand;

9 (2) answer an interrogatory in response to a civil  
10 investigative demand;

11 (3) answer a question asked during oral examination made  
12 under a civil investigative demand; or

13 (4) otherwise comply with a civil investigative demand.

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

15 (1) Unless the Attorney General or, if applicable, a  
16 designated district attorney designates another person, the  
17 false claims investigator identified on a civil investigative  
18 demand shall serve as custodian of documentary material,  
19 interrogatory answers and oral testimony transcripts received  
20 under this section. The Attorney General or, if applicable, a  
21 designated district attorney may designate additional persons  
22 as the Attorney General determines to be necessary to serve  
23 as deputy, alternative or successor custodians.

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

27 (i) if serving as custodian, take possession of the  
28 material, answers or transcripts and be responsible for  
29 their usage and for the return of documentary material;  
30 or

1           (ii) if not serving as custodian, transmit the  
2           materials, answers or transcripts to the custodian, who  
3           shall take possession and responsibility for the  
4           materials, answers or transcripts.

5           (3) The custodian may cause the preparation of copies of  
6           documentary material, interrogatory answers or oral testimony  
7           transcripts as may be required for official use by a false  
8           claims investigator or another officer or employee of the  
9           Office of Attorney General authorized to use the materials,  
10          answers or transcripts in connection with the taking of oral  
11          testimony under this section.

12          (4) Under reasonable terms and conditions as the  
13          Attorney General, or a designated district attorney  
14          authorized by the Attorney General, prescribes, a custodian  
15          possessing documentary material, interrogatory answers or  
16          oral testimony transcripts shall make the material, answers  
17          and transcripts available for examination by the person that  
18          produced them or by the person's representative.

19          (5) Notwithstanding 18 Pa.C.S. Ch. 91, a designee who is  
20          designated or called to appear before a court, grand jury or  
21          Commonwealth agency in a case or proceeding may, in  
22          connection with the case or proceeding, obtain from the  
23          custodian and use any documentary material, interrogatory  
24          answers or oral testimony transcripts that the designee  
25          determines is required.

26          (6) Upon the case or proceeding's completion, an  
27          attorney shall return to the custodian documentary material,  
28          interrogatory answers or oral testimony transcripts that have  
29          not passed into the court's, grand jury's or agency's control  
30          through introduction into the case or proceeding's record.

1           (7) Subject to paragraphs (8) and (9), upon the written  
2 request of a person that produced documentary material in  
3 connection with a false claims investigation, the custodian  
4 shall return the material.

5           (8) The custodian shall return the material only if:

6           (i) all cases or proceedings arising out of the  
7 false claims investigation have been completed; or

8           (ii) no case or proceeding in which the material may  
9 be used has been commenced within a reasonable time after  
10 completion of the examination and analysis of all  
11 documentary material and other information assembled in  
12 the course of the false claims investigation.

13           (9) The custodian shall not be required to return either  
14 of the following:

15           (i) material that has passed into a court, grand  
16 jury or Commonwealth agency's control through  
17 introduction into a case or proceeding's record; or

18           (ii) copies furnished to the false claims  
19 investigator or made for the Attorney General, or  
20 designee, under this subsection.

21 (j) Judicial proceedings.--

22           (1) The Commonwealth may file and serve upon a person a  
23 petition for a court order enforcing a civil investigative  
24 demand if:

25           (i) the person fails to comply with a demand served  
26 upon the person; or

27           (ii) satisfactory copying or reproduction of the  
28 material requested in the demand cannot be done and the  
29 person refuses to surrender the material.

30           (2) A demand issuee who has received a civil

1 investigative demand may file and serve upon the false claims  
2 investigator identified in the demand a petition for a court  
3 order modifying or setting aside the demand.

4 (3) If a demand is an express demand for a product of  
5 discovery, the person from whom discovery was obtained may,  
6 upon receipt of the demand, file and serve upon the false  
7 claims investigator identified in the demand a petition for a  
8 court order modifying or setting aside those portions of the  
9 demand requiring production of the product of discovery.

10 (4) A petition under paragraph (2) must be filed within:

11 (i) the earlier of 20 days after the civil  
12 investigative demand is served on the person or any time  
13 before the return date specified in the demand; or

14 (ii) a longer period if the false claims  
15 investigator so prescribes in writing in the demand.

16 (5) A petition under paragraph (2) shall specify each  
17 ground the petitioner relies on in seeking relief and may be  
18 based on either of the following:

19 (i) failure of the civil investigative demand, or  
20 any portion thereof, to comply with this section's  
21 provisions; or

22 (ii) a constitutional or other legal right or  
23 privilege of the petitioner.

24 (6) During the pendency of a petition under paragraph  
25 (2), the following shall apply:

26 (i) The court may stay, as the court deems proper,  
27 compliance with all or part of the demand and the running  
28 of time allowed for compliance with the demand.

29 (ii) The petitioner must comply with any portion of  
30 the demand that is not sought to be modified or set

1 aside, or otherwise subject to a stay issued by the  
2 court.

3 (7) At any time a custodian possesses or is in custody  
4 or control of documentary material, interrogatory answers or  
5 transcripts of oral testimony given under a civil  
6 investigative demand, the following persons may file and  
7 serve upon the custodian a petition for a court order  
8 requiring the custodian to perform a duty imposed on the  
9 custodian by this section:

10 (i) the demand issuee that furnished the material,  
11 answers or testimony; or

12 (ii) in the case of an express demand for a product  
13 of discovery, the person from whom discovery was  
14 obtained.

15 (8) The court shall have jurisdiction to hear and  
16 determine a petition filed under this section and, after a  
17 hearing at which all parties have the opportunity to be  
18 heard, to enter orders as may be required to carry out the  
19 provisions of this section.

20 (9) A final order entered by Commonwealth Court under  
21 this section shall be subject to appeal to the Supreme Court  
22 under 42 Pa.C.S. § 723(a) (relating to appeals from  
23 Commonwealth Court).

24 (k) Exemption from disclosure.--The Office of Attorney  
25 General and, if applicable, a designated district attorney's  
26 office, shall be exempt from disclosing under the act of  
27 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law,  
28 documentary material, interrogatory answers and oral testimony  
29 provided under a civil investigative demand.

30 (l) Definitions.--For purposes of this section, the

1 following words and phrases shall have the meanings given to  
2 them in this subsection unless the context clearly indicates  
3 otherwise:

4 "Custodian." The false claims investigator or other  
5 custodian or a deputy or alternate custodian designated by the  
6 Attorney General under subsection (i).

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

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

16 "False claims investigation." An inquiry conducted by a  
17 false claims investigator for the purposes of ascertaining  
18 whether a person is or has been engaged in a violation of this  
19 chapter.

20 "False claims investigator." An individual charged with the  
21 duty of enforcing or carrying out the provisions of this chapter  
22 who is:

23 (1) an attorney or investigator employed by the Office  
24 of Attorney General or, if applicable, by a designated  
25 district attorney; or

26 (2) an officer or employee of the Commonwealth acting  
27 under the attorney or investigator's direction and  
28 supervision in connection with a false claims investigation.

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

30 "Person." As defined in 1 Pa.C.S. § 1991 (relating to

1 definitions).

2 "Product of discovery." The term includes:

3 (1) the original or duplicate of a deposition  
4 interrogatory, document, thing, result of the inspection of  
5 land or other property, examination or admission that is  
6 obtained by any method of discovery in a judicial or  
7 administrative proceeding of an adversarial nature;

8 (2) a digest, analysis, selection, compilation or  
9 derivation of an item listed in paragraph (1); and

10 (3) an index or other manner of access to an item listed  
11 in paragraph (1).

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

15 § 6314. Access to and sharing of information.

16 (a) Criminal information.--

17 (1) Subject to paragraph (2) and section 6324 (relating  
18 to implementation), and as necessary for official use, the  
19 provisions of 18 Pa.C.S. Ch. 91 (relating to criminal history  
20 record information) shall not impair the ability of the  
21 Attorney General to access and share data, records, documents  
22 or other information obtained during the course of a criminal  
23 investigation or prosecution with the following:

24 (i) A section, unit, subunit or individual employee  
25 or agent of the Office of Attorney General authorized by  
26 the Attorney General to enforce this chapter, including a  
27 designated district attorney.

28 (ii) An official of the United States, other states,  
29 the Commonwealth or a political subdivision thereof  
30 charged with the responsibility for enforcing Federal,

1 state or local laws respecting fraud or false claims upon  
2 Federal, state or local governments.

3 (iii) A qui tam plaintiff.

4 (2) A recipient under paragraph (1) who is subject to  
5 the jurisdiction of the Commonwealth shall be subject to the  
6 provisions of 18 Pa.C.S. Ch. 91 relating to further  
7 disclosure, dissemination and sharing of the information with  
8 noncriminal justice agencies, departments and individuals,  
9 except as permitted under paragraph (1).

10 (b) Civil investigative information.--

11 (1) Except as otherwise provided in this section or  
12 section 6313 (relating to civil investigative demands), and  
13 as necessary for official use, documentary material,  
14 interrogatory answers and oral testimony transcripts or  
15 copies of the foregoing may not be accessed by, shared with  
16 or made available for examination by an individual other than  
17 a false claims investigator or other officer or employee of  
18 the Office of Attorney General or, if applicable, of a  
19 designated district attorney.

20 (2) The prohibition in paragraph (1) shall not apply if  
21 the person that produced the material, answers or  
22 transcripts, or, in the case of a product of discovery  
23 produced under an express demand for the material, the person  
24 from whom or which the discovery is obtained, consents.

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

1       (4) Except as otherwise prohibited by law, the Attorney  
2 General or, with the Attorney General's authorization, a  
3 designee, may share information obtained under section 6311  
4 (relating to acts subjecting persons to liability and  
5 damages) with a qui tam plaintiff, if the Attorney General or  
6 authorized designee determines it is necessary as part of a  
7 false claims investigation or action conducted under this  
8 article.

9 § 6315. Deposit of Commonwealth's share of proceeds.

10 (a) Distribution and division.--The Commonwealth's share of  
11 the proceeds of an action or settlement under this chapter, not  
12 including the enforcement costs and less any amount legally  
13 required to be paid from the Commonwealth's share, shall be  
14 distributed in the following manner:

15 (1) An amount equal to 20% of the total enforcement  
16 costs shall be distributed from the Commonwealth's share to  
17 the Office of Attorney General and, if applicable, to a  
18 designated district attorney, in proportions equal to each  
19 office's percentage of the enforcement costs.

20 (2) After distribution under paragraph (1), the  
21 remainder of the Commonwealth's share shall be distributed to  
22 the Commonwealth agencies that sustained damages from the  
23 violation of section 6311 in proportions equal to each  
24 agency's percentage of the damages. A Commonwealth agency  
25 that has distributed money under this paragraph shall use the  
26 money to reimburse the agency-administered programs whose  
27 funds were diminished because of the violation.

28 (b) Definition.--As used in this section, the term  
29 "enforcement costs" means the costs awarded under section  
30 6311(d) to the Attorney General and, if applicable, to a

1 designated district attorney.

2 § 6316. Annual report.

3 (a) Report required.--The Attorney General shall prepare an  
4 annual report concerning actions taken under this chapter by  
5 December 31 each year, beginning December 31, 2023. The report  
6 shall be submitted to the following:

7 (1) The Governor.

8 (2) The Department of Auditor General.

9 (3) The Independent Fiscal Office.

10 (4) The Office of Inspector General.

11 (5) The members of the General Assembly.

12 (6) The Legislative Budget and Finance Committee.

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

14 (1) The number of actions filed under this chapter by  
15 the Attorney General.

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

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

22 (4) The number of actions filed under section 6312  
23 (relating to Attorney General investigations and prosecutions  
24 and civil actions) by a person other than the Attorney  
25 General.

26 (5) The number of actions filed under section 6312 by a  
27 person other than the Attorney General that were completed.

28 (6) The amounts that were recovered in actions filed  
29 under section 6312 by a person other than the Attorney  
30 General through settlement or through a judgment and, if

1 known, the amounts recovered for damages, penalties and  
2 litigation costs and the amounts recovered by the  
3 Commonwealth and the person.

4 (7) The amount expended by the Commonwealth for  
5 investigation, litigation and all other costs for legal  
6 claims under this chapter.

7 (8) A narrative describing the most notable or prevalent  
8 violations of section 6311 (relating to acts subjecting  
9 persons to liability and damages) and recommendations on how  
10 Commonwealth agencies may prevent similar violations from  
11 occurring.

12 (9) Legislative recommendations the Attorney General may  
13 have for amendments to this chapter and any other law as it  
14 relates to this chapter.

15 § 6317. Statute of limitations, burden of proof and estoppel.

16 (a) Statute of limitations.--

17 (1) Subject to paragraph (2), a civil action under  
18 section 6312 (relating to Attorney General investigations and  
19 prosecutions and civil actions) may not be brought more than  
20 10 years after the date on which the violation was committed.

21 (2) If a violation is part of a continuing course of  
22 conduct, a civil action under section 6312 may not be brought  
23 more than 10 years after the date on which the last violation  
24 in the continuing course of conduct was committed.

25 (3) If the Commonwealth elects to intervene and proceed  
26 with an action brought under section 6312(b), the following  
27 shall apply:

28 (i) The Commonwealth may file its own complaint or  
29 amend the qui tam plaintiff's complaint in order to  
30 clarify or add detail to the legal claims and add any

1 additional legal claims with respect to which the  
2 Commonwealth contends that the Commonwealth is entitled  
3 to relief.

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

10 (b) Burden of proof.--In an action brought under section  
11 6312, the Commonwealth or the qui tam plaintiff shall be  
12 required to prove all essential elements of the cause of action,  
13 including damages, by a preponderance of the evidence.

14 (c) Estoppel.--Notwithstanding any other provision of law, a  
15 final judgment rendered in the Commonwealth's favor in a  
16 criminal proceeding charging false statements or fraud, whether  
17 upon a verdict after trial or upon a plea of guilty or nolo  
18 contendere, shall estop the defendant from denying the essential  
19 elements of the offense in an action brought under section 6312  
20 that involves the same transaction as in the criminal  
21 proceeding.

22 § 6318. Certain rules, policies and agreements prohibited.

23 (a) General rule.--An employer may not:

24 (1) make, adopt or enforce a rule, regulation or policy  
25 preventing an employee, contractor or agent from disclosing  
26 information to a government agency or law enforcement agency  
27 related to, or from acting to stop, a violation of section  
28 6311 (relating to acts subjecting persons to liability and  
29 damages); or

30 (2) require, as a condition of employment, during the

1 term of employment or at or upon the termination of  
2 employment, that an employee, contractor or agent agree to,  
3 accept or execute an agreement that limits or denies the  
4 employee, contractor or agent's ability to:

5 (i) disclose to a government agency or law  
6 enforcement agency information related to an alleged or  
7 actual violation of section 6311; or

8 (ii) bring an action under section 6312(b) (relating  
9 to Attorney General investigations and prosecutions and  
10 civil actions) or 6319(b) (relating to relief from  
11 retaliatory actions).

12 (b) Void effect.--A rule, regulation, policy or agreement  
13 that violates subsection (a) is void to the extent of the  
14 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 6319.

19 § 6319. Relief from retaliatory actions.

20 (a) General rule.--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 chapter or other  
28 efforts to stop a violation of this chapter.

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

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

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

9 (d) Limitation.--An action under this section may not be  
10 brought more than three years after the date on which the  
11 retaliation occurred.

12 § 6320. Actions and remedies under other laws.

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

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

22 (c) Existing privileges and immunities unaffected.--This  
23 chapter shall not abrogate or modify any existing statutory or  
24 common law privilege or immunity.

25 § 6321. Qualification of chapter for increased share of  
26 recoveries.

27 (a) Submission.--Within 30 days after the effective date of  
28 this subsection, the Attorney General shall submit a copy of  
29 this chapter and any other relevant information to the Office of  
30 Inspector General, United States Department of Health and Human

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

9 (b) Review and recommendations.--If the Office of Inspector  
10 General, United States Department of Health and Human Services  
11 determines that this chapter does not meet the requirements of  
12 section 1909(b) of the Social Security Act of 1935, the Attorney  
13 General shall prepare and transmit to the officials designated  
14 in section 6316 (relating to annual report), a report explaining  
15 the reasons for the denial and suggested revisions to this  
16 chapter which would cause this chapter to meet the requirements  
17 of section 1909(b) of the Social Security Act of 1935.

18 § 6322. Rules of procedure.

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

23 § 6323. Trial by jury.

24 A party to an action under this chapter shall be entitled to  
25 trial by jury.

26 § 6324. Implementation.

27 (a) Regulations.--The Attorney General may promulgate  
28 regulations as necessary to carry out the purposes of this  
29 chapter.

30 (b) Temporary regulations.--

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

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

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

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

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

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

25       (4) A temporary regulation or amendment shall take  
26 effect upon transmission to the Legislative Reference Bureau,  
27 unless the Attorney General designates a later date.

28       (5) Except as otherwise provided in paragraph (2),  
29 temporary regulations and amendments shall expire the earlier  
30 of three years after the effective date of this section, or a

1 date the Attorney General designates.

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

8 (c) Mandatory provisions.--The Attorney General, whether by  
9 regulation or policy, shall implement provisions to:

10 (1) Control a person's disclosure, dissemination,  
11 sharing or use of information that is protected under 18  
12 Pa.C.S. Ch. 91 (relating to criminal history record  
13 information) and that the person lawfully obtains in  
14 connection with the enforcement of section 6311 (relating to  
15 acts subjecting persons to liability and damages).

16 (2) In accordance with section 6313 (relating to civil  
17 investigative demands), prevent unauthorized further  
18 disclosure, dissemination, sharing or use of protected  
19 information.

20 (d) Construction.--This section is not intended to impair  
21 the Attorney General's discretion to adopt policies as necessary  
22 to implement this chapter.

23 § 6325. Jurisdiction and Attorney General as relator in false  
24 claims actions.

25 (a) Jurisdiction.--An action or petition under this chapter  
26 shall be filed in a court of competent jurisdiction. The  
27 following shall apply:

28 (1) Commonwealth Court shall have original jurisdiction  
29 of an action under section 6312 (relating to Attorney General  
30 investigations and prosecutions and civil actions) or

1 petition under section 6313 (relating to civil investigative  
2 demands). The courts of common pleas shall have original  
3 jurisdiction of any action under section 6319 (relating to  
4 relief from retaliatory actions).

5 (2) A court exercising jurisdiction of an action under  
6 this chapter shall have ancillary jurisdiction over a legal  
7 claim asserted under the laws of the United States or a state  
8 or local government which arises from the same transaction or  
9 occurrence.

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

15 (c) Service on other authorities.--With respect to the  
16 Federal Government or a state or local government that is named  
17 as a coplaintiff with the Commonwealth in an action brought  
18 under this chapter, the following shall apply to a seal on the  
19 action ordered by the court under section 6312(b):

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

22 (i) serving the complaint or other pleadings or  
23 filings upon officials who are charged with the  
24 responsibility of enforcing the law of that Federal,  
25 State or local government respecting fraud or false  
26 claims upon the Federal Government; or

27 (ii) disclosing to the officials substantially all  
28 material evidence and information the Commonwealth or the  
29 qui tam plaintiff possesses.

30 (2) The seal shall apply to the officials so served to

1 the same extent as the seal applies to other parties in the  
2 action.

3 (d) Definition.--For purposes of this section, the term  
4 "state" includes the District of Columbia, the Commonwealth of  
5 Puerto Rico, the Virgin Islands and all insular territories of  
6 the United States.

7 § 6326. Expiration.

8 (a) General rule.--Except as provided in paragraph (2), this  
9 chapter shall expire 20 years after the effective date of this  
10 section.

11 (b) Exception.--The expiration of this chapter shall not  
12 apply to or otherwise affect the following:

13 (1) A violation of this chapter that occurred before the  
14 expiration date.

15 (2) An investigation of an alleged violation of this  
16 chapter that commenced, but was not completed, before the  
17 expiration date.

18 Section 2. This act shall take effect in 60 days.