
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1124 Session of
2017

INTRODUCED BY COX, BAKER, BIZZARRO, BOBACK, D. COSTA, DAVIDSON,
DAVIS, DRISCOLL, EVERETT, FARRY, GILLEN, GODSHALL, GOODMAN,
KAUFFMAN, MACKENZIE, McNEILL, MILNE, NEILSON, O'BRIEN,
PASHINSKI, ROZZI, SAYLOR, WARD AND WATSON, MAY 5, 2017

REFERRED TO COMMITTEE ON JUDICIARY, MAY 5, 2017

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in assault, further providing for the
3 offense of neglect of care-dependent person and providing for
4 the offense of abuse of care-dependent person.

5 The General Assembly finds and declares that it is the
6 legislative intent in enacting this act that a distinction
7 should be recognized between intentional acts and negligent
8 acts, particularly when this act is enforced against family
9 members of a care-dependent person who are not trained to
10 provide care.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 2713(a) and (b) and the definition of
14 "caretaker" in subsection (f) of Title 18 of the Pennsylvania
15 Consolidated Statutes are amended, the section is amended by
16 adding a subsection and subsection (f) is amended by adding
17 definitions to read:

18 § 2713. Neglect of care-dependent person.

1 (a) Offense defined.--A caretaker is guilty of neglect of a
2 care-dependent person if he:

3 (1) Intentionally, knowingly or recklessly causes bodily
4 injury [or], serious bodily injury or death by failing to
5 provide treatment, care, goods or services necessary to
6 preserve the health, safety or welfare of a care-dependent
7 person for whom he is responsible to provide care.

8 (2) Intentionally or knowingly uses a physical restraint
9 or chemical restraint or medication on a care-dependent
10 person, or isolates a care-dependent person contrary to law
11 or regulation, such that bodily injury [or], serious bodily
12 injury or death results.

13 (3) Intentionally, knowingly or recklessly endangers the
14 welfare of a care-dependent person for whom he is responsible
15 by failing to provide treatment, care, goods or services
16 necessary to preserve the health, safety or welfare of the
17 care-dependent person.

18 (b) Penalty.--

19 (1) A violation of subsection (a)(1) constitutes a
20 misdemeanor of the first degree if the victim suffers bodily
21 injury.

22 (2) A violation of subsection (a)(1) constitutes a
23 felony of the first degree if the victim suffers serious
24 bodily injury or death.

25 (3) A violation of subsection (a)(2) constitutes a
26 misdemeanor of the first degree if the victim suffers bodily
27 injury.

28 (4) A violation of subsection (a)(2) constitutes a
29 felony of the first degree if the victim suffers serious
30 bodily injury or death.

1 (5) A violation of subsection (a) (3) constitutes a
2 misdemeanor of the second degree, except that where there is
3 a course of conduct of endangering the welfare of a care-
4 dependent person, the offense constitutes a felony of the
5 third degree.

6 * * *

7 (e.1) Construction.--Nothing in this section may be
8 construed to impose criminal liability on a caretaker who makes
9 a good faith effort to provide care to a care-dependent person.

10 (f) Definitions.--As used in this section, the following
11 words and phrases shall have the meanings given to them in this
12 subsection:

13 * * *

14 "Caretaker." Any person who:

15 [(1) is an owner, operator, manager or employee of a
16 nursing home, personal care home, domiciliary care home,
17 community residential facility, intermediate care facility
18 for the mentally retarded, adult daily living center, home
19 health agency or home health service provider whether
20 licensed or unlicensed;

21 (2) provides care to a care-dependent person in the
22 setting described in paragraph (1); or

23 (3) has an obligation to care for a care-dependent
24 person for monetary consideration in the settings described
25 in paragraph (1) or in the care-dependent person's home.]

26 (1) Is an owner, operator, manager or employee of any of
27 the following:

28 (i) A nursing home, personal care home, assisted
29 living facility, private care residence or domiciliary
30 home.

1 (ii) A community residential facility or
2 intermediate care facility for a person with mental
3 disabilities.

4 (iii) An adult daily living center.

5 (iv) A home health service provider whether licensed
6 or unlicensed.

7 (v) An entity licensed under the act of July 19,
8 1979 (P.L.130, No.48), known as the Health Care
9 Facilities Act.

10 (2) Provides care to a care-dependent person in the
11 settings described under paragraph (1).

12 (3) Has an obligation to care for a care-dependent
13 person for monetary consideration in the settings described
14 under paragraph (1).

15 (4) Is an adult who resides with a care-dependent person
16 and who has a legal duty to provide care or who has
17 voluntarily assumed an obligation to provide care because of
18 a familial relationship, contract or court order.

19 (5) Is an adult who does not reside with a care-
20 dependent person but who has a legal duty to provide care or
21 who has affirmatively assumed a responsibility for care, or
22 who has responsibility by contract or court order.

23 "Legal entity." An individual, partnership, unincorporated
24 association, corporation or governing authority.

25 * * *

26 "Private care residence."

27 (1) A private residence:

28 (i) in which the owner of the residence or the legal
29 entity responsible for the operation of the residence,
30 for monetary consideration, provides or assists with or

1 arranges for the provision of food, room, shelter,
2 clothing, personal care or health care in the residence,
3 for a period exceeding 24 hours, to fewer than four care-
4 dependent persons who are not relatives of the owner; and

5 (ii) that is not required to be licensed as a long-
6 term care nursing facility, as defined in section 802.1
7 of the Health Care Facilities Act.

8 (2) The term does not include:

9 (i) Domiciliary care as defined in section 2202-A of
10 the act of April 9, 1929 (P.L.177, No.175), known as The
11 Administrative Code of 1929.

12 (ii) A facility that provides residential care for
13 fewer than four care-dependent adults and is regulated by
14 the Department of Human Services.

15 Section 2. Title 18 is amended by adding a section to read:
16 § 2713.1. Abuse of care-dependent person.

17 (a) Offense defined.--A caretaker is guilty of abuse of a
18 care-dependent person if the caretaker:

19 (1) With the intent to harass, annoy or alarm a care-
20 dependent person:

21 (i) strikes, shoves, kicks or otherwise subjects or
22 attempts to subject a care-dependent person to or
23 threatens a care-dependent person with physical contact;

24 (ii) engages in a course of conduct or repeatedly
25 commits acts that serve no legitimate purpose;

26 (iii) communicates to a care-dependent person any
27 lewd, lascivious, threatening or obscene words, language,
28 drawings or caricatures; or

29 (iv) communicates repeatedly with the care-dependent
30 person at extremely inconvenient hours.

1 (2) Commits an offense under section 2709.1 (relating to
2 stalking) against a care-dependent person.

3 (b) Penalty.--

4 (1) A violation of subsection (a)(1) constitutes a
5 misdemeanor of the first degree.

6 (2) A violation of subsection (a)(2) constitutes a
7 felony of the third degree.

8 (c) Report during investigation.--When in the course of
9 conducting a regulatory or investigative responsibility, the
10 Department of Aging, the Department of Health or the Department
11 of Human Services has reasonable cause to believe that a
12 caretaker has engaged in conduct in violation of this section, a
13 report shall be made immediately to the local law enforcement
14 agency or to the Office of Attorney General.

15 (d) Enforcement.--

16 (1) The district attorneys of the several counties shall
17 have authority to investigate and institute criminal
18 proceedings for a violation of this section.

19 (2) In addition to the authority conferred upon the
20 Attorney General under the act of October 15, 1980 (P.L.950,
21 No.164), known as the Commonwealth Attorneys Act, the
22 Attorney General shall have the authority to investigate and
23 institute criminal proceedings for a violation of this
24 section. A person charged with a violation of this section by
25 the Attorney General shall not have standing to challenge the
26 authority of the Attorney General to investigate or prosecute
27 the case, and, if the challenge is made, the challenge shall
28 be dismissed and no relief shall be available in the courts
29 of this Commonwealth to the person making the challenge.

30 (e) Definitions.--As used in this section, the following

1 words and phrases shall have the meanings given to them in this
2 subsection:

3 "Care-dependent person." The term shall have the same
4 meaning given to it under section 2713 (relating to neglect of
5 care-dependent person).

6 "Caretaker." The term shall have the same meaning given to
7 it under section 2713.

8 "Person." The term shall have the same meaning given to it
9 under section 2713.

10 Section 3. This act shall take effect in 60 days.