

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 1581** Session of
2015

INTRODUCED BY CORBIN, DELOZIER, MILLARD, O'BRIEN, V. BROWN,
BARRAR, PICKETT, BARBIN, BAKER, McNEILL, SAINATO, STEPHENS,
DONATUCCI, READSHAW, BOBACK, KAUFFMAN, COHEN, ROSS, MAJOR,
D. COSTA, D. PARKER, DeLUCA, WATSON, WARD, FEE, OBERLANDER,
HELM, HARPER, PHILLIPS-HILL, HARHART, GILLEN, TOOHL,
SCHLEGEL CULVER, MURT, LEWIS, HENNESSEY, TRUITT, GOODMAN,
C. PARKER, BRADFORD, TOEPEL, KNOWLES, FABRIZIO, HARKINS,
DEAN, MARSICO, IRVIN, BENNINGHOFF, FARRY, FRANKEL, KLUNK,
RADER, MILNE, MICCARELLI, RAPP AND DUSH, OCTOBER 1, 2015

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
APRIL 5, 2016

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in assault, providing for the offense
3 of strangulation.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 18 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 2718. Strangulation.

9 (a) Offense defined.--A person commits the offense of
10 strangulation if the person knowingly or intentionally impedes
11 the breathing or circulation of the blood of another person by:

12 (1) applying pressure to the throat or neck; or

13 (2) blocking the nose and mouth of the person.

14 (b) Physical injury.--Infliction of a physical injury to a

1 victim shall not be an element of the offense. The lack of
2 physical injury to a victim shall not be a defense in a
3 prosecution under this section.

4 (c) Affirmative defense.--It shall be an affirmative defense
5 to a charge under this section that the victim consented to the
6 defendant's actions as provided under section 311 (relating to
7 consent).

8 (d) Grading.-- <--

9 (1) Except as provided in paragraph (2), a violation of
10 this section shall constitute a felony of the second degree.

11 (2) A violation of this section shall constitute a
12 felony of the first degree if:

13 (i) at the time of commission of the offense, the
14 defendant is subject to an active protection from abuse
15 order under 23 Pa.C.S. Ch. 61 (relating protection from
16 abuse) or a sexual violence or intimidation protection
17 order under 42 Pa.C.S. Ch. 62A (relating to protection of
18 victims of sexual violence or intimidation) that covers
19 the victim;

20 (ii) the person uses an instrument of crime as
21 defined in section 907 (relating to possessing
22 instruments of crime) in commission of the offense under
23 this section; or

24 (iii) the defendant has previously been convicted of
25 an offense under this section.

26 (D) GRADING.-- <--

27 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OR (3), A
28 VIOLATION OF THIS SECTION SHALL CONSTITUTE A MISDEMEANOR OF
29 THE SECOND DEGREE.

30 (2) A VIOLATION OF THIS SECTION SHALL CONSTITUTE A

1 FELONY OF THE SECOND DEGREE IF COMMITTED:

2 (I) AGAINST A FAMILY OR HOUSEHOLD MEMBER AS DEFINED
3 IN 23 PA.C.S. § 6102 (RELATING TO DEFINITIONS);

4 (II) BY A CARETAKER AGAINST A CARE-DEPENDENT PERSON;

5 OR

6 (III) IN CONJUNCTION WITH SEXUAL VIOLENCE AS DEFINED
7 IN 42 PA.C.S. § 62A03 (RELATING TO DEFINITIONS) OR
8 CONDUCT CONSTITUTING A CRIME UNDER 18 PA.C.S. § 2709.1
9 (RELATING TO STALKING) OR CH. 30 SUBCH. B (RELATING TO
10 PROSECUTION OF HUMAN TRAFFICKING).

11 (3) A VIOLATION OF THIS SECTION SHALL CONSTITUTE A
12 FELONY OF THE FIRST DEGREE IF:

13 (I) AT THE TIME OF COMMISSION OF THE OFFENSE, THE
14 DEFENDANT IS SUBJECT TO AN ACTIVE PROTECTION FROM ABUSE
15 ORDER UNDER 23 PA.C.S. CH. 61 (RELATING TO PROTECTION
16 FROM ABUSE) OR A SEXUAL VIOLENCE OR INTIMIDATION
17 PROTECTION ORDER UNDER 42 PA.C.S. CH. 62A (RELATING TO
18 PROTECTION OF VICTIMS OF SEXUAL VIOLENCE OR INTIMIDATION)
19 THAT COVERS THE VICTIM;

20 (II) THE DEFENDANT USES AN INSTRUMENT OF CRIME AS
21 DEFINED IN SECTION 907 (RELATING TO POSSESSING
22 INSTRUMENTS OF CRIME) IN COMMISSION OF THE OFFENSE UNDER
23 THIS SECTION; OR

24 (III) THE DEFENDANT HAS PREVIOUSLY BEEN CONVICTED OF
25 AN OFFENSE UNDER PARAGRAPH (2) OR A SUBSTANTIALLY SIMILAR
26 OFFENSE IN ANOTHER JURISDICTION.

27 (E) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
28 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
29 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

30 "CARE-DEPENDENT PERSON." AN ADULT WHO, DUE TO PHYSICAL OR

1 COGNITIVE DISABILITY OR IMPAIRMENT, REQUIRES ASSISTANCE TO MEET
2 HIS NEEDS FOR FOOD, SHELTER, CLOTHING, PERSONAL CARE OR HEALTH
3 CARE.

4 "CARETAKER." ANY PERSON WHO:

5 (1) IS AN OWNER, OPERATOR, MANAGER OR EMPLOYEE OF ANY OF
6 THE FOLLOWING:

7 (I) A NURSING HOME, PERSONAL CARE HOME, ASSISTED
8 LIVING FACILITY, PRIVATE CARE RESIDENCE OR DOMICILIARY
9 HOME.

10 (II) A COMMUNITY RESIDENTIAL FACILITY OR
11 INTERMEDIATE CARE FACILITY FOR A PERSON WITH MENTAL
12 DISABILITIES.

13 (III) AN ADULT DAILY LIVING CENTER.

14 (IV) A HOME HEALTH SERVICE PROVIDER WHETHER LICENSED
15 OR UNLICENSED.

16 (V) AN ENTITY LICENSED UNDER THE ACT OF JULY 19,
17 1979 (P.L.130, NO.48), KNOWN AS THE HEALTH CARE
18 FACILITIES ACT.

19 (2) PROVIDES CARE TO A CARE-DEPENDENT PERSON IN THE
20 SETTINGS DESCRIBED UNDER PARAGRAPH (1).

21 (3) HAS AN OBLIGATION TO CARE FOR A CARE-DEPENDENT
22 PERSON FOR MONETARY CONSIDERATION IN THE SETTINGS DESCRIBED
23 UNDER PARAGRAPH (1).

24 (4) IS AN ADULT WHO RESIDES WITH A CARE-DEPENDENT PERSON
25 AND WHO HAS A LEGAL DUTY TO PROVIDE CARE OR WHO HAS
26 VOLUNTARILY ASSUMED AN OBLIGATION TO PROVIDE CARE BECAUSE OF
27 A FAMILIAL RELATIONSHIP, CONTRACT OR COURT ORDER.

28 (5) IS AN ADULT WHO DOES NOT RESIDE WITH A CARE-
29 DEPENDENT PERSON BUT WHO HAS A LEGAL DUTY TO PROVIDE CARE OR
30 WHO HAS AFFIRMATIVELY ASSUMED A RESPONSIBILITY FOR CARE, OR

1 WHO HAS RESPONSIBILITY BY CONTRACT OR COURT ORDER.

2 "LEGAL ENTITY." AN INDIVIDUAL, PARTNERSHIP, UNINCORPORATED
3 ASSOCIATION, CORPORATION OR GOVERNING AUTHORITY.

4 "PRIVATE CARE RESIDENCE."

5 (1) A PRIVATE RESIDENCE:

6 (I) IN WHICH THE OWNER OF THE RESIDENCE OR THE LEGAL
7 ENTITY RESPONSIBLE FOR THE OPERATION OF THE RESIDENCE,
8 FOR MONETARY CONSIDERATION, PROVIDES OR ASSISTS WITH OR
9 ARRANGES FOR THE PROVISION OF FOOD, ROOM, SHELTER,
10 CLOTHING, PERSONAL CARE OR HEALTH CARE IN THE RESIDENCE,
11 FOR A PERIOD EXCEEDING 24 HOURS, TO FEWER THAN FOUR CARE-
12 DEPENDENT PERSONS WHO ARE NOT RELATIVES OF THE OWNER; AND

13 (II) WHICH IS NOT REQUIRED TO BE LICENSED AS A LONG-
14 TERM CARE NURSING FACILITY, AS DEFINED IN SECTION 802.1
15 OF THE HEALTH CARE FACILITIES ACT.

16 (2) THE TERM DOES NOT INCLUDE:

17 (I) DOMICILIARY CARE AS DEFINED IN SECTION 2202-A OF
18 THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE
19 ADMINISTRATIVE CODE OF 1929.

20 (II) A FACILITY WHICH PROVIDES RESIDENTIAL CARE FOR
21 FEWER THAN FOUR CARE-DEPENDENT ADULTS AND WHICH IS
22 REGULATED BY THE DEPARTMENT OF HUMAN SERVICES.

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