

AMENDMENTS TO HOUSE BILL NO. 1581

Sponsor: REPRESENTATIVE PETRARCA

Printer's No. 2290

1 Amend Bill, page 2, lines 7 through 24, by striking out all
2 of said lines and inserting

3 (d) Grading.--

4 (1) Except as provided in paragraph (2) or (3), a
5 violation of this section shall constitute a misdemeanor of
6 the second degree.

7 (2) A violation of this section shall constitute a
8 felony of the second degree if committed:

9 (i) against a family or household member as defined
10 in 23 Pa.C.S. § 6102 (relating to definitions);

11 (ii) by a caretaker against a care-dependent person;
12 or

13 (iii) in conjunction with sexual violence as defined
14 in 42 Pa.C.S. § 62A03 (relating to definitions) or
15 conduct constituting a crime under 18 Pa.C.S. § 2709.1
16 (relating to stalking) or Ch. 30 Subch. B (relating to
17 prosecution of human trafficking).

18 (3) A violation of this section shall constitute a
19 felony of the first degree if:

20 (i) at the time of commission of the offense, the
21 defendant is subject to an active protection from abuse
22 order under 23 Pa.C.S. Ch. 61 (relating to protection
23 from abuse) or a sexual violence or intimidation
24 protection order under 42 Pa.C.S. Ch. 62A (relating to
25 protection of victims of sexual violence or intimidation)
26 that covers the victim;

27 (ii) the defendant uses an instrument of crime as
28 defined in section 907 (relating to possessing
29 instruments of crime) in commission of the offense under
30 this section; or

31 (iii) the defendant has previously been convicted of
32 an offense under paragraph (2) or a substantially similar
33 offense in another jurisdiction.

34 (e) Definitions.--As used in this section, the following
35 words and phrases shall have the meanings given to them in this
36 subsection unless the context clearly indicates otherwise:

37 "Care-dependent person." An adult who, due to physical or
38 cognitive disability or impairment, requires assistance to meet

1 his needs for food, shelter, clothing, personal care or health
2 care.

3 "Caretaker." Any person who:

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

6 (i) A nursing home, personal care home, assisted
7 living facility, private care residence or domiciliary
8 home.

9 (ii) A community residential facility or
10 intermediate care facility for a person with mental
11 disabilities.

12 (iii) An adult daily living center.

13 (iv) A home health service provider whether licensed
14 or unlicensed.

15 (v) An entity licensed under the act of July 19,
16 1979 (P.L.130, No.48), known as the Health Care
17 Facilities Act.

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

20 (3) Has an obligation to care for a care-dependent
21 person for monetary consideration in the settings described
22 under paragraph (1).

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

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

31 "Legal entity." An individual, partnership, unincorporated
32 association, corporation or governing authority.

33 "Private care residence."

34 (1) A private residence:

35 (i) in which the owner of the residence or the legal
36 entity responsible for the operation of the residence,
37 for monetary consideration, provides or assists with or
38 arranges for the provision of food, room, shelter,
39 clothing, personal care or health care in the residence,
40 for a period exceeding 24 hours, to fewer than four care-
41 dependent persons who are not relatives of the owner; and

42 (ii) which is not required to be licensed as a long-
43 term care nursing facility, as defined in section 802.1
44 of the Health Care Facilities Act.

45 (2) The term does not include:

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

49 (ii) A facility which provides residential care for
50 fewer than four care-dependent adults and which is
51 regulated by the Department of Human Services.