

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** House Bill 1124

**PRINTER NO.** 3730

**AMOUNT**

See Fiscal Impact

**FUND**

Judicial Computer System Augmentation Account

**DATE INTRODUCED**

May 5, 2017

**PRIME SPONSOR**

Representative Cox

**DESCRIPTION**

House Bill 1124 amends Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes to expand the offense of neglect of a care-dependent person and to provide for the offense of a care-dependent person.

This legislation declares the legislative intent to recognize a distinction between intentional acts and negligent acts, particularly when this act is enforced against family members of a care-dependent person who are not trained to provide care.

§ 2713 (relating to neglect of care-dependent person) is amended by adding a subsection to include conduct that intentionally, knowingly or recklessly endangers the welfare of a care-dependent person for whom the individual is responsible by failing to provide treatment, care, goods or services necessary to preserve the health, safety, or welfare of the care-dependent person. A violation of this new subsection is graded as a misdemeanor of the second degree, punishable by a fine not exceeding \$5,000 and a term of imprisonment, the maximum of which is not more than two (2) years, except where there is a course of conduct of endangering the welfare of a care-dependent person, in which the offense is then graded as a felony of the third degree, punishable by a fine not exceeding \$15,000 and a term of imprisonment, the maximum of which is not more than seven (7) years.

For purposes of § 2713, a person acts recklessly when the person consciously disregards a substantial and unjustifiable risk to the care-dependent person.

House Bill 1124 provides for definitions of "caretaker," care-dependent person" and "private care residence."

Title 18 is amended by adding a new § 2713.1 (relating to abuse of care-dependent person). A caretaker is guilty of the offense if the actor takes any of the following actions:

- 1) With the intent to harass, annoy or alarm a care-dependent person:
  - Strikes, shoves, kicks, or otherwise subjects or attempts to subject a care-dependent person to, or threatens a care-dependent person with, physical contact;
  - Engages in a course of conduct that serves no legitimate purpose;

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- Communicates to a care-dependent person any lewd, lascivious, threatening, or obscene words, language, drawings, or caricatures; or
  - Communicates repeatedly with the care-dependent person at extremely inconvenient hours.
- 2) Commits an offense under Section 2709.1 (relating to stalking) against a care-dependent person.

A violation of this new § 2713.1 is graded as a misdemeanor of the first degree, punishable by a fine not exceeding \$10,000 and a term of imprisonment, the maximum of which is not more than two (2) years, except when the conduct involves an offense of stalking under § 2709.1, in which the offense is then graded as a felony of the third degree, punishable by a fine not exceeding \$15,000 and a term of imprisonment, the maximum of which is not more than seven (7) years.

The legislation requires the Department of Aging, the Department of Health or the Department of Human Services to make a report immediately to the local law enforcement agency or to the Office of Attorney General when, in the course of conducting a regulatory or investigative responsibility, the agency has reasonable cause to believe that a caretaker has engaged in abuse of a care-dependent person.

House Bill 1124 grants authority to District Attorneys and the Attorney General to investigate and institute criminal proceedings for violation of § 2713 (relating to neglect of care-dependent person) or § 2713.1 (relating to abuse of care-dependent person).

This act shall take effect in 60 days.

### **FISCAL IMPACT:**

According to 2016 sentencing data from the Pennsylvania Commission on Sentencing (commission), there were 11 convictions of violations of 18 Pa.C.S. § 2713 (relating to neglect of care-dependent person), of which 10 were misdemeanors of the first degree and 1 was a felony of the first degree. Sentences for the convictions were as follows:

- 9 received probation;
- 1 received county intermediate punishment (CIP); and
- 1 received a prison sentence in a county jail.

The expanded definition of the offense is graded as misdemeanors of the second degree and felonies of the third degree, dependent upon the conduct and course of conduct.

The new § 2713.1 (relating to abuse of care-dependent person) is graded as misdemeanors of the first degree and felonies of the third degree, dependent on whether or not an offense of stalking is involved.

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The following chart below illustrates the maximum amounts of fine deposits and terms of imprisonment, dependent upon the grading of the offense and the number of convictions under 18 Pa.C.S. § 2713 (relating to neglect of care-dependent person) and 18 Pa.C.S. § 2713.1 (relating to abuse of care-dependent person).

# of Convictions	Misdemeanor/ Felony	Max. Fine Amt.	Total Fine Amts.	Max. Term of Imprisonment	Cost of Imprisonment
10	3rd Degree Felony	\$15,000	\$150,000	7 Years	\$455,301
10	1st Degree Misdemeanor	\$10,000	\$100,000	5 Years	\$325,215
10	2nd Degree Misdemeanor	\$5,000	\$50,000	2 Years	\$130,086

Assuming the thirty (30) convictions result in a maximum sentence of imprisonment, the Pennsylvania Department of Corrections would incur estimated costs of \$910,602<sup>1</sup>.

Any costs related to reporting and enforcement requirements outlined in the bill would be capable of being accommodated within the departments' and the Office of Attorney General's current workload and budget.

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<sup>1</sup> Based upon the Pennsylvania Department of Corrections per/inmate/day rate of \$17.82.