

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 642 Session of 2007

INTRODUCED BY WALKO, DERMODY, BELFANTI, BENNINGTON, BIANCUCCI, BOYD, CALTAGIRONE, CARROLL, COHEN, DeLUCA, FABRIZIO, FRANKEL, FREEMAN, GEIST, GOODMAN, GRUCELA, HENNESSEY, KOTIK, KULA, LEACH, MAHONEY, MELIO, MURT, PALLONE, PARKER, PRESTON, REICHLEY, ROEBUCK, SAYLOR, SIPTROTH, STABACK, THOMAS, J. WHITE, YOUNGBLOOD, YUDICHAK, LONGIETTI AND COX, MARCH 6, 2007

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 18, 2007

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for the offense of
3 neglect of care-dependent person; AND PROVIDING FOR THE
4 OFFENSE OF HARASSMENT OR STALKING OF CARE-DEPENDENT PERSON. <—

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

7 ~~Section 1. Section 2713(a) and (b) of Title 18 of the~~ <—
8 ~~Pennsylvania Consolidated Statutes are amended by adding~~
9 ~~paragraphs, paragraph (1) of the definition of "caretaker" in~~
10 ~~subsection (f) is amended and subsection (f) is amended by~~
11 ~~adding definitions to read:~~

12 SECTION 1. SECTION 2713(A) OF TITLE 18 OF THE PENNSYLVANIA <—
13 CONSOLIDATED STATUTES IS AMENDED, SUBSECTION (B) IS AMENDED BY
14 ADDING PARAGRAPHS, SUBSECTION (C) IS AMENDED, PARAGRAPH (1) OF
15 THE DEFINITION OF "CARETAKER" IN SUBSECTION (F) IS AMENDED AND
16 SUBSECTION (F) IS AMENDED BY ADDING DEFINITIONS TO READ:

1 § 2713. Neglect of care-dependent person.

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

4 * * *

<—

5 (1) INTENTIONALLY, KNOWINGLY OR RECKLESSLY CAUSES BODILY <—
6 INJURY OR SERIOUS BODILY INJURY BY FAILING TO PROVIDE
7 TREATMENT, CARE, GOODS OR SERVICES NECESSARY TO PRESERVE THE
8 HEALTH, SAFETY OR WELFARE OF A CARE-DEPENDENT PERSON FOR WHOM
9 HE IS RESPONSIBLE TO PROVIDE CARE.

10 (2) INTENTIONALLY [OR], KNOWINGLY OR RECKLESSLY USES A
11 PHYSICAL RESTRAINT OR CHEMICAL RESTRAINT OR MEDICATION ON A
12 CARE-DEPENDENT PERSON, OR ISOLATES A CARE-DEPENDENT PERSON
13 CONTRARY TO LAW OR REGULATION, SUCH THAT BODILY INJURY OR
14 SERIOUS BODILY INJURY RESULTS.

15 (3) Intentionally or knowingly, KNOWINGLY OR RECKLESSLY <—
16 endangers the welfare of a care-dependent person for whom he
17 is responsible to provide care by failing to provide
18 treatment, care, goods or services necessary to preserve the
19 health, safety or welfare of the care-dependent person.

20 (b) Penalty.--

21 * * *

22 (5) Except as set forth in paragraph (6), a violation of
23 subsection (a)(3) constitutes a misdemeanor of the second
24 degree.

25 (6) If there is a course of conduct of endangering the
26 welfare of a care-dependent person, a violation of subsection
27 (a)(3) constitutes a felony of the third degree.

28 (C) REPORT DURING INVESTIGATION.--WHEN IN THE COURSE OF <—
29 CONDUCTING ANY REGULATORY OR INVESTIGATIVE RESPONSIBILITY, THE
30 DEPARTMENT OF AGING, THE DEPARTMENT OF HEALTH OR THE DEPARTMENT

1 OF PUBLIC WELFARE HAS A REASONABLE CAUSE TO BELIEVE THAT A
2 [CARE-DEPENDENT PERSON OR CARE-DEPENDENT PERSONS RESIDING IN A
3 FACILITY HAVE SUFFERED BODILY INJURY OR BEEN UNLAWFULLY
4 RESTRAINED IN] VIOLATION OF SUBSECTION (A)[(1) OR (2)] HAS
5 OCCURRED, A REPORT SHALL BE MADE IMMEDIATELY TO THE LOCAL LAW
6 ENFORCEMENT AGENCY OR TO THE OFFICE OF ATTORNEY GENERAL.

7 * * *

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

11 * * *

12 "Caretaker." Any person who:

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

19 * * *

20 "Legal entity." Any individual, partnership, unincorporated
21 association, corporation or governing authority.

22 * * *

23 "Private care residence." A private residence:

24 (1) in which the owner of the residence or the legal
25 entity responsible for the operation of the residence, for
26 monetary consideration, provides, or assists with or arranges
27 for the provision of, food, room, shelter, clothing, personal
28 care or health care in the residence, for a period exceeding
29 24 hours, to fewer than four care-dependent persons who are
30 not relatives of the owner; and

1 (2) which is not required to be licensed as a long-term
2 care nursing facility, as defined in section 802.1 of the act
3 of July 19, 1979 (P.L.130, No.48), known as the Health Care
4 Facilities Act.

5 The term does not include domiciliary care as defined in section
6 2202-A of the act of April 9, 1929 (P.L.177, No.175), known as
7 The Administrative Code of 1929. The term does not include a
8 facility which provides residential care for fewer than four
9 care-dependent adults and which is regulated by the Department
10 of Public Welfare.

11 SECTION 2. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ: <—

12 § 2713.1. HARASSMENT OR STALKING OF CARE-DEPENDENT PERSON.

13 (A) OFFENSE DEFINED.--A CARETAKER IS GUILTY OF HARASSMENT OR
14 STALKING OF A CARE-DEPENDENT PERSON IF HE:

15 (1) WITH THE INTENT TO HARASS, ANNOY OR ALARM A CARE-
16 DEPENDENT PERSON HE:

17 (I) STRIKES, SHOVES, KICKS OR OTHERWISE SUBJECTS OR
18 ATTEMPTS TO SUBJECT A CARE-DEPENDENT PERSON TO OR
19 THREATENS A CARE-DEPENDENT PERSON WITH PHYSICAL CONTACT;

20 (II) ENGAGES IN A COURSE OF CONDUCT OR REPEATEDLY
21 COMMITS ACTS WHICH SERVE NO LEGITIMATE PURPOSES;

22 (III) COMMUNICATES TO A CARE-DEPENDENT PERSON ANY
23 LEWD, LASCIVIOUS, THREATENING OR OBSCENE WORDS, LANGUAGE,
24 DRAWINGS OR CARICATURES; OR

25 (IV) COMMUNICATES REPEATEDLY WITH THE CARE-DEPENDENT
26 PERSON AT EXTREMELY INCONVENIENT HOURS.

27 (2) COMMITS AN OFFENSE UNDER SECTION 2709.1 (RELATING TO
28 STALKING) AGAINST A CARE-DEPENDENT PERSON.

29 (B) PENALTY.--

30 (1) A VIOLATION OF SUBSECTION (A)(1) CONSTITUTES A

1 MISDEMEANOR OF THE FIRST DEGREE.

2 (2) A VIOLATION OF SUBSECTION (A)(2) CONSTITUTES A
3 FELONY OF THE THIRD DEGREE.

4 (C) REPORT DURING INVESTIGATION.--WHEN IN THE COURSE OF
5 CONDUCTING ANY REGULATORY OR INVESTIGATIVE RESPONSIBILITY, THE
6 DEPARTMENT OF AGING, THE DEPARTMENT OF HEALTH OR THE DEPARTMENT
7 OF PUBLIC WELFARE HAS REASONABLE CAUSE TO BELIEVE THAT A
8 CARETAKER HAS ENGAGED IN CONDUCT IN VIOLATION OF THIS SECTION, A
9 REPORT SHALL BE MADE IMMEDIATELY TO THE LOCAL LAW ENFORCEMENT
10 AGENCY OR TO THE OFFICE OF ATTORNEY GENERAL.

11 (D) ENFORCEMENT.--

12 (1) THE DISTRICT ATTORNEYS OF THE SEVERAL COUNTIES SHALL
13 HAVE AUTHORITY TO INVESTIGATE AND TO INSTITUTE CRIMINAL
14 PROCEEDINGS FOR ANY VIOLATIONS OF THIS SECTION.

15 (2) IN ADDITION TO THE AUTHORITY CONFERRED UPON THE
16 ATTORNEY GENERAL UNDER THE ACT OF OCTOBER 15, 1980 (P.L.950,
17 NO.164), KNOWN AS THE COMMONWEALTH ATTORNEYS ACT, THE
18 ATTORNEY GENERAL SHALL HAVE THE AUTHORITY TO INVESTIGATE AND
19 INSTITUTE CRIMINAL PROCEEDINGS FOR ANY VIOLATION OF THIS
20 SECTION. A PERSON CHARGED WITH A VIOLATION OF THIS SECTION BY
21 THE ATTORNEY GENERAL SHALL NOT HAVE STANDING TO CHALLENGE THE
22 AUTHORITY OF THE ATTORNEY GENERAL TO INVESTIGATE OR PROSECUTE
23 THE CASE, AND, IF ANY SUCH CHALLENGE IS MADE, THE CHALLENGE
24 SHALL BE DISMISSED AND NO RELIEF SHALL BE AVAILABLE IN THE
25 COURTS OF THIS COMMONWEALTH TO THE PERSON MAKING THE
26 CHALLENGE.

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:

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

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

4 "CARETAKER." THIS TERM SHALL HAVE THE SAME MEANING GIVEN TO
5 IT UNDER SECTION 2713 (RELATING TO NEGLECT OF CARE-DEPENDENT
6 PERSON).

7 "PERSON." A NATURAL PERSON, CORPORATION, PARTNERSHIP,
8 UNINCORPORATED ASSOCIATION OR OTHER BUSINESS ENTITY.

9 Section 2 3. This act shall take effect in 60 days.

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