
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, COX AND GINGRICH,
MARCH 6, 2007

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED,
OCTOBER 2, 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) of Title 18 of the Pennsylvania
8 Consolidated Statutes is amended, subsection (b) is amended by
9 adding paragraphs, subsection (c) is amended, paragraph (1) of
10 the definition of "caretaker" in subsection (f) is amended and
11 subsection (f) is amended by adding definitions to read:

12 § 2713. Neglect of care-dependent person.

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

15 (1) Intentionally, knowingly or recklessly causes bodily

1 injury or serious bodily injury by failing to provide
2 treatment, care, goods or services necessary to preserve the
3 health, safety or welfare of a care-dependent person for whom
4 he is responsible to provide care.

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

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

15 (b) Penalty.--

16 * * *

17 (5) Except as set forth in paragraph (6), a violation of
18 subsection (a)(3) constitutes a misdemeanor of the second
19 degree.

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

23 (c) Report during investigation.--When in the course of
24 conducting any regulatory or investigative responsibility, the
25 Department of Aging, the Department of Health or the Department
26 of Public Welfare has a reasonable cause to believe that a
27 [care-dependent person or care-dependent persons residing in a
28 facility have suffered bodily injury or been unlawfully
29 restrained in] violation of subsection (a)[(1) or (2)] has
30 occurred, a report shall be made immediately to the local law

1 enforcement agency or to the Office of Attorney General.

2 * * *

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

6 * * *

7 "Caretaker." Any person who:

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

14 * * *

15 "Legal entity." Any individual, partnership, unincorporated
16 association, corporation or governing authority.

17 * * *

18 "Private care residence." A private residence:

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

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

30 The term does not include domiciliary care as defined in section

1 2202-A of the act of April 9, 1929 (P.L.177, No.175), known as
2 The Administrative Code of 1929. The term does not include a
3 facility which provides residential care for fewer than four
4 care-dependent adults and which is regulated by the Department
5 of Public Welfare.

6 ~~Section 2. Title 18 is amended by adding a section to read: <—~~
7 ~~§ 2713.1. Harassment or stalking of care dependent person.~~

8 ~~(a) Offense defined. A caretaker is guilty of harassment or~~
9 ~~stalking of a care dependent person if he:~~

10 ~~(1) With the intent to harass, annoy or alarm a care-~~
11 ~~dependent person he:~~

12 ~~(i) strikes, shoves, kicks or otherwise subjects or~~
13 ~~attempts to subject a care dependent person to or~~
14 ~~threatens a care dependent person with physical contact;~~

15 ~~(ii) engages in a course of conduct or repeatedly~~
16 ~~commits acts which serve no legitimate purposes;~~

17 ~~(iii) communicates to a care dependent person any~~
18 ~~lewd, lascivious, threatening or obscene words, language,~~
19 ~~drawings or caricatures; or~~

20 ~~(iv) communicates repeatedly with the care dependent~~
21 ~~person at extremely inconvenient hours.~~

22 ~~(2) Commits an offense under section 2709.1 (relating to~~
23 ~~stalking) against a care dependent person.~~

24 ~~(b) Penalty.—~~

25 ~~(1) A violation of subsection (a)(1) constitutes a~~
26 ~~misdemeanor of the first degree.~~

27 ~~(2) A violation of subsection (a)(2) constitutes a~~
28 ~~felony of the third degree.~~

29 ~~(c) Report during investigation. When in the course of~~
30 ~~conducting any regulatory or investigative responsibility, the~~

1 ~~Department of Aging, the Department of Health or the Department~~
2 ~~of Public Welfare has reasonable cause to believe that a~~
3 ~~caretaker has engaged in conduct in violation of this section, a~~
4 ~~report shall be made immediately to the local law enforcement~~
5 ~~agency or to the Office of Attorney General.~~

6 ~~(d) Enforcement.—~~

7 ~~(1) The district attorneys of the several counties shall~~
8 ~~have authority to investigate and to institute criminal~~
9 ~~proceedings for any violations of this section.~~

10 ~~(2) In addition to the authority conferred upon the~~
11 ~~Attorney General under the act of October 15, 1980 (P.L.950,~~
12 ~~No.164), known as the Commonwealth Attorneys Act, the~~
13 ~~Attorney General shall have the authority to investigate and~~
14 ~~institute criminal proceedings for any violation of this~~
15 ~~section. A person charged with a violation of this section by~~
16 ~~the Attorney General shall not have standing to challenge the~~
17 ~~authority of the Attorney General to investigate or prosecute~~
18 ~~the case, and, if any such challenge is made, the challenge~~
19 ~~shall be dismissed and no relief shall be available in the~~
20 ~~courts of this Commonwealth to the person making the~~
21 ~~challenge.~~

22 ~~(c) Definitions.— As used in this section, the following~~
23 ~~words and phrases shall have the meanings given to them in this~~
24 ~~subsection:~~

25 ~~"Care dependent person."— An adult who, due to physical or~~
26 ~~cognitive disability or impairment, requires assistance to meet~~
27 ~~the adult's needs for food, shelter, clothing, personal care or~~
28 ~~health care.~~

29 ~~"Caretaker."— This term shall have the same meaning given to~~
30 ~~it under section 2713 (relating to neglect of care dependent~~

1 ~~person).~~

2 ~~"Person."—A natural person, corporation, partnership,~~

3 ~~unincorporated association or other business entity.~~

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

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