

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 681 Session of 2007

INTRODUCED BY GINGRICH, BOYD, CALTAGIRONE, CAPPELLI, CASORIO, COX, DALLY, DeLUCA, DENLINGER, DONATUCCI, FABRIZIO, FRANKEL, FREEMAN, GEIST, GEORGE, GOODMAN, GRELL, HARRIS, HENNESSEY, HESS, HORNAMAN, KILLION, KULA, MACKERETH, MANN, MARSICO, MILLARD, R. MILLER, MUNDY, MUSTIO, MYERS, O'NEILL, PEIFER, PETRI, PHILLIPS, PICKETT, RAPP, REICHLEY, RUBLEY, SCAVELLO, SCHRODER, SOLOBAY, STERN, R. STEVENSON, SWANGER, THOMAS, TRUE, WALKO, WATSON AND YOUNGBLOOD, MARCH 9, 2007

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 9, 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 abuse 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) and the definition of  
 8 "caretaker" in subsection (f) of Title 18 of the Pennsylvania  
 9 Consolidated Statutes are amended and subsection (f) is amended  
 10 by adding definitions to read:

11 § 2713. Neglect of care-dependent person.

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

14 (1) Intentionally, knowingly or recklessly causes bodily  
 15 injury or serious bodily injury by failing to provide  
 16 treatment, care, goods or services necessary to preserve the

1 health, safety or welfare of a care-dependent person for whom  
2 he is responsible to provide care.

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

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

13 (b) Penalty.--

14 (1) A violation of subsection (a)(1) constitutes a  
15 misdemeanor of the first degree if the victim suffers bodily  
16 injury.

17 (2) A violation of subsection (a)(1) constitutes a  
18 felony of the first degree if the victim suffers serious  
19 bodily injury.

20 (3) A violation of subsection (a)(2) constitutes a  
21 misdemeanor of the first degree if the victim suffers bodily  
22 injury.

23 (4) A violation of subsection (a)(2) constitutes a  
24 felony of the first degree if the victim suffers serious  
25 bodily injury.

26 (5) A violation of subsection (a)(3) constitutes a  
27 misdemeanor of the second degree. However, where there is a  
28 course of conduct of endangering the welfare of a care-  
29 dependent person, the offense constitutes a felony of the  
30 third degree.

1 \* \* \*

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

5 \* \* \*

6 "Caretaker." Any person who:

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

13 (2) provides care to a care-dependent person in the  
14 setting described in paragraph (1); or

15 (3) has an obligation to care for a care-dependent  
16 person for monetary consideration in the settings described  
17 in paragraph (1) or in the care-dependent person's home.

18 "Legal entity." Any individual, partnership, unincorporated  
19 association, corporation or governing authority.

20 \* \* \*

21 "Private care residence." A private residence:

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

29 (2) which is not required to be licensed as a long-term  
30 care nursing facility, as defined in section 802.1 of the act

1 of July 19, 1979 (P.L.130, No.48), known as the Health Care  
2 Facilities Act. The term does not include domiciliary care as  
3 defined in section 2202-A of the act of April 9, 1929  
4 (P.L.177, No.175), known as The Administrative Code of 1929.  
5 The term does not include a facility which provides  
6 residential care for less than four care-dependent adults and  
7 which is regulated by the Department of Public Welfare.

8 Section 2. Title 18 is amended by adding a section to read:

9 § 2713.1. Abuse of care-dependent person.

10 (a) Offense defined.--A caretaker is guilty of abuse of a  
11 care-dependent person if he:

12 (1) With the intent to harass, annoy or alarm a care-  
13 dependent person he:

14 (i) strikes, shoves, kicks or otherwise subjects or  
15 attempts to subject a care-dependent person to or  
16 threatens a care-dependent person with physical contact;

17 (ii) engages in a course of conduct or repeatedly  
18 commits acts which serve no legitimate purposes;

19 (iii) communicates to a care-dependent person any  
20 lewd, lascivious, threatening or obscene words, language,  
21 drawings or caricatures; or

22 (iv) communicates repeatedly with the care-dependent  
23 person at extremely inconvenient hours.

24 (2) Commits an offense under section 2709.1 (relating to  
25 stalking) against a care-dependent person.

26 (b) Penalty.--

27 (1) A violation of subsection (a)(1) constitutes a  
28 misdemeanor of the first degree.

29 (2) A violation of subsection (a)(2) constitutes a  
30 felony of the third degree.

1     (c) Report during investigation.--When in the course of  
2 conducting any regulatory or investigative responsibility, the  
3 Department of Aging, the Department of Health or the Department  
4 of Public Welfare has a reasonable cause to believe that a  
5 caretaker has engaged in conduct in violation of this section, a  
6 report shall be made immediately to the local law enforcement  
7 agency or to the Office of Attorney General.

8     (d) Enforcement.--

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

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

24     (e) Definitions.--As used in this section, the following  
25 words and phrases shall have the meanings given to them in this  
26 subsection:

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

1       "Caretaker." This term shall have the same meaning given to  
2 it under section 2713 (relating to neglect of care-dependent  
3 person).

4       "Person." A natural person, corporation, partnership,  
5 unincorporated association or other business entity.

6       Section 3. This act shall take effect in 60 days.