

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1053 Session of 2011

INTRODUCED BY GINGRICH, BOBACK, CONKLIN, D. COSTA, CUTLER, DAVIS, DAY, DENLINGER, FLECK, GEIST, GILLESPIE, GOODMAN, GROVE, HARHAI, HARHART, HESS, HORNAMAN, KAVULICH, KILLION, KIRKLAND, KULA, MAJOR, MARSICO, MICOZZIE, MILNE, MOUL, MUNDY, MURT, MYERS, O'NEILL, PICKETT, PYLE, RAPP, REICHLEY, ROCK, ROSS, SAYLOR, SCHRODER, K. SMITH, SWANGER, VULAKOVICH, WAGNER, WATSON, WHEATLEY, YOUNGBLOOD, FARRY, CALTAGIRONE AND TOOHL, MARCH 14, 2011

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 10, 2011

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 OR DEATH by failing to



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

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

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

14 (b) Penalty.--

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

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

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

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

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

1 third degree.

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, domiciliary care home,  
10 community residential facility, intermediate care facility  
11 for the mentally retarded, adult daily living center, home  
12 health agency or home health service provider whether  
13 licensed or unlicensed;

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

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

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

21 (i) A nursing home, personal care home, assisted  
22 living facility, private care residence or domiciliary  
23 home.

24 (ii) A community residential facility or  
25 intermediate care facility for a person with mental  
26 disabilities.

27 (iii) An adult daily living center.

28 (iv) A home health service provider whether licensed  
29 or unlicensed.

30 (v) An entity licensed under the act of July 19,

1           1979 (P.L.130, No.48), known as the Health Care  
2           Facilities Act.

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

5           (3) Has an obligation to care for a care-dependent  
6           person for monetary consideration in the settings described  
7           under paragraph (1).

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

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

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

18           \* \* \*

19           "Private care residence."

20           (1) A private residence:

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

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

1 the Health Care Facilities Act.

2 (2) The term does not include:

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

6 (ii) A facility which provides residential care for  
7 fewer than four care-dependent adults and which is  
8 regulated by the Department of Public Welfare.

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

10 § 2713.1. Abuse of care-dependent person.

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

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

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

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

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

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

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

27 (b) Penalty.--

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

30 (2) A violation of subsection (a)(2) constitutes a

1 felony of the third degree.

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

9 (d) Enforcement.--

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

13 (2) In addition to the authority conferred upon the  
14 Attorney General under the act of October 15, 1980 (P.L.950,  
15 No.164), known as the Commonwealth Attorneys Act, the  
16 Attorney General shall have the authority to investigate and  
17 institute criminal proceedings for any violation of this  
18 section. A person charged with a violation of this section by  
19 the Attorney General shall not have standing to challenge the  
20 authority of the Attorney General to investigate or prosecute  
21 the case, and, if the challenge is made, the challenge shall  
22 be dismissed and no relief shall be available in the courts  
23 of this Commonwealth to the person making the 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." The term shall have the same  
28 meaning given to it under section 2713 (relating to neglect of  
29 care-dependent person).

30 "Caretaker." The term shall have the same meaning given to

1 it under section 2713 (relating to neglect of care-dependent  
2 person).

3 "Person." The term shall have the same meaning given to it  
4 under section 2713 (relating to neglect of care-dependent  
5 person).

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