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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 215 Session of  
2015

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INTRODUCED BY GINGRICH, BISHOP, KOTIK, GODSHALL, DAVIDSON,  
MILLARD, WATSON, SAYLOR, BOBACK, COHEN, DEASY, BAKER,  
KAUFFMAN, A. HARRIS, GOODMAN, PETRI AND M. K. KELLER,  
JANUARY 23, 2015

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REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 23, 2015

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in assault, further providing for the  
3 offense of neglect of care-dependent person; and providing  
4 for the 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  
16 provide treatment, care, goods or services necessary to  
17 preserve the health, safety or welfare of a care-dependent  
18 person for whom he is responsible to provide care.

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

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

11 (b) Penalty.--

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

15 (2) A violation of subsection (a)(1) constitutes a  
16 felony of the first degree if the victim suffers serious  
17 bodily injury or death.

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

21 (4) A violation of subsection (a)(2) constitutes a  
22 felony of the first degree if the victim suffers serious  
23 bodily injury or death.

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

29 \* \* \*

30 (f) Definitions.--As used in this section, the following

1 words and phrases shall have the meanings given to them in this  
2 subsection:

3 \* \* \*

4 "Caretaker." Any person who:

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

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

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

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

18 (i) A nursing home, personal care home, assisted  
19 living facility, private care residence or domiciliary  
20 home.

21 (ii) A community residential facility or  
22 intermediate care facility for a person with mental  
23 disabilities.

24 (iii) An adult daily living center.

25 (iv) A home health service provider whether licensed  
26 or unlicensed.

27 (v) An entity licensed under the act of July 19,  
28 1979 (P.L.130, No.48), known as the Health Care  
29 Facilities Act.

30 (2) Provides care to a care-dependent person in the

1 settings described under paragraph (1).

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

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

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

13 "Legal entity." Any individual, partnership, unincorporated  
14 association, corporation or governing authority.

15 \* \* \*

16 "Private care residence."

17 (1) A private residence:

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

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

29 (2) The term does not include:

30 (i) Domiciliary care as defined in section 2202-A of

1 the act of April 9, 1929 (P.L.177, No.175), known as The  
2 Administrative Code of 1929.

3 (ii) A facility which provides residential care for  
4 fewer than four care-dependent adults and which is  
5 regulated by the Department of Human Services.

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

7 § 2713.1. Abuse of care-dependent person.

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

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

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 purpose;

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 Human Services has a 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 the challenge is made, the challenge shall  
19 be dismissed and no relief shall be available in the courts  
20 of this Commonwealth to the person making the challenge.

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

24 "Care-dependent person." The term shall have the same  
25 meaning given to it under section 2713 (relating to neglect of  
26 care-dependent person).

27 "Caretaker." The term shall have the same meaning given to  
28 it under section 2713 (relating to neglect of care-dependent  
29 person).

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

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

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