

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 975 Session of 2021

INTRODUCED BY LEWIS DELROSSO, A. BROWN, MOUL, FREEMAN, SCHLEGEL, CULVER, THOMAS, PYLE, RYAN, MILLARD, WHEELAND, B. MILLER, GILLEN, MIZGORSKI AND E. NELSON, MARCH 18, 2021

SENATOR BAKER, JUDICIARY, IN SENATE, AS AMENDED, JUNE 28, 2022

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in sexual offenses, further providing
3 for the offense of institutional sexual assault.

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

6 Section 1. Section 3124.2 of Title 18 of the Pennsylvania <--
7 Consolidated Statutes is amended by adding a subsection to read:

8 SECTION 1. SECTION 3124.2(A.5) OF TITLE 18 OF THE <--
9 PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED AND THE SECTION IS
10 AMENDED BY ADDING A SUBSECTION TO READ:

11 § 3124.2. Institutional sexual assault.

12 * * *

13 (A.5) CONSENT NOT A DEFENSE.--CONSENT IS NOT A DEFENSE TO A <--
14 VIOLATION OF SUBSECTION (A), (A.1), (A.2), (A.3) [OR] (A.4) OR
15 (A.6).

16 (a.6) Caretakers.--

17 (1) Except as provided in paragraph (2) and in sections

1 3121, 3122.1, 3123, 3124.1 and 3125, a caretaker commits a
2 felony of the third degree if the caretaker engages in sexual
3 intercourse, deviate sexual intercourse or indecent contact
4 with a care-dependent person who receives care, services or
5 treatment in or from a facility.

6 (2) Paragraph (1) does not apply if the victim and
7 defendant are spouses, persons living as spouses or current
8 sexual or intimate partners whose relationship preexisted the
9 caretaker relationship.

10 (3) As used in this subsection, the following terms
11 shall have the meanings given to them in this paragraph:

12 (i) "Care-dependent person." An adult who, due to
13 physical or cognitive disability or impairment, requires
14 assistance to meet the needs for food, shelter, clothing,
15 personal care or health care.

16 (ii) "Caretaker." A person who is any of the
17 following:

18 (A) An owner, operator, manager or employee of a
19 facility.

20 (B) An individual who provides care to a care-
21 dependent person in a facility.

22 (C) An individual who has an obligation to
23 provide care to a care-dependent person for monetary
24 consideration in a facility.

25 (D) An individual who does not reside with a
26 care-dependent person but who, with respect to the
27 care-dependent person, has:

28 (I) a legal duty to provide care;

29 (II) affirmatively assumed a responsibility
30 to provide care; or

1 (III) responsibility by contract or court
2 order to provide care.

3 (iii) "Facility." Any of the following:

4 (A) A nursing home, personal care home, assisted
5 living facility, private care residence or <--
6 domiciliary care home or the care-dependent person's
7 residence.

8 (B) A community residential facility or
9 intermediate care facility for an individual with a
10 mental disability.

11 (C) An adult daily living center.

12 (D) A home health care agency.

13 (E) A health care facility, as defined in
14 section 802.1 of the act of July 19, 1979 (P.L.130,
15 No.48), known as the Health Care Facilities Act.

16 (iv) "Private care residence." A private residence, <--

17 INCLUDING A DOMICILIARY CARE HOME:

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

26 (B) That is not:

27 (I) required to be licensed as a long-term
28 care nursing facility, as defined in section
29 802.1 of the Health Care Facilities Act; and

30 (II) specified in subparagraph (iii)(A).

1 * * *

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