

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

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JULY 6, 2022

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, IN ASSAULT, FURTHER PROVIDING FOR <--
3 DEFINITIONS; AND, in sexual offenses, further providing for
4 the offense of institutional sexual assault.

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

7 Section 1. Section 3124.2 of Title 18 of the Pennsylvania <--
8 Consolidated Statutes is amended by adding a subsection to read:
9 SECTION 1. SECTION 3124.2(A.5) OF TITLE 18 OF THE
10 PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED AND THE SECTION IS
11 AMENDED BY ADDING A SUBSECTION TO READ:

12 SECTION 1. THE DEFINITIONS OF "CARETAKER" AND "PRIVATE CARE <--
13 RESIDENCE" IN SECTION 2713(F) OF TITLE 18 OF THE PENNSYLVANIA
14 CONSOLIDATED STATUTES ARE AMENDED TO READ:

15 § 2713. NEGLECT OF CARE-DEPENDENT PERSON.

16 \* \* \*

17 (F) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
18 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS

1 SUBSECTION:

2 \* \* \*

3 "CARETAKER." ANY PERSON WHO:

4 (1) IS AN OWNER, OPERATOR, MANAGER OR EMPLOYEE OF ANY OF  
5 THE FOLLOWING LICENSED OR UNLICENSED ENTITIES:

6 (I) A NURSING HOME, PERSONAL CARE HOME, ASSISTED  
7 LIVING FACILITY[, ] OR PRIVATE CARE RESIDENCE [OR  
8 DOMICILIARY CARE HOME].

9 (II) A COMMUNITY RESIDENTIAL FACILITY OR  
10 INTERMEDIATE CARE FACILITY FOR A PERSON WITH MENTAL  
11 DISABILITIES.

12 (III) AN ADULT DAILY LIVING CENTER.

13 (IV) A HOME HEALTH SERVICE PROVIDER.

14 (V) A HEALTH CARE FACILITY AS DEFINED IN SECTION  
15 802.1 OF THE ACT OF JULY 19, 1979 (P.L.130, NO.48), KNOWN  
16 AS THE HEALTH CARE FACILITIES ACT;

17 (2) PROVIDES CARE TO A CARE-DEPENDENT PERSON IN THE  
18 SETTINGS DESCRIBED UNDER PARAGRAPH (1);

19 (3) HAS AN OBLIGATION TO CARE FOR A CARE-DEPENDENT  
20 PERSON FOR MONETARY CONSIDERATION IN THE SETTINGS DESCRIBED  
21 UNDER PARAGRAPH (1);

22 (4) IS AN ADULT WHO RESIDES WITH A CARE-DEPENDENT PERSON  
23 AND WHO HAS A LEGAL DUTY TO PROVIDE CARE OR WHO HAS  
24 VOLUNTARILY ASSUMED AN OBLIGATION TO PROVIDE CARE BECAUSE OF  
25 A FAMILIAL RELATIONSHIP, CONTRACT OR COURT ORDER; OR

26 (5) IS AN ADULT WHO DOES NOT RESIDE WITH A CARE-  
27 DEPENDENT PERSON BUT WHO HAS A LEGAL DUTY TO PROVIDE CARE OR  
28 WHO HAS AFFIRMATIVELY ASSUMED A RESPONSIBILITY FOR CARE, OR  
29 WHO HAS RESPONSIBILITY BY CONTRACT OR COURT ORDER.

30 \* \* \*

1 "PRIVATE CARE RESIDENCE." A PRIVATE RESIDENCE, INCLUDING A  
2 DOMICILIARY CARE HOME:

3 (1) IN WHICH THE OWNER OF THE RESIDENCE OR THE LEGAL  
4 ENTITY RESPONSIBLE FOR THE OPERATION OF THE RESIDENCE, FOR  
5 MONETARY CONSIDERATION, PROVIDES OR ASSISTS WITH OR ARRANGES  
6 FOR THE PROVISION OF FOOD, ROOM, SHELTER, CLOTHING, PERSONAL  
7 CARE OR HEALTH CARE IN THE RESIDENCE, FOR A PERIOD EXCEEDING  
8 24 HOURS, TO FEWER THAN FOUR CARE-DEPENDENT PERSONS WHO ARE  
9 NOT RELATIVES OF THE OWNER; AND

10 (2) (I) THAT IS NOT REQUIRED TO BE LICENSED AS A LONG-  
11 TERM CARE NURSING FACILITY, AS DEFINED IN SECTION 802.1  
12 OF THE HEALTH CARE FACILITIES ACT; AND

13 (II) THAT IS NOT IDENTIFIED IN PARAGRAPH (1) OF THE  
14 DEFINITION OF "CARETAKER."

15 SECTION 2. SECTION 3124.2(A.5) OF TITLE 18 IS AMENDED AND  
16 THE SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

17 § 3124.2. Institutional sexual assault.

18 \* \* \*

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

22 (a.6) Caretakers.--

23 (1) Except as provided in paragraph (2) and in sections  
24 3121, 3122.1, 3123, 3124.1 and 3125, a caretaker commits a  
25 felony of the third degree if the caretaker engages in sexual  
26 intercourse, deviate sexual intercourse or indecent contact  
27 with a care-dependent person who receives care, services or  
28 treatment in or from a facility.

29 (2) Paragraph (1) does not apply if the victim and  
30 defendant are spouses, persons living as spouses or current

1 sexual or intimate partners whose relationship preexisted the  
2 caretaker relationship.

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

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

9 (ii) "Caretaker." A person who is any of the  
10 following:

11 (A) An owner, operator, manager or employee of a  
12 facility.

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

15 (C) An individual who has an obligation to  
16 provide care to a care-dependent person for monetary  
17 consideration in a facility.

18 (D) An individual who does not reside with a  
19 care-dependent person but who, with respect to the  
20 care-dependent person, has:

21 (I) a legal duty to provide care;

22 (II) affirmatively assumed a responsibility  
23 to provide care; or

24 (III) responsibility by contract or court  
25 order to provide care.

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

27 (A) A nursing home, personal care home, assisted  
28 living facility, private care residence ~~or~~ <--  
29 domiciliary care home or the care-dependent person's  
30 residence.

1           (B) A community residential facility or  
2           intermediate care facility for an individual with a  
3           mental disability.

4           (C) An adult daily living center.

5           (D) A home health care agency.

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

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

10           INCLUDING A DOMICILIARY CARE HOME:

11           (A) In which the owner of the residence or the  
12           legal entity responsible for the operation of the  
13           residence, for monetary consideration, provides or  
14           assists with or arranges for the provision of food,  
15           room, shelter, clothing, personal care or health care  
16           in the residence, for a period exceeding 24 hours, to  
17           fewer than four care-dependent persons who are not  
18           relatives of the owner.

19           (B) That is not:

20                   (I) required to be licensed as a long-term  
21                   care nursing facility, as defined in section  
22                   802.1 of the Health Care Facilities Act; and

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

24           \* \* \*

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

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