



SENATE OF PENNSYLVANIA BILL SUMMARY

House Bill 215 Printer's No. 463

Prime Sponsor: Representative Gingrich
Committee: Judiciary

SYNOPSIS:

This bill amends Title 18 (Crimes and Offenses) to expand the offense of neglect of a care-dependent person and to provide for the offense of abuse of a care-dependent person.

SUMMARY:

Neglect of a Care-Dependent Person

The existing offense of neglect of a care-dependent person applies to intentional, knowing, or reckless conduct by a caretaker that causes bodily injury or serious bodily injury by failing to provide treatment, care, goods, or services necessary to preserve the health, safety, or welfare of a care-dependent person. The offense also involves the intentional use of a physical restraint, chemical restraint, or medication on a care-dependent person such that bodily injury or serious bodily injury results. This bill expands the application of this offense to cases involving death. The bill also expands the offense to include intentionally, knowingly, or recklessly endangering the welfare of a care-dependent person by failing to provide treatment, care, goods, or services necessary to preserve the health, safety, or welfare of the care-dependent person. A violation of the new provision for reckless endangerment is graded as a misdemeanor of the second degree, unless there is a course of conduct, in which case the offense constitutes a felony of the third degree.

Definition of "Caretaker"

The definition of a "caretaker" who may be charged under this legislation includes three categories. First, a "caretaker" may be the owner, operator, manager, or employee of a range of facilities, including nursing homes, personal care homes, assisted living facilities, private care residences, domiciliary homes, community residential facilities, intermediate care facilities for those with mental disabilities, adult daily living centers, home health services, or other entities licensed under the Health Care Facilities Act. This category also includes any person who provides care to a care-dependent person in any of these facilities or any person who has an obligation to care for a care-dependent person in any of these facilities.

The second category of "caretaker" is an adult who resides with a care-dependent person and who has a legal duty to provide care or who has voluntarily assumed an obligation to provide care because of a familial relationship, contract, or court order.

The third category of “caretaker” is an adult who does not reside with a care-dependent person but who has a legal duty to provide care or who has affirmatively assumed a responsibility for care, or who has responsibility by contract or court order.

Abuse of a Care-Dependent Person

The bill creates a new offense called “abuse of a care-dependent person.” A caretaker is guilty of this offense if he or she, with the intent to harass, annoy, or alarm a care-dependent person, does any of the following:

- Strikes, shoves, kicks or otherwise subjects or attempts to subject the care-dependent person with physical contact; *this offense is graded as a misdemeanor of the first degree*
- Engages in a course of conduct or repeatedly commits acts which serve no legitimate purpose; *this offense is graded as a felony of the third degree*
- Communicates to a care-dependent person any lewd, lascivious, threatening, obscene words, language, drawings, or caricatures
- Communicates repeatedly with the care-dependent person at extremely inconvenient hours

The definition of “caretaker” is the same as for the offense of neglect of a care-dependent person. When in the course of exercising its regulatory authority the Department of Aging, the Department of Health, or the Department of Human Services has reason to believe that a caretaker has engaged in conduct in violation of this legislation, a report shall be made immediately to the local law enforcement agency or to the Attorney General. Either a district attorney or the Attorney General may prosecute a violation.

AMENDMENT:

Amendment A_____ adds a preamble stating that the legislative intent is to target intentional and reckless, but not negligent, conduct that causes bodily harm to care-dependent persons. The amendment also clarifies in the body of the statute that the offense of neglect of a care-dependent person is not intended to be enforced against persons making a good-faith effort to provide care.

EFFECTIVE DATE:

This bill is effective in sixty days.

BILL HISTORY:

After the bill was amended on the House floor, the House of Representatives passed this bill unanimously on February 10, 2015.

Prepared by: Cawley 3/18/2016