

sensory input, including, but not limited to, lip reading, sign language, finger spelling or reading.

“Domestic animal.” Any dog, cat, equine, animal, bovine animal, sheep, goat or porcine animal.

“Domestic fowl.” Any avis raised for food, hobby or sport.

“Normal agricultural operation.” Normal activities, practices and procedures that farmers adopt use or engage in year after year in the production and preparation for market of poultry, livestock and their products in the production and harvesting of agricultural agronomic, horticultural, ailvcultural and aquicultural crops and commodities.

“Physically limited.” having limited ambulation including but not limited to, a temporary or permanent impairment or condition that causes an individual to use a wheelchair or walk with difficulty or insecurity, affects sight or hearing to the extent that an individual is Insecure or exposed to danger, causes faulty coordination or reduces mobility, flexibility, coordination or perceptiveness.

“Zoo animal.” Any member of the class of mammalia, aves, amphibia, or reptilia which is kept in a confined area by a public body or private individual for purposes of observation by the general public.

Section 8. This act shall take effect in 60 days.

Approved July 5, 1995.

\_\_\_\_\_

**NEGLECT OF CARE-DEPENDENT PERSON  
INSURANCE FRAUD, PROSTITUTION**

**ACT NO 1995-28**

**H.B. No. 247**

**AN ACT Amending Title 18 (Crimes and Offenses) of the Pennsylvania consolidated statutes, Defining the offense of neglect of care dependent person, further providing for insurance Fraud and further prohibiting prostitution.**

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

**Section 1. Title 18 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:**

**§ 2713. Neglect of care dependent person**

**(a) Offense defined.**- A caretaker is guilty of neglect of a care-dependent person if he:

(1) Intentionally, knowingly or recklessly causes bodily injury or serious bodily injury by failing to provide treatment, care, goods or services necessary to preserve the health, safety

(2) intentionally or knowingly uses a physical restraint or chemical restraint or medication on a care-dependent person, or isolates a care-dependent person contrary to law or regulation such that bodily injury or serious bodily injury results.

**(b) Penalty.**-

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

(2) A violation of subsection (a)(1) constitutes a felony of the first degree if the suffers serious bodily

(3) A violation of subsection (a)(2) constitutes a misdemeanor of the first degree if the victim suffers serious bodily

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

**(c) Report during investigation**—When in the course of conducting any regulatory or investigative responsibility, the Department of Aging, the Department of Health, or the Department of Public Welfare has a reasonable cause to believe that a care-dependent person or care-dependent person’s residing in a facility have suffered bodily injury or been unlawfully restrained in violation of subsection (a)(1) or (2), a report shall be made immediately to the local law enforcement agency or to the office of Attorney General.

**(d) Enforcement** —

(1) The district attorney’s of the several counties shall have authority to investigate and to institute criminal proceedings for any violation of this section.

(2) In addition to the authority conferred upon the Attorney General under the act of October 15, 1980 (P.L. 950, No. 164) known as the Commonwealth Attorneys Act<sup>1</sup>, the Attorney General shall have the authority to investigate and institute criminal proceedings for any violation of this section or any series of such violations involving more than one county of this Commonwealth or involving any county of this Commonwealth and another state. A person charged with a violation of this section by the Attorney General shall not have standing to challenge the authority of the Attorney General to investigate or prosecute the case and if any such challenge is made, the challenge shall be dismissed and no relief shall be available in the courts of this Commonwealth to the person making the challenge.

**(e) Treatment in conformance with care-dependent person’s right to accept or refuse services.** - A caretaker or any other individual or facility may offer an affirmative defense to charges filed pursuant to this section if the caretaker, individual or facility can demonstrate through a preponderance of the evidence that the alleged violations result directly from:

(1) The caretaker’s individual’s or facility’s lawful compliance with a care-dependent persons advance directive for health care as provided in 20 Pa.C.S. Ch. 54 (relating to advance directives for health care.

(2) The caretaker’s, individual’s or facility’s lawful compliance with the care-dependent persons written, signed and witnessed instructions, composed when the care-dependent person is competent as to the treatment he wishes to receive.

(3) The caretaker’s, individual’s, or facility’s lawful compliance with the direction of the care-dependent person’s attorney-in-fact acting pursuant to a lawful durable power of attorney; or

(4) The caretaker’s, individual’s, or facility’s lawful compliance with a “Do Not Resuscitate” order written and signed by he care-dependent person’s attending physician.

**(f) Definitions** - As used in this section, the following words and phrases shall have the meanings given to them in this subsection.

**“Care-dependent person.”** Any adult who, due to physical or cognitive disability or impairment, requires assistance to meet his needs for food, shelter, clothing, personal care or health care.

**“Caretaker.”** Any person who:

(1) is an owner, operator, manager or employee of a nursing home, personal care home, domiciliary care home, community residential facility, adult daily living center, home health agency or home health service provider whether licensed or unlicensed;

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

(3) has an obligation to care for a care-dependent person for monetary consideration in the settings described in paragraph (1), or in the care-dependent person’s home.

**“Person.”** A natural person, corporation, partnership, unincorporated association or other business entity.

<sup>1</sup> 71 P.S. § 732-101 et seq.