

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 AND GILLEN, MARCH 18, 2021

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 4, 2021

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 § 3124.2. Institutional sexual assault.

9 \* \* \*

10 (a.6) Caretakers.--

11 (1) Except as provided in paragraph (2) and in sections
12 3121, 3122.1, 3123, 3124.1 and 3125, a caretaker commits a
13 felony of the third degree if the caretaker engages in sexual
14 intercourse, deviate sexual intercourse or indecent contact
15 with a care-dependent person who receives care, services or
16 treatment in or from a facility.

17 (2) Subsection (a) PARAGRAPH (1) does not apply if the <--

1 victim and defendant are spouses, persons living as spouses, <--  
2 parents and children, other individuals related by  
3 consanguinity or affinity or current sexual or intimate  
4 partners. WHOSE RELATIONSHIP PREEXISTED THE CARETAKER <--  
5 RELATIONSHIP.

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

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

12 (ii) "Caretaker." A person who is any of the  
13 following:

14 (A) An owner, operator, manager or employee of a  
15 facility.

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

18 (C) An individual who has an obligation to  
19 provide care to a care-dependent person for monetary  
20 consideration in a facility.

21 (D) An individual who does not reside with a  
22 care-dependent person but who, with respect to the  
23 care-dependent person, has:

24 (I) a legal duty to provide care;

25 (II) affirmatively assumed a responsibility  
26 to provide care; or

27 (III) responsibility by contract or court  
28 order to provide care.

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

30 (A) A nursing home, personal care home, assisted

1 living facility, private care residence or  
2 domiciliary care home. OR THE CARE-DEPENDENT PERSON'S <--  
3 RESIDENCE.

4 (B) A community residential facility or  
5 intermediate care facility for an individual with a  
6 mental disability.

7 (C) An adult daily living center.

8 (D) A home health care agency.

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

12 (iv) "Private care residence." A private residence:

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

21 (B) That is not:

22 (I) required to be licensed as a long-term  
23 care nursing facility, as defined in section  
24 802.1 of the Health Care Facilities Act; and

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

26 \* \* \*

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