

**Appendix G.5.**

**Webinar 2713 revisions and new  
crime 2713.1 (Updated June 2019)**

*Act 53 Amending:  
Title 18 Pa. C.S.A. §§ 2713 and 2713.1*

PENNSYLVANIA DEPARTMENT OF AGING



AGING.PA.GOV

*August 21, 2018*

***Note: Updated June 3, 2019 (slides 15 – 20)***  
***Please review the June 4, 2019 Supervisory Webinar for more information***

## AGENDA

- History of Pa. C.S.A. §2713
- Amendment of §2713
- Addition of §2713.1
- Questions

### Factors leading to the enactment of Original 18 Pa. C. S. A. 2713

- Multiple complaints to AG's Office about deaths in LTC settings with no regulatory or law enforcement response
- AG's Office establishes undercover investigation in Care Pavilion of Walnut Park Nursing Home
- Cases identified in additional nursing homes
- Nursing home personnel and corporation charged in the deaths of Margaret White and Elizabeth Ellis and corporation convicted.

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### Current law 2713 (Act 28)

**Offense defined.**—A caretaker is guilty of neglect of a care-dependent person if he/she:

(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 or welfare of a care-dependent person for whom he is responsible to provide care.

(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.

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## Responsibilities of State Agencies

**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 persons 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.

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## REVISIONS AND ADDITION

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**Overview of revisions to Title 18 Pa. C.S.A. §§2713  
and addition of 2713.1 (Act 53)**

Under (a) "Offense defined" a new section is added numbered section (3) essentially creating the crime of "endangering the welfare of a care-dependent person" and it does not require bodily or serious bodily injury.

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**Overview of revisions to Title 18 Pa. C.S.A. §§2713  
and addition of 2713.1 (Act 53)**

Under (b) "Penalty" all of the felony offenses include both suffering serious bodily injury, and newly added is "or death." Death has never been in the statute; it is not a requisite for prosecution, but is a charging point.

Also under (b) section (5) has been added providing that violation of subsection (3) "endangering the welfare of a care dependent person constitutes a misdemeanor of the second degree, except where there is a course of conduct of endangering the welfare of a care dependent person, the offense constitutes a felony of the third degree."

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**Overview of revisions to Title 18 Pa. C.S.A. §§2713  
and addition of 2713.1 (Act 53)**

Section (e.1) “Reckless conduct” is defined:

“For purposes of this section, a person acts recklessly when the person consciously disregards a substantial and unjustifiable risk to the care-dependent person.”

This is largely consistent with the Crimes Code definition of recklessness.

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**Overview of revisions to Title 18 Pa. C.S.A. §§2713  
and addition of 2713.1 (Act 53)**

Section (f) Definitions has many changes to the definition for who is a “caretaker.” It specifies specific organizations or entities and includes:

- “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 or
- 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.”

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## Two new definitions

### **“legal entity”**

“An individual, partnership, unincorporated organization, corporation or government authority

### **“Private care residence”**

1. “A private residence” where the owner of the residence, or some legal entity responsible to operate the residence, “for monetary consideration, provides or assists with or arranges for the provision of food, room, shelter, clothing, personal care of health care in the residence, for a period exceeding 24 hours, to fewer than four care-dependent persons who are not relatives of the owner;”

2. (i) “Not required to be licensed as a long-term care nursing facility, as defined in section 802.1 of the HCFA; and (ii) that is not identified in paragraph (1) of the definition of “caretaker.”

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## New Crime

### **Title 18 Pa. C.S.A. 2713.1 Abuse of care-dependent person**

Statute to criminalize the intent of a caretaker to harass, annoy or alarm a care-dependent person through abuses such as:

- (i) strikes, shoves, kicks or otherwise subjects or attempts to subject a care-dependent person to or threatens a care-dependent person with physical contact;
- (ii) engages in a course of conduct or repeatedly commits acts that serve no legitimate purpose;
- (iii) communicates to a care-dependent person any lewd, lascivious, threatening or obscene words, language, drawings or caricatures; or
- (iv) communicates repeatedly with the care-dependent person at extremely inconvenient hours.

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**Penalties for New Crime**  
**2713.1 Abuse of care-dependent person**

The penalties for a violation of subsection (a) (1) constitutes a misdemeanor of the first degree and a violation of subsection (a) (2) constitutes a felony of the third degree.

Reporting and enforcement remain the same as is in 2713. And the definitions section remains the same as 2713.

Revisions to the ISA  
(SAMS)

Updated June 2019



## ISA Updates

### Related Revisions to the ISA (SAMS)

The following revisions were necessary in order to document and track referrals of neglect of a care-dependent person:

### ISA Questions 13.A.6 and 13.A.7

Please note that these are new changes and replace all changes mentioned in the August 2018 webinar.

#### Current ISA

6. Referral to Law Enforcement?  
Explain in Notes

Yes  
 No

If the referral was made under the obligation of § 2713 or § 2713.1, question 6 must be answered YES; otherwise, answer NO and go to 13.A.7.



#### Revised ISA

6. Was an Office of Attorney General referral made under § 2713 or § 2713.1 (abuse/neglect of a care dependent person)?

Yes  
 No

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7. Did the AAA make a referral to law enforcement? (If yes, document why, the date, and to whom the referral was made in the Notes section.)

Yes  
 No

If you make a referral to local law enforcement/state police unrelated to § 2713 or § 2713.1, answer YES in 13.A.7 and indicate why, the date, and to whom the referral was made. Otherwise answer NO and go to 13.A.8.

## ISA Updates

### Unrelated Revisions to the ISA (SAMS)

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## ISA Question 1.A.2 Changes

### Current ISA

2. PSA ID Number (1.A.2a required, not this question)	
2a. PSA ID Number	
<input type="checkbox"/> 01	
<input type="checkbox"/> 02	
<input type="checkbox"/> 03	
<input type="checkbox"/> 04	
<input type="checkbox"/> 05	

### Revised ISA

1. DATE Report of Need was received
2. AAA responsible for conducting investigation or Reassessment (update if active case is transferred to another AAA for completion)
<input type="checkbox"/> 01
<input type="checkbox"/> 02
<input type="checkbox"/> 03
<input type="checkbox"/> 04
<input type="checkbox"/> 05

Question 1.A.2 (PSA ID Number) was removed and 1.A.2a. has been changed to 1.A.2. This question is now used to identify the agency responsible for investigating the RON or conducting the reassessment.

This will allow PDA to create and provide accurate reporting to assist you in monitoring cases to ensure compliance with state regulations.

This question must be changed each time an active (already started by one AAA) PS case is transferred to another AAA for investigation or reassessment.

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## ISA Question 1.C.4 Changes

**Current ISA**

**4. Type of VOLUNTARY Reporter**

- AP-Alleged Perpetrator
- Anonymous
- AAA-Area Agency on Aging
- Consumer
- DC-Domiciliary Care Home-NON-ACT 13
- Family Member
- General Public
- Home Health Care Agency (Other)
- Hospital
- Law Enforcement Agency
- LTC Ombudsman
- Nursing Home-NON-ACT 13
- PCH/AL-NON-ACT 13
- Social Service
- Other-Document Details in Notes

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**Revised ISA**

**4. Type of VOLUNTARY Reporter**

- AP-Alleged Perpetrator
- Anonymous
- Assisted Living Facility (AL)
- AAA-Area Agency on Aging
- Consumer
- DC-Domiciliary Care Home-NON-ACT 13
- Family Member
- General Public
- Home Health Care Agency (Other)
- Hospital
- Law Enforcement Agency
- LTC Ombudsman
- Nursing Home-NON-ACT 13
- PCH/AL-NON-ACT 13
- Physician's Office
- Social Service
- Other-Document Details in Notes

1.C.4 was updated to match the RON form. Voluntary Reporter now includes:

- Assisted Living Facility
- Physician's Office

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## ISA Question 13.A.3 Changes

Question 13.A.3 was updated for clarity:

- For an **Investigation**, it is the date of determination (the date the case was Substantiated or Unsubstantiated, in whole or in part).
- In the case of multiple allegations, enter the first date on which any one of the allegations is substantiated or unsubstantiated.
  - The date entered is **not changed** if other allegations are substantiated or unsubstantiated at a later date.
- For a **Reassessment**, the answer to the question shall be the date the face-to-face reassessment visit was conducted with the older adult.

Current ISA

3. Date Investigation or Reassessment completed

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Revised ISA

3. Date of Determination for Initial Investigation OR Date of Reassessment (MM/DD/YYYY)

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## ISA Instructions

- Detailed instructions for completing the revised Investigation Summary and Assessment form can be found in the updated SAMS Procedural Manual, Appendix B.

Questions