

By Mrs. Gray of Framingham, petition of L. Scott Harshbarger, Barbara E. Gray and Barbara Gardner relative to the penalty for neglect of elderly or disabled persons resulting in serious bodily injury. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT CREATING THE CRIME OF CRIMINAL NEGLECT FOR NEGLECT OF AN ELDER OR DISABLED PERSON WHICH RESULTS IN SERIOUS BODILY INJURY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 265 of the General Laws, as appearing in the 1990
2 Official Edition, is hereby amended by adding Section 40.

3 Section 40.

4 (a) Any person who is a caretaker of a dependent person who
5 by way of wanton or reckless conduct, causes serious bodily injury
6 to said dependent person, shall be punished by imprisonment in
7 the state prison for not more than 5 years, or by a fine of not more
8 than one thousand dollars or imprisonment in house of correction
9 for not more than two and one-half years or both.

10 (b) Definitions:

11 1. "Caretaker" as used in this section means: a person
12 responsible for the care of a dependent person, which
13 responsibility may arise as a result of a parental, or family
14 relationship, or by a voluntary or contractual duty undertaken
15 on behalf of a dependent person, or a fiduciary relationship
16 imposed by law.

17 2. "Dependent Person" as used in this section means: A person
18 who relies on someone else for aid, support, or existence. This
19 definition includes elderly persons being 60 years of age or over,
20 and disabled persons being any person who is between the ages

21 of eighteen and fifty-nine, inclusive, who is mentally retarded, as
22 defined by section one of chapter one hundred and twenty-three,
23 or who is otherwise mentally or physically disabled and as a result
24 of such mental or other physical disability is wholly or partially
25 dependent on others to meet his daily living needs.

26 3. "Serious Bodily Injury" as used in this section shall mean
27 bodily injury which creates a substantial risk of death or which
28 involves either total disability or the loss or substantial
29 impairment of some bodily function or organ, or serious or
30 repeated injury to some bodily function or organ.