

By Mrs. Gray of Framingham, petition of L. Scott Harshbarger, Barbara E. Gray, Mary Jeanette Murray, Therese Murray and Warren E. Tolman 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-Four.

AN ACT CREATING THE CRIME OF CRIMINAL NEGLECT FOR NEGLECT OF AN ELDER, CHILD, 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 44: —

3 Section 44. (a) Any person who is a caretaker of a dependent  
4 person who by way of wanton or reckless conduct, causes serious  
5 bodily injury to said dependent person, shall be punished by  
6 imprisonment in the state prison for not more than 5 years, or  
7 by a fine of not more than one thousand dollars or imprisonment  
8 in house of correction for not more than two and one-half years  
9 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 shall mean:  
18 elderly persons being any person over the age of 60, children,  
19 being any person under the age of 18, and disabled persons being  
20 any person who is between the ages of eighteen and fifty-nine,  
21 inclusive, who is mentally retarded, as defined by section one of

22 chapter one hundred and twenty-three, or who is otherwise  
23 mentally or physically disabled and as a result of such mental or  
24 other physical disability is wholly or partially dependent on others  
25 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: (A) total disability or the loss or substantial  
29 impairment of some bodily function, or (B) serious or repeated  
30 injury to some bodily function or organ.