

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 2362**

5 (By Delegate Boggs, Perdue, Ashley and Barker)

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7
8 [Passed March 12, 2011; in effect ninety days from passage.]

9
10 AN ACT to amend and reenact §61-2-29b of the Code of West Virginia,
11 1931, as amended, relating to crimes against the elderly,
12 protected persons or incapacitated persons; financial
13 exploitation of the elderly, protected persons and
14 incapacitated adults for misappropriating or misusing assets;
15 permitting the prosecutor to cumulate amounts or values when
16 charging; permitting banking institutions and others to report
17 suspected financial exploitation to law-enforcement
18 authorities and other entities; permitting financial
19 institutions to disclose suspicious activity reports or
20 currency transaction reports to the prosecuting attorney;
21 providing civil immunity for reporting; ordering restitution;
22 and establishing the criminal penalty of larceny.

23 *Be it enacted by the Legislature of West Virginia:*

24 That §61-2-29b of the Code of West Virginia, 1931, as amended,
25 be amended and reenacted to read as follows:

1 **ARTICLE 2. CRIMES AGAINST THE PERSON.**

2 **§61-2-29b. Financial exploitation of an elderly person, protected**
3 **person or incapacitated adult; penalties;**
4 **definitions.**

5 (a) Financial exploitation occurs when a person intentionally
6 misappropriates or misuses the funds or assets of an elderly
7 person, protected person or incapacitated adult. Any person who
8 violates this section is guilty of larceny and shall be ordered to
9 pay restitution.

10 (b) In determining the value of the money, goods, property or
11 services referred to in subsection (a) of the section, it shall be
12 permissible to cumulate amounts or values where such money, goods,
13 property or services were fraudulently obtained as part of a common
14 scheme or plan.

15 (c) Financial institutions and their employees, as defined by
16 section one, article two-a, chapter thirty-one-a of this code and
17 as permitted by section four, subsection thirteen of that article,
18 others engaged in financially related activities as defined by
19 section one, article eight-c, chapter thirty-one-a of this code,
20 caregivers, relatives and other concerned persons are permitted to
21 report suspected cases of financial exploitation to state or
22 federal law enforcement authorities, the county prosecuting
23 attorney and to the Department of Health and Human Resources, Adult
24 Protective Services Division or Medicaid Fraud Division, as

1 appropriate. Public officers and employees are required to report
2 suspected cases of financial exploitation to the appropriate
3 entities as stated above. The requisite agencies shall investigate
4 or cause the investigation of the allegations.

5 (d) When financial exploitation is suspected and to the extent
6 permitted by federal law, financial institutions and their
7 employees or other business entities required by federal law or
8 regulation to file suspicious activity reports and currency
9 transaction reports shall also be permitted to disclose suspicious
10 activity reports or currency transaction reports to the prosecuting
11 attorney of any county in which the transactions underlying the
12 suspicious activity reports or currency transaction reports
13 occurred.

14 (e) Any person or entity that in good faith reports a
15 suspected case of financial exploitation pursuant to this section
16 is immune from civil liability founded upon making that report.

17 (f) For the purposes of this section:

18 (1) "Incapacitated adult" means a person as defined by section
19 twenty-nine of this article;

20 (2) "Elderly person" means a person who is sixty-five years
21 or older; and

22 (3) "Protected person" means any person who is defined as a
23 "protected person" in subsection thirteen, section four, article
24 one, chapter forty-four-a of this code and who is subject to the

1 protections of chapter forty-four-a or forty-four-c of this code.