

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2362**

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

5
6 (Originating in the House Committee on the Judiciary)

7
8 [February 25, 2011]

9
10 A BILL to amend and reenact §61-2-29b of the Code of West Virginia,
11 1931, as amended, relating to requiring full restitution to a
12 victim of the crime of exploitation of an elderly person or
13 incapacitated adult.

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

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

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

18 **§61-2-29b. Unlawful expenditure or dissipation of funds of an**
19 **incapacitated adult by a caregiver.**

20 (a) A caregiver of an incapacitated adult who intentionally
21 misappropriates or misuses the funds or assets of an incapacitated
22 adult in the amount of less than \$1,000 in value for the
23 caregiver's personal use, advantage or wrongful profit or to the
24 advantage or wrongful profit of another, is guilty of a misdemeanor

1 and, upon conviction thereof, shall be fined not more than \$1,000
2 or confined in jail no more than one year, or both fined and
3 confined.

4 (b) A caregiver of an incapacitated adult who intentionally
5 misappropriates or misuses the funds or assets of an incapacitated
6 adult in the amount of \$1,000 or more in value for the caregiver's
7 personal use, advantage or wrongful profit or to the advantage or
8 wrongful profit of another, is guilty of a felony and, upon
9 conviction thereof, shall pay full restitution to the victim or the
10 victim's estate, be fined not more than \$5,000 and imprisoned in a
11 state correctional facility not less than one nor more than ten
12 years.

13 (c) A caregiver of an incapacitated adult, who by means of
14 intentional intimidation, infliction of bodily injury or threats of
15 the infliction of bodily injury to an incapacitated adult,
16 willfully misappropriates or misuses for the caregiver's personal
17 use, advantage or wrongful profit or to the advantage or wrongful
18 profit of another is guilty of a felony and, upon conviction
19 thereof, shall be fined not more than \$5000 and imprisoned in a
20 state correctional facility not less than three nor more than
21 fifteen years.