1	Senate Bill No. 552
2	(By Senators Laird, Williams, Wells, Jenkins, Miller, Minard
3	Sypolt and Kessler (Acting President))
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5	[Introduced February 18, 2011; referred to the Committee on the
6	Judiciary.]
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11	A BILL to amend the Code of West Virginia, 1931, as amended, by
12	adding thereto a new section, designated §61-2-29c, relating
13	to crimes against the person; financial exploitation of
14	elderly persons, protected persons and incapacitated adults
15	for misappropriating or misusing assets; permitting the
16	prosecutor to proceed in the same indictment for distinct acts
17	of misappropriation or misuse; permitting banking institutions
18	and others to report suspected financial exploitation to law-
19	enforcement authorities and other entities; permitting
20	financial institutions to disclose suspicious activity reports
21	or currency transaction reports to the prosecuting attorney;
22	providing civil immunity for reporting; ordering restitution;
23	and establishing the criminal penalty of larceny.
24	Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended 2 by adding thereto a new section, designated §61-2-29c, to read as 3 follows:

4 ARTICLE 2. CRIMES AGAINST THE PERSON.

5 §61-2-29c. Financial exploitation of an elderly person, protected
6 person or incapacitated adult; penalties;
7 definitions.

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

(b) In prosecuting a person accused of violating subsection (a), it is lawful to proceed in the same indictment and to charge the person for any number of distinct acts of misappropriation or misuse committed within six months from the first act if the act is done as part of a common scheme or plan.

(c) Financial institutions and their employees, as defined by section one, article two-a, chapter thirty-one-a of this code and as permitted by section four, subsection thirteen of that article, others engaged in financially related activities as defined by section one, article eight-c, chapter thirty-one-a of this code, caregivers, relatives and other concerned persons are permitted to

report suspected cases of financial exploitation to state or 1 2 federal law enforcement authorities, the county prosecuting attorney and to the Department of Health and Human Resources, Adult 3 Protective Services Division or Medicaid Fraud Division 4 as appropriate. Public officers and employees are required to report 5 6 suspected cases of financial exploitation to the appropriate entities as stated above. The requisite agencies shall investigate 7 or cause the investigation of the allegations. 8

9 (d) When financial exploitation is suspected and to the extent 10 permitted by federal law, financial institutions and their employees or other business entities required by federal law or 11 12 regulation to file suspicious activity reports and currency 13 transaction reports shall also be permitted to disclose suspicious 14 activity reports or currency transaction reports to the prosecuting 15 attorney of any county in which the transactions underlying the suspicious activity reports or currency transaction reports 16 17 occurred.

(e) Any person or entity is immune from civil liability for reporting suspected cases of financial exploitation pursuant to this section.

21 (f) For the purposes of this section:

(1) "Incapacitated adult" means a person as defined by sectiontwenty-nine of this article;

24 (2) "Elderly person" means a person who is sixty-five years

1 or older; and

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

NOTE: The purpose of this bill is create the crime of financial exploitation of an elderly person, protected person or incapacitated adult.

This section is new; therefore, strike-throughs and underscoring have been omitted.