

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.**

8 (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.

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

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

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

9 (d) When financial exploitation is suspected and to the extent
10 permitted by federal law, financial institutions and their
11 employees or other business entities required by federal law or
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
16 suspicious activity reports or currency transaction reports
17 occurred.

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

21 (f) For the purposes of this section:

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

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

1 or older; and

2 (3) "Protected person" means any person who is defined as a
3 "protected person" in subsection thirteen, section four, article
4 one, chapter forty-four-a of this code and who is subject to the
5 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.