

COMMITTEE SUBSTITUTE

FOR

## **H. B. 2362**

---

(BY DELEGATE BOGGS, PERDUE, ASHLEY AND BARKER)

---

(Originating in the House Committee on the Judiciary)  
[February 25, 2011]

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

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

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

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

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

1 (a) A caregiver of an incapacitated adult who  
2 intentionally misappropriates or misuses the funds or assets  
3 of an incapacitated adult in the amount of less than \$1,000 in  
4 value for the caregiver's personal use, advantage or wrongful  
5 profit or to the advantage or wrongful profit of another, is  
6 guilty of a misdemeanor and, upon conviction thereof, shall  
7 be fined not more than \$1,000 or confined in jail no more  
8 than one year, or both fined and confined.

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

18 (c) A caregiver of an incapacitated adult, who by means  
19 of intentional intimidation, infliction of bodily injury or  
20 threats of the infliction of bodily injury to an incapacitated  
21 adult, willfully misappropriates or misuses for the caregiver's  
22 personal use, advantage or wrongful profit or to the  
23 advantage or wrongful profit of another is guilty of a felony  
24 and, upon conviction thereof, shall be fined not more than  
25 \$5000 and imprisoned in a state correctional facility not less  
26 than three nor more than fifteen years.