

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3456

By Delegates C. Pritt and Kimble

[Introduced February 14, 2023; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §42-4-2 of the Code of West Virginia, 1931, as amended, relating to
 2 actions that bar acquisition of estate or insurance money; and prohibiting a person who is
 3 proven by a preponderance of evidence in a civil action to have committed elder abuse,
 4 from inheriting from the abused person.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. GENERAL PROVISIONS.

§42-4-2. Homicide, elder abuse, bars acquisition of estate or insurance money.

1 (a) A person who has been convicted of feloniously killing another, or of conspiracy in the
 2 killing of another, may not take or acquire any money or property, real or personal, or interest in the
 3 money or property, from the one killed or conspired against, either by descent and distribution, or
 4 by will, or by any policy or certificate of insurance, or otherwise; but the money or the property to
 5 which the convicted person would otherwise have been entitled shall go to the person or persons
 6 who would have taken the money or property if the convicted person had been dead at the date of
 7 the death of the one killed or conspired against, unless by some rule of law or equity the money or
 8 the property would pass to some other person or persons.

9 (b) A person who has been convicted of an offense causing the death of an incapacitated
 10 adult set forth in §61-2-29a of this code, or convicted of a similar provision of law of another state
 11 or the United States, may not take or acquire any money or property, real or personal, or interest in
 12 the money or property, from the victim decedent, either by descent and distribution, or by will, or by
 13 any policy or certificate of insurance, or otherwise; but the money or the property to which the
 14 convicted person would otherwise have been entitled shall go to the person or persons who would
 15 have taken the money or property if the convicted person had been dead at the date of the death of
 16 the decedent, unless by law the money or the property would pass to some other person or
 17 persons.

18 (c) A person who has been convicted of an offense of abuse or neglect of an incapacitated
 19 adult pursuant to §61-2-29 of this code, a felony offense of financial exploitation of an elderly

20 person, protected person or incapacitated adult pursuant to §61-2-29b of this code, or convicted of
21 a similar provision of law of another state or the United States, may not take or acquire any money
22 or property, real or personal, or any interest in the money or property, from the victim of the offense,
23 either by descent and distribution, or by will, or by any policy or certificate of insurance, or
24 otherwise. The money or the property to which the convicted person would otherwise have been
25 entitled shall go to the person or persons who would have taken the money or property if the
26 convicted person had been dead at the date of the death of the victim, unless by law the money or
27 the property would pass to some other person or persons. This subsection does not apply if, after
28 the conviction, the victim of the offense, if competent, executes a recordable instrument, sworn to,
29 notarized and witnessed by two persons that would be competent witnesses to a will of the victim,
30 expresses a specific intent to allow the convicted person to inherit or otherwise receive the money,
31 estate or other property of the victim of the offense.

32 (d) Notwithstanding any other provision of this code to the contrary, a person, in a civil
33 action, in any venue, who is proven by a preponderance of the evidence to have committed elder
34 abuse, may not take or acquire any money or property, real or personal, or any interest in the
35 money or property, from the victim of the offense, either by descent and distribution, or by will, or
36 by any policy or certificate of insurance, or otherwise.

NOTE: The purpose of this bill is to prohibit a person who is proven by a preponderance in a civil action to have committed elder abuse from inheriting from the abused person.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.