

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 361

BY SENATORS GAUNCH, BOSO, MULLINS, PALUMBO,
WALTERS, WILLIAMS AND PREZIOSO, *original sponsors*

[Passed March 12, 2016; in effect 90 days from
passage]

1 AN ACT to amend and reenact §61-2-10a of the Code of West Virginia, 1931, as amended,
2 relating to prohibiting persons who have committed crimes against the elderly from
3 performing any court-ordered public service involving the elderly.

Be it enacted by the Legislature of West Virginia:

1 That §61-2-10a of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 2. CRIMES AGAINST THE PERSON.

**§61-2-10a. Violent crimes against the elderly; sentence not subject to suspension or
probation.**

1 (a) If any person be convicted and sentenced for an offense defined under the provisions
2 of section nine or ten of this article, and if the person shall have committed such offense against
3 a person who is sixty-five years of age or older, then the sentence shall be mandatory and shall
4 not be subject to suspension or probation: *Provided*, That the court may, in its discretion, suspend
5 the sentence and order probation to any person so convicted upon condition that such person
6 perform public service for a period of time deemed appropriate by the court: *Provided, however*,
7 That the public service may not be rendered in or about facilities or programs providing care or
8 services for the elderly: *Provided further*, That the court may apply the provisions of article eleven-
9 a, chapter sixty-two of this code to a person committed to a term of one year or less.

10 (b) The existence of any fact which would make any person ineligible for probation under
11 subsection (a) of this section because of the commission or attempted commission of a felony
12 against a victim sixty-five years of age or older shall not be applicable unless such fact is: (i)
13 Found by the court upon a plea of guilty or nolo contendere; or (ii) found by the jury, if the matter
14 is tried before a jury; or (iii) found by the court, if the matter is tried by the court, without a jury.