

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **Senate Bill 54**

By Senator Rucker

[Introduced January 14, 2026; referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-2-29 and §61-2-29a of the Code of West Virginia, 1931, as  
2 amended, relating to abuse or neglect of incapacitated adults; providing definitions;  
3 creating criminal penalties; and removing the element of malice in felony charges of certain  
4 caregiver actions resulting in death of an incapacitated adult.

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

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

### **§61-2-29. Abuse or neglect of incapacitated adult; definitions; penalties.**

1 (a) The following words, when used in this section and ~~sections twenty-nine-a and twenty-~~  
2 ~~nine-b~~ §29A-1-1 et seq. and §29B-1-1 et seq. of this article, have the meaning ascribed, unless the  
3 context clearly indicates otherwise:

4 (1) "Abuse" means the intentional infliction of bodily injury on an incapacitated adult;

5 (2) "Bodily injury" means substantial physical pain, illness, or any impairment of physical  
6 condition;

7 (3) "Caregiver" means any person who has assumed the legal responsibility or a  
8 contractual obligation for the care of an incapacitated adult or has voluntarily assumed  
9 responsibility for the care of an incapacitated adult. The term includes a facility operated by any  
10 public or private agency, organization or institution which provides services to, and has assumed  
11 responsibility for the care of an incapacitated adult.

12 (4) "Gross neglect" means reckless or intentional conduct, behavior or inaction by a parent,  
13 guardian or custodian that evidences a clear disregard for an incapacitated adult's health, safety  
14 or welfare.

15 ~~(4)(5)~~ (5) "Incapacitated adult" means any person ~~eighteen~~ 18 years of age or older who by  
16 reason of advanced age, physical, mental or other infirmity is unable to carry on the daily activities  
17 of life necessary to sustaining life and reasonable health;

18 ~~(5)(6)~~ (6) "Neglect" means the unreasonable failure by a caregiver to provide the care  
19 necessary to assure the physical safety or health of an incapacitated adult; and

(6)(7) "Serious bodily injury" means bodily injury which creates a substantial risk of death, which causes serious or prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

(b) A caregiver who neglects an incapacitated adult or who knowingly permits another person to neglect an incapacitated adult is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500 or confined in jail for not more than one year, or both fined and confined.

(c) A caregiver who abuses an incapacitated adult or who knowingly permits another person to abuse an incapacitated adult is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500 or confined in jail for not less than ninety 90 days nor more than one year, or both fined and confined.

(d) A caregiver of an incapacitated adult who ~~intentionally and maliciously abuses or~~ neglects an incapacitated adult and causes the incapacitated adult bodily injury is guilty of a felony and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 and imprisoned in a state correctional facility not less than two years nor more than ~~ten~~ 10 years.

(e) A caregiver of an incapacitated adult who ~~intentionally and maliciously abuses or~~ neglects an incapacitated adult and causes the incapacitated adult serious bodily injury is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 and imprisoned in a state correctional facility not less than three years nor more than ~~fifteen~~ 15 years.

(f) Any person who grossly neglects an incapacitated adult and by that gross neglect creates a substantial risk of serious bodily injury or death to the incapacitated adult is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$3,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both.

(g) A caregiver of an incapacitated adult who abuses an incapacitated adult and causes the incapacitated adult bodily injury is guilty of a felony and, upon conviction thereof, shall be fined

not less than \$100 nor more than \$1,000 and imprisoned in a state correctional facility not less than two years nor more than 10 years.

(h) A caregiver of an incapacitated adult who abuses an incapacitated adult and causes the incapacitated adult serious bodily injury is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 and imprisoned in a state correctional facility not less than three years nor more than 15 years.

(i) A caregiver of an incapacitated adult who abuses an incapacitated adult and by the abuse creates a substantial risk of death or bodily injury to the incapacitated adult is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$3,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both.

~~(f)(j)~~ Nothing in this section or in ~~section twenty-nine-a~~ §29A-1-1 *et seq.* of this article shall be construed to mean an adult is abused or neglected for the sole reason that his or her independent decision is to rely upon treatment by spiritual means in accordance with the tenets and practices of a recognized church or religious denomination or organization in lieu of medical treatment.

~~(g)(k)~~ Nothing in this section or in ~~section twenty-nine-a~~ §29A-1-1 *et seq.* of this article shall be construed to mean an incapacitated adult is abused or neglected if deprivation of life-sustaining treatment or other act has been provided for by the West Virginia Health Care Decisions Act, pursuant to article thirty, chapter sixteen of this code.

**§61-2-29a. Death of an incapacitated adult by a caregiver.**

(a) A caregiver who ~~intentionally and maliciously~~ neglects an incapacitated adult causing death is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000 and be imprisoned in a state correctional facility for a definite term of not less than five nor more than ~~fifteen~~ 15 years.

(b) A caregiver of an incapacitated adult who causes the death of an incapacitated adult by knowingly allowing any other person to ~~intentionally or maliciously~~ neglect the incapacitated adult

7 is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000 and be  
8 imprisoned in a state correctional facility for a definite term of not less than five nor more than  
9 ~~fifteen~~ 15 years.

10 (c) A caregiver of an incapacitated adult who ~~intentionally and maliciously~~ abuses an  
11 incapacitated adult which causes the death of the incapacitated adult is guilty of a felony and, upon  
12 conviction thereof, shall be imprisoned in a state correctional facility for a definite term of not less  
13 than five nor more than ~~forty~~ 40 years.

14 (d) A caregiver of an incapacitated adult who causes the death of an incapacitated adult by  
15 knowingly allowing any other person to intentionally ~~and maliciously~~ abuse an incapacitated adult  
16 is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility  
17 for a definite term of not less than five nor more than ~~forty~~ 40 years.

18 (e) The provisions of this section do not apply to any caregiver or health care provider who,  
19 without malice, fails or refuses, or allows another person to, without malice, fail or refuse, to supply  
20 an incapacitated adult with necessary medical care when the medical care conflicts with the tenets  
21 and practices of a recognized religious denomination or order of which the incapacitated adult is  
22 an adherent member.

NOTE: The purpose of this bill is to establish the same criminal elements and criminal penalties for abuse or neglect of incapacitated adults as are applicable to abuse or neglect of children.

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