

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 54

BY SENATORS RUCKER, TARR, AND DEEDS

[Passed March 14, 2026; in effect 90 days from
passage (June 12, 2026)]

1 AN ACT to amend and reenact §61-2-29 and §61-2-29a of the Code of West Virginia, 1931, as
2 amended, relating to abuse, gross neglect, or neglect of incapacitated adults; adding
3 definitions; expanding the class of individuals who can be charged with crimes relating to
4 abuse, gross neglect, or neglect of incapacitated adults to include all persons; establishing
5 that caregivers who knowingly permit others to abuse, grossly neglect, or neglect an
6 incapacitated adult can be charged with certain crimes; creating criminal offenses and
7 establishing criminal penalties and fines; removing the element of malice in felony charges
8 of certain criminal offenses, and in offenses that result in injury, serious bodily injury, or
9 death, or substantial risk of bodily injury, serious bodily injury, or death of an incapacitated
10 adult; and providing that criminal offenses resulting in injury, death, or risk of injury or
11 death of an incapacitated adult as a result of abuse, gross neglect, neglect, or permitting
12 another person to do the same, are separate and distinct offenses to other statutory
13 offenses.

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 and phrases have the meanings ascribed to them when used in
2 this section and §61-2-29a and §61-2-29b of this code, unless the context clearly indicates
3 otherwise.

4 "Abuse" means the intentional infliction of bodily injury on an incapacitated adult.

5 "Bodily injury" means substantial physical pain, illness, or any impairment of physical
6 condition.

7 "Caregiver" means any person who has assumed the legal responsibility or a contractual
8 obligation for the care of an incapacitated adult or has voluntarily assumed responsibility for the
9 care of an incapacitated adult. The term includes a facility operated by any public or private

10 agency, organization, or institution which provides services to, and has assumed responsibility
11 for, the care of an incapacitated adult.

12 "Gross neglect" or "grossly neglects" means reckless or intentional conduct, behavior, or
13 inaction by a caregiver that evidences a clear disregard for the health, safety, or welfare of an
14 incapacitated adult.

15 "Incapacitated adult" means any person 18 years of age or older who, because of
16 advanced age, physical, mental, or other infirmity, is unable to carry out the daily activities of life
17 necessary to sustaining life and reasonable health.

18 "Neglect" means the unreasonable failure by a caregiver to provide the care necessary to
19 assure the physical safety or health of an incapacitated adult.

20 "Serious bodily injury" means bodily injury which creates a substantial risk of death or
21 which causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged
22 loss or impairment of the function of any bodily organ.

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

27 (c) Any person who grossly neglects an incapacitated adult or any caregiver who
28 knowingly permits another person to grossly neglect an incapacitated adult is guilty of a
29 misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500,
30 or confined in jail for not less than 60 days nor more than one year, or both fined and confined.

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

35 (e) Any person who abuses, grossly neglects, or neglects an incapacitated adult and by
36 that abuse, gross neglect, or neglect creates a substantial risk of serious bodily injury or death to

37 the incapacitated adult is guilty of a felony and, upon conviction thereof, shall be fined not less
38 than \$1,000 nor more than \$3,000, or imprisoned in a state correctional facility for not less than
39 one nor more than five years, or both fined and imprisoned.

40 (f) Any person who abuses, grossly neglects, or neglects an incapacitated adult and
41 causes the incapacitated adult bodily injury is guilty of a felony and, upon conviction thereof, shall
42 be fined not less than \$100 nor more than \$1,000 and imprisoned in a state correctional facility
43 not less than two years nor more than 10 years.

44 (g) Any person who abuses, grossly neglects, or neglects an incapacitated adult and
45 causes the incapacitated adult serious bodily injury is guilty of a felony and, upon conviction
46 thereof, shall be fined not less than \$1,000 nor more than \$5,000 and imprisoned in a state
47 correctional facility not less than three years nor more than 15 years.

48 (h) Nothing in this section nor in §61-2-29a of this code may be construed to mean an
49 adult is abused or neglected for the sole reason that his or her independent decision is to rely
50 upon treatment by spiritual means in accordance with the tenets and practices of a recognized
51 church or religious denomination or organization in lieu of medical treatment.

52 (i) Nothing in this section nor §61-2-29a of this code may be construed to mean an
53 incapacitated adult is abused or neglected if deprivation of life-sustaining treatment or other act
54 has been provided for by the West Virginia Health Care Decisions Act, pursuant to §16-30-1 *et*
55 *seq.* of this code.

56 (j) An offense under this section is a separate and distinct offense in addition to any other
57 offenses set forth in this code.

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

1 (a) Any person who neglects an incapacitated adult causing death of the incapacitated
2 adult is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000 and
3 be imprisoned in a state correctional facility for a definite term of not less than five nor more than
4 15 years.

5 (b) A caregiver of an incapacitated adult who causes the death of an incapacitated adult
6 by knowingly allowing any other person to neglect the incapacitated adult is guilty of a felony and,
7 upon conviction thereof, shall be fined not more than \$5,000 and be imprisoned in a state
8 correctional facility for a definite term of not less than five nor more than 15 years.

9 (c) Any person who grossly neglects an incapacitated adult causing death of the
10 incapacitated adult is guilty of a felony and, upon conviction thereof, shall be fined not more than
11 \$5,000 and be imprisoned in a state correctional facility for a definite term of not less than five nor
12 more than 25 years.

13 (d) Any caregiver of an incapacitated adult who causes the death of an incapacitated adult
14 by knowingly allowing any other person to grossly neglect the incapacitated adult is guilty of a
15 felony and, upon conviction thereof, shall be fined not more than \$5,000 and be imprisoned in a
16 state correctional facility for a definite term of not less than five nor more than 25 years.

17 (e) Any person who abuses the incapacitated adult which causes the death of the
18 incapacitated adult is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state
19 correctional facility for a definite term of not less than five nor more than 40 years.

20 (f) A caregiver of an incapacitated adult who causes the death of the incapacitated adult
21 by knowingly allowing any other person to abuse the incapacitated adult is guilty of a felony and,
22 upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of
23 not less than five nor more than 40 years.

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

29 (h) An offense under this section is a separate and distinct offense in addition to any other
30 offenses set forth in this code.

The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the Senate

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Clerk of the House of Delegates

Originated in the Senate.

In effect 90 days from passage.

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President of the Senate

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Speaker of the House of Delegates

The within is this the.....
Day of, 2026.

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Governor