

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 54

BY SENATORS RUCKER, TARR, AND DEEDS

[Reported February 20, 2026, from 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; adding definitions; creating
3 criminal penalties; removing the element of malice in felony charges of certain caregiver
4 actions resulting in injury, death, or risk of injury or death of an incapacitated adult; and
5 providing that certain caregiver offenses resulting in injury, death, or risk of injury or death
6 of an incapacitated adult are separate and distinct offenses to other statutory 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, ~~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 "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 ~~(4)~~-"Incapacitated adult" means any person 18 years of age or older who, ~~by reason~~
16 because of advanced age, physical, mental, or other infirmity, is unable to carry ~~on~~ out the daily
17 activities of life necessary to sustaining life and reasonable health.

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

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

27 (c) A caregiver who abuses an incapacitated adult or who knowingly permits another
28 person to abuse ~~an~~ the incapacitated adult is guilty of a misdemeanor and, upon conviction
29 thereof, shall be fined not less than \$100 nor more than \$500, or confined in jail for not less than
30 90 days nor more than one year, or both fined and confined.

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

35 (e) A caregiver of an incapacitated adult who ~~intentionally and maliciously~~ abuses or
36 neglects ~~an~~ the incapacitated adult and causes the incapacitated adult serious bodily injury is
37 guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than
38 \$5,000 and imprisoned in a state correctional facility not less than three years nor more than 15
39 years.

40 (f) Any caregiver who abuses or grossly neglects an incapacitated adult and by that abuse
41 or gross neglect creates a substantial risk of serious bodily injury or death to the incapacitated
42 adult is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor

43 more than \$3,000, or imprisoned in a state correctional facility for not less than one nor more than
44 five years, or both fined and imprisoned.

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

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

53 (i) An offense under this section is a separate and distinct offense in addition to any other
54 offenses set forth in this code.

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

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

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

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

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

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

23 (f) An offense under this section is a separate and distinct offense in addition to any other
24 offenses set forth in this code.