

No: 1075

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OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1984



ENROLLED

Com. Sub. for
HOUSE BILL No. 1075

(By Mr. Del. Kidd.....)



Passed March 10, 1984

In Effect Ninety Days From Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1075
(By DELEGATE KIDD)

[Passed March 10, 1984; in effect ninety days from passage.]

AN ACT to amend article fourteen, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nine-a; and to amend article two, chapter sixty-one of said code, by adding thereto a new section, designated section ten-a, all relating to crimes against the elderly; directing the commission on aging and the department of public safety to prepare plans for the development, implementation, and operation of programs designed to prevent crimes against the elderly and to reduce the fear of crime in the elderly; providing that upon conviction and sentence for the offense of assault upon a person sixty-five years of age or older during the commission of or attempt to commit a felony, the offenses of malicious or unlawful wounding upon a person sixty-five years of age or older, the offense of assault upon a person sixty-five years of age or older, or the offense of battery upon a person sixty-five years of age or older, the sentences provided for, upon conviction, shall not be subject to suspension or probation; and exceptions.

Be it enacted by the Legislature of West Virginia:

That article fourteen, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section nine-a;

and that article two, chapter sixty-one of said code be amended by adding thereto a new section, designated section ten-a, all to read as follows:

**CHAPTER 29.
MISCELLANEOUS BOARDS AND OFFICERS.**

ARTICLE 14. STATE COMMISSION ON AGING.

§29-14-9a. Prevention of crimes against the elderly.

1 (a) It is the express intent of the Legislature that all
2 state agencies cooperate with the state commission on aging
3 and the department of public safety in carrying out the
4 provisions of this section.

5 (b) The commission on aging shall, within existing ap-
6 propriations, prepare yearly plans for the years one thousand
7 nine hundred eighty-five through one thousand nine hundred
8 eighty-nine, and a comprehensive five-year plan for that period,
9 for the development, implementation and operation of pro-
10 grams designed to prevent crime against the elderly and to
11 reduce the fear of crime in the elderly. The commission shall
12 identify, through research and through monitoring and evalua-
13 tion of programs and projects conducted outside the com-
14 mission, any social, economic or educational methods, techni-
15 ques or procedures which have the potential effectively to
16 prevent crime against the elderly and reduce fear of crime
17 in the elderly. The commission shall determine the costs and
18 benefits that would be associated with such prevention and
19 reduction efforts and shall develop or recommend the imple-
20 mentation of, those methods, techniques and procedures which
21 are found likely to be cost efficient. The commission shall
22 identify funding needs for such programs.

23 (c) In planning and developing programs and recom-
24 mendations relating to the prevention of crime against elderly
25 persons and reduction of fear of crime in elderly persons,
26 the commission shall, within existing appropriations, consider
27 and evaluate the potential for new or improved programs in,
28 but not limited to, the following areas:

29 (1) Public education and awareness;

30 (2) Community coordination in areas of social services
31 and criminal justice;

32 (3) Use of the elderly as a resource in community crime
33 prevention and the voluntary involvement of elderly persons
34 and retired professionals in the criminal justice system itself
35 in order to improve the responsiveness and effectiveness of
36 the existing system;

37 (4) Victim and witness assistance;

38 (5) Reduction of the economic and physical consequences
39 of crime against the elderly; and

40 (6) Reduction of isolation of the elderly in the community.

41 (d) Other agencies of state government shall cooperate
42 with and assist the commission, within their available resources,
43 in gathering statistical data and in implementing programs
44 which have the potential to prevent crime against elderly
45 persons and to reduce the fear of crime in elderly persons
46 and shall consider the findings and recommendations of the
47 commission in developing and implementing agency programs
48 and formulating agency budget requests. The department of
49 public safety shall participate in the preparation and imple-
50 mentation of the plans required by this section, and shall
51 collect statistical data on the characteristics of elderly victims
52 of crimes.

53 (e) The commission shall submit to the governor for
54 transmittal to the president of the senate and the speaker
55 of the house of delegates the first yearly plan to prevent
56 crime against the elderly and to reduce the fear of crime
57 in the elderly not later than the first day of January, one thou-
58 sand nine hundred eighty-five, and such plan shall be up-
59 dated and resubmitted not later than the first day of January
60 of each calendar year thereafter through the year one thousand
61 nine hundred eighty-nine. The plan shall outline commission
62 proposals for the identification of appropriate prevention
63 and reduction efforts and the development of prevention and
64 reduction programs and the provisions for services under
65 such programs. The yearly plan shall contain, but not be
66 limited to, the following elements:

67 (1) A compilation of and analysis of statistical data on
68 types of crimes committed against the elderly in this state
69 and the incidence of such crime. Included in this shall be an
70 identification of the areas of the state where crime against the
71 elderly is of significant proportions. Such data should also
72 reflect an assessment of the degree of unreported, as well as
73 officially reported, criminal acts.

74 (2) An identification and projection of the potential popu-
75 lation for which prevention programs should be considered.

76 (3) An inventory and evaluation of existing prevention
77 and reduction programs, facilities and services in the state
78 or nationally, including population served, cost of services
79 provided, percentage of unmet needs and an identification
80 of any needed program improvement or change.

81 (4) A listing of potential prevention efforts identified
82 by the commission, the estimated annual cost of providing
83 such prevention services for the anticipated target popula-
84 tion, an identification of potential funding sources and the
85 projected benefits of providing such services.

86 (f) The yearly plans shall be compiled and analyzed by
87 the commission in the five-year comprehensive plan, which
88 shall be submitted to the governor for transmittal to the
89 president of the senate and speaker of the house of delegates
90 with the last yearly plan on or before the first day of January,
91 one thousand nine hundred eighty-nine.

92 (g) All funding sources, including reallocated LEAA
93 funds, shall be considered by the commission for implementing
94 programs and projects for crimes against the elderly.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 2. CRIMES AGAINST THE PERSON.

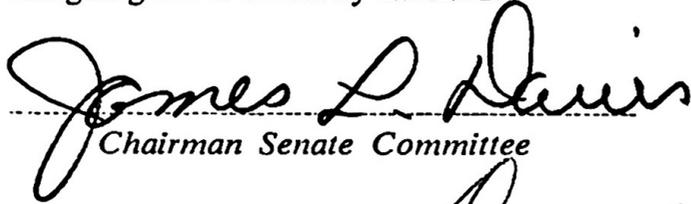
§61-2-10a. Violent crimes against the elderly; sentence not subject to suspension or probation.

1 (a) If any person be convicted and sentenced for an offense
2 defined under the provisions of sections nine or ten of this
3 article, and if the person shall have committed such offense

4 against a person who is sixty-five years of age or older, then
5 the sentence shall be mandatory and shall not be subject to
6 suspension or probation: *Provided*, That the court may, in its
7 discretion, suspend the sentence and order probation to any
8 person so convicted upon condition that such person perform
9 public service for a period of time deemed appropriate by the
10 court, which service shall be rendered in or about facilities or
11 programs providing care or services for the elderly: *Provided*,
12 *however*, That the court may apply the provisions of article
13 eleven-a, chapter sixty-two of this code to a person committed
14 to a term of one year or less.

15 (b) The existence of any fact which would make any per-
16 son ineligible for probation under subsection (a) of this sec-
17 tion because of the commission or attempted commission of a
18 felony against a victim sixty-five years of age or older shall not
19 be applicable unless such fact is (i) found by the court upon
20 a plea of guilty or nolo contendere, or (ii) found by the jury,
21 if the matter is tried before a jury or (iii) found by the court,
22 if the matter is tried by the court, without a jury.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

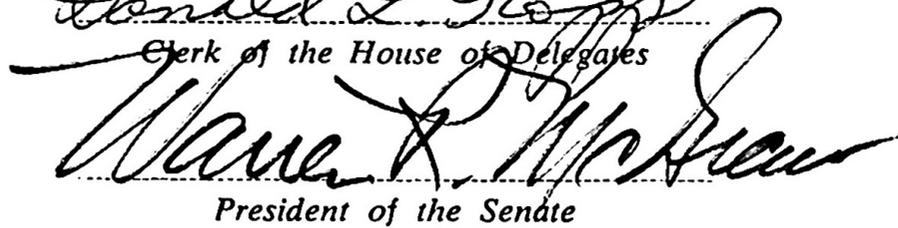

Chairman House Committee

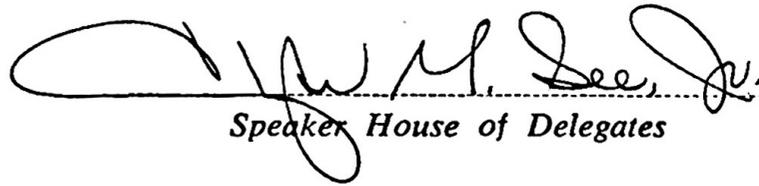
Originating in the House.

Takes effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within is approved this the 30
day of March, 1984.


Governor

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