WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1997

ENROLLED

HOUSE BILL No. 2084

(By Delegate Riggs and Warner)

Passed April 8, 1997

In Effect Ninety Days From Passage
AN ACT to repeal section fifteen, article six, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article two, chapter sixty-one of said code by adding thereto a new section, designated section twenty-nine, relating to abuse of incapacitated adults; definitions; and criminal penalties.

Be it enacted by the Legislature of West Virginia:

That section fifteen, article six, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that article two, chapter sixty-one of said code be amended by adding thereto a new section, designated section twenty-nine, to read as follows:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-29. Abuse or neglect of incapacitated adult.

(a) The following words when used in this section have the meaning ascribed, unless the context clearly indicates otherwise:
(1) “Abuse” means the infliction or threat to inflict physical pain or injury on an incapacitated adult;

(2) “Care giver” means an adult who has or shares actual physical possession or care of an incapacitated adult on a full-time or temporary basis, regardless of whether such person has been designated as a guardian of such adult by any contract, agreement or legal proceeding. Care giver includes health care providers, family members, and any person who otherwise voluntarily accepts a supervisory role towards an incapacitated adult;

(3) “Neglect” means (i) the failure to provide the necessities of life to an incapacitated adult or (ii) the unlawful expenditure or willful dissipation of the funds or other assets owned or paid to or for the benefit of an incapacitated adult; and

(4) “Incapacitated adult” means any person who by reason of physical, mental or other infirmity is unable to physically carry on the daily activities of life necessary to sustaining life and reasonable health.

(b) Any care giver who neglects an incapacitated adult, or who knowingly permits another person to neglect said adult, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred dollars nor more than fifteen hundred dollars, or imprisoned in the county jail for not less than ninety days nor more than one year, or both fined and imprisoned.

(c) Any care giver who intentionally abuses or neglects an incapacitated adult is guilty of a felony and, upon conviction thereof, shall, in the discretion of the court, be confined in the penitentiary for not less than two nor more than ten years or be confined in the county jail for not more than twelve months and fined not more than fifteen hundred dollars.

(d) Nothing in 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.
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 of the House of Delegates

The within is approved this the ___ day of ___, 1997.

Governor