WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2011

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2362

(By Delegates Boggs, Perdue, Ashley and Barker)

Passed March 12, 2011

In Effect Ninety Days From Passage
Committee Substitute

For

H. B. 2362

(By Delegates Boggs, Perdue, Ashley and Barker)

[Passed March 12, 2011; in effect ninety days from passage.]

AN ACT to amend and reenact §61-2-29b of the Code of West Virginia, 1931, as amended, relating to crimes against the elderly, protected persons or incapacitated persons; financial exploitation of the elderly, protected persons and incapacitated adults for misappropriating or misusing assets; permitting the prosecutor to cumulate amounts or values when charging; permitting banking institutions and others to report suspected financial exploitation to law-enforcement authorities and other entities; permitting financial institutions to disclose suspicious activity reports or currency transaction reports to the prosecuting attorney; providing civil immunity for reporting; ordering restitution; and establishing the criminal penalty of larceny.

Be it enacted by the Legislature of West Virginia:
That §61-2-29b of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-29b. Financial exploitation of an elderly person, protected person or incapacitated adult; penalties; definitions.

1. (a) Financial exploitation occurs when a person intentionally misappropriates or misuses the funds or assets of an elderly person, protected person or incapacitated adult. Any person who violates this section is guilty of larceny and shall be ordered to pay restitution.

2. (b) In determining the value of the money, goods, property or services referred to in subsection (a) of the section, it shall be permissible to cumulate amounts or values where such money, goods, property or services were fraudulently obtained as part of a common scheme or plan.

3. (c) Financial institutions and their employees, as defined by section one, article two-a, chapter thirty-one-a of this code and as permitted by section four, subsection thirteen of that article, others engaged in financially related activities as defined by section one, article eight-c, chapter thirty-one-a of this code, caregivers, relatives and other concerned persons are permitted to report suspected cases of financial exploitation to state or federal law-enforcement authorities, the county prosecuting attorney and to the Department of Health and Human Resources, Adult Protective Services Division or Medicaid Fraud Division, as appropriate. Public officers and employees are required to report suspected cases of financial exploitation to the appropriate entities as stated above. The requisite agencies shall investigate or cause the investigation of the allegations.
(d) When financial exploitation is suspected and to the extent permitted by federal law, financial institutions and their employees or other business entities required by federal law or regulation to file suspicious activity reports and currency transaction reports shall also be permitted to disclose suspicious activity reports or currency transaction reports to the prosecuting attorney of any county in which the transactions underlying the suspicious activity reports or currency transaction reports occurred.

(e) Any person or entity that in good faith reports a suspected case of financial exploitation pursuant to this section is immune from civil liability founded upon making that report.

(f) For the purposes of this section:

(1) "Incapacitated adult" means a person as defined by section twenty-nine of this article;

(2) "Elderly person" means a person who is sixty-five years or older; and

(3) "Protected person" means any person who is defined as a "protected person" in subsection thirteen, section four, article one, chapter forty-four-a of this code and who is subject to the protections of chapter forty-four-a or forty-four-c of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within approved this the 4th day of April, 2011.

Governor
PRESENTED TO THE GOVERNOR

MAR 31 2011

Time 11:30 am

ERS