

HB 2084

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



ENROLLED

HOUSE BILL No. 2084

(By Delegate S Riggs and Warner)



Passed April 8, 1997

In Effect Ninety Days From Passage

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SENATE WEST VIRGINIA

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2084

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fifteen, article six, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that article two, chapter sixty-one of said code be amended by adding thereto a new section, designated section twenty-nine, to read as follows: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

- 1 (a) The following words when used in this section
- 2 have the meaning ascribed, unless the context clearly
- 3 indicates otherwise:

4 (1) "Abuse" means the infliction or threat to inflict
5 physical pain or injury on an incapacitated adult;

6 (2) "Care giver" means an adult who has or shares
7 actual physical possession or care of an incapacitated
8 adult on a full-time or temporary basis, regardless of
9 whether such person has been designated as a guardian of
10 such adult by any contract, agreement or legal pro-
11 ceeding. Care giver includes health care providers, family
12 members, and any person who otherwise voluntarily
13 accepts a supervisory role towards an incapacitated adult;

14 (3) "Neglect" means (i) the failure to provide the
15 necessities of life to an incapacitated adult or (ii) the
16 unlawful expenditure or willful dissipation of the funds or
17 other assets owned or paid to or for the benefit of an
18 incapacitated adult; and

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

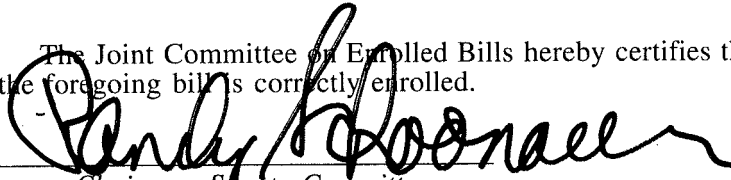
23 (b) Any care giver who neglects an incapacitated
24 adult, or who knowingly permits another person to neglect
25 said adult, is guilty of a misdemeanor and, upon
26 conviction thereof, shall be fined not less than five
27 hundred dollars nor more than fifteen hundred dollars, or
28 imprisoned in the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

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

37 (d) Nothing in this article shall be construed to mean
38 an adult is abused or neglected for the sole reason that his
39 or her independent decision is to rely upon treatment by

40 spiritual means in accordance with the tenets and practices
41 of a recognized church or religious denomination or
42 organization in lieu of medical treatment.

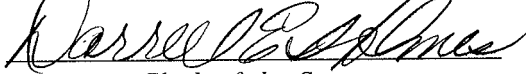
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

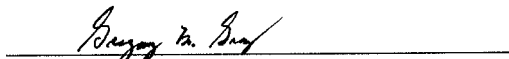

Chairman Senate Committee

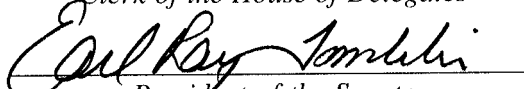

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

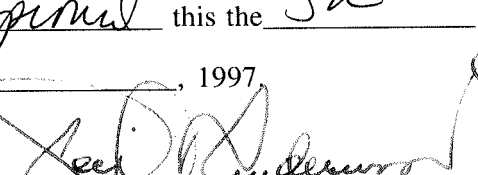

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 5th
day of May, 1997


Governor

PRESENTED TO THE
GOVERNOR

Date 4/21/97

Time 11:25 am