

FILED

2011 APR -4 PM 4: 49

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2011

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**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

HB 2362

FILED

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**E N R O L L E D**

OFFICE OF THE CLERK  
SECRETARY OF STATE

COMMITTEE SUBSTITUTE

FOR

**H. B. 2362**

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(BY DELEGATES BOGGS, PERDUE, ASHLEY AND BARKER)

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[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  
2 intentionally misappropriates or misuses the funds or assets  
3 of an elderly person, protected person or incapacitated adult.  
4 Any person who violates this section is guilty of larceny and  
5 shall be ordered to pay restitution.

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

11 (c) Financial institutions and their employees, as defined  
12 by section one, article two-a, chapter thirty-one-a of this code  
13 and as permitted by section four, subsection thirteen of that  
14 article, others engaged in financially related activities as  
15 defined by section one, article eight-c, chapter thirty-one-a of  
16 this code, caregivers, relatives and other concerned persons  
17 are permitted to report suspected cases of financial  
18 exploitation to state or federal law-enforcement authorities,  
19 the county prosecuting attorney and to the Department of  
20 Health and Human Resources, Adult Protective Services  
21 Division or Medicaid Fraud Division, as appropriate. Public  
22 officers and employees are required to report suspected cases  
23 of financial exploitation to the appropriate entities as stated  
24 above. The requisite agencies shall investigate or cause the  
25 investigation of the allegations.

26 (d) When financial exploitation is suspected and to the  
27 extent permitted by federal law, financial institutions and  
28 their employees or other business entities required by federal  
29 law or regulation to file suspicious activity reports and  
30 currency transaction reports shall also be permitted to  
31 disclose suspicious activity reports or currency transaction  
32 reports to the prosecuting attorney of any county in which the  
33 transactions underlying the suspicious activity reports or  
34 currency transaction reports occurred.

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

39 (f) For the purposes of this section:

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

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

44 (3) "Protected person" means any person who is defined  
45 as a "protected person" in subsection thirteen, section four,  
46 article one, chapter forty-four-a of this code and who is  
47 subject to the protections of chapter forty-four-a or forty-  
48 four-c of this code.

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

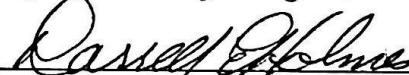
  
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Speaker, House Committee


  
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Chairman, Senate Committee

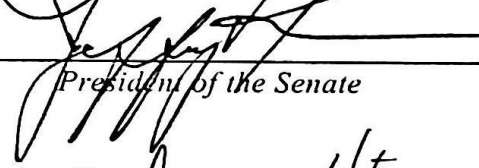
Originating in the House.

To take effect ninety days from passage.

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
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Clerk of the Senate

  
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Speaker of the House of Delegates

  
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President of the Senate

The within approved this the 4<sup>th</sup>  
day of April, 2011.

  
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Governor

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OFFICE OF THE  
SECRETARY OF STATE  
COMMONWEALTH OF VIRGINIA

PRESENTED TO THE GOVERNOR

MAR 31 2011

Time 11:30 am  
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