1   **H. B. 2402**

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3   (By Delegate Rodighiero)

4   [Introduced January 27, 2015; referred to the

5   Committee on the Judiciary.]

6   FISCAL
                                                                                                              NOTE

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10 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,

11   designated §61-2-31, relating to crimes against the person; creating a criminal felony offense

12   of aggravated assault or battery of a child or a person who is mentally incapacitated; and

13   providing penalties.

14 *Be it enacted by the Legislature of West Virginia:*

15   That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new

16 section, designated §61-2-31, to read as follows:

17 **ARTICLE 2. CRIMES AGAINST THE PERSON.**

18 **§61-2-31. Assault, battery on child under fifteen years of age or mentally incapacitated**

19   **person; penalties.**

20   (a) If any person commits an assault as defined in subsection (b), section nine of this article,

21 to the person of a child under the age of fifteen years or to the person of someone who is mentally

22 incapacitated, regardless of age, the offender is guilty of a felony and, upon conviction thereof, shall

1 be fined not less than $1,000 nor more than $3,000 and imprisoned in a state correctional facility for

2 not less than one year nor more than three years, or both fined and imprisoned.

3   (b) If any person commits a battery, as defined in subsection (c), section nine of this article,

4 against the person of a child under the age of fifteen years or to the person of someone who is

5 mentally incapacitated, regardless of age, the offender is guilty of a felony and, upon conviction

6 thereof, shall be fined not less than $3,000 nor more than $10,000 and imprisoned in a state

7 correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

NOTE: The purpose of this bill is to create a criminal felony offense of aggravated assault or battery of a child or a person who is mentally incapacitated.

This section is new; therefore, it has been completely underscored.