

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 552**

4 (By Senators Laird, Williams, Wells, Jenkins, Miller, Minard,
5 Sypolt and Kessler (Acting President))

6 _____
7 [Originating in the Committee on the Judiciary;
8 reported February 23, 2011.]
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12 A BILL to amend the Code of West Virginia, 1931, as amended, by
13 adding thereto a new section, designated §61-2-29c, relating
14 to crimes against the elderly, protected persons or
15 incapacitated persons; financial exploitation of the elderly,
16 protected persons and incapacitated adults for
17 misappropriating or misusing assets; permitting the prosecutor
18 to cumulate amounts or values when charging; permitting
19 banking institutions and others to report suspected financial
20 exploitation to law-enforcement authorities and other
21 entities; permitting financial institutions to disclose
22 suspicious activity reports or currency transaction reports to
23 the prosecuting attorney; providing civil immunity for
24 reporting; ordering restitution; and establishing the criminal
25 penalty of larceny.

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

1 That the Code of West Virginia, 1931, as amended, be amended
2 by adding thereto a new section, designated §61-2-29c, to read as
3 follows:

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

5 **§61-2-29c. Financial exploitation of an elderly person, protected**
6 **person or incapacitated adult; penalties;**
7 **definitions.**

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

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

18 (c) Financial institutions and their employees, as defined by
19 section one, article two-a, chapter thirty-one-a of this code and
20 as permitted by section four, subsection thirteen of that article,
21 others engaged in financially related activities as defined by
22 section one, article eight-c, chapter thirty-one-a of this code,
23 caregivers, relatives and other concerned persons are permitted to
24 report suspected cases of financial exploitation to state or
25 federal law enforcement authorities, the county prosecuting

1 attorney and to the Department of Health and Human Resources, Adult
2 Protective Services Division or Medicaid Fraud Division, as
3 appropriate. Public officers and employees are required to report
4 suspected cases of financial exploitation to the appropriate
5 entities as stated above. The requisite agencies shall investigate
6 or cause the investigation of the allegations.

7 (d) When financial exploitation is suspected and to the extent
8 permitted by federal law, financial institutions and their
9 employees or other business entities required by federal law or
10 regulation to file suspicious activity reports and currency
11 transaction reports shall also be permitted to disclose suspicious
12 activity reports or currency transaction reports to the prosecuting
13 attorney of any county in which the transactions underlying the
14 suspicious activity reports or currency transaction reports
15 occurred.

16 (e) Any person or entity is immune from civil liability for
17 reporting suspected cases of financial exploitation pursuant to
18 this section.

19 (f) For the purposes of this section:

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

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

24 (3) "Protected person" means any person who is defined as a
25 "protected person" in subsection thirteen, section four, article
26 one, chapter forty-four-a of this code and who is subject to the

1 protections of chapters forty-four-a or forty-four-c of this code.

(NOTE: This section is new; therefore, strike-throughs and underscoring have been omitted.)