

H. B. 2081

(By Delegates Guthrie, Rowe, Pushkin, Byrd and Hornbuckle)

[Introduced January 15, 2015; referred to the

Committee on the Judiciary.]

A BILL to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating to acts of violence against certain persons; and listing journalists within the designated categories of protected persons.

Be it enacted by the Legislature of West Virginia:

That §61-2-10b of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-10b. Malicious assault; unlawful assault; battery; and assault on governmental representatives, health care providers, journalists and emergency medical service personnel; definitions; penalties.

(a) For purposes of this section:

(1) "Government representative" means any officer or employee of the state or a political subdivision thereof, or a person under contract with a state agency or political subdivision thereof.

1 (2) "Health care worker" means any nurse, nurse practitioner, physician, physician assistant
2 or technician practicing at, and all persons employed by or under contract to a hospital, county or
3 district health department, long-term care facility, physician's office, clinic or outpatient treatment
4 facility.

5 (3) "Emergency service personnel" means any paid or volunteer firefighter, emergency
6 medical technician, paramedic, or other emergency services personnel employed by or under contract
7 with an emergency medical service provider or a state agency or political subdivision thereof.

8 (4) "Journalist" means any employee of a news-gathering organization that disseminates news
9 and information to the public by means of print or electronic publication, including audio and video
10 distribution by electromagnetic transmission.

11 (b) *Malicious assault.* -- Any person who maliciously shoots, stabs, cuts or wounds or by any
12 means causes bodily injury with intent to maim, disfigure, disable or kill a government
13 representative, health care worker, journalist or emergency service personnel acting in his or her
14 official capacity, and the person committing the malicious assault knows or has reason to know that
15 the victim is acting in his or her official capacity is guilty of a felony and, upon conviction thereof,
16 shall be confined in a correctional facility for not less than three nor more than fifteen years.

17 (c) *Unlawful assault.* -- Any person who unlawfully but not maliciously shoots, stabs, cuts
18 or wounds or by any means causes a government representative, health care worker, journalist or
19 emergency service personnel acting in his or her official capacity bodily injury with intent to maim,
20 disfigure, disable or kill him or her and the person committing the unlawful assault knows or has
21 reason to know that the victim is acting in his or her official capacity is guilty of a felony and, upon
22 conviction thereof, shall be confined in a correctional facility for not less than two nor more than five

1 years.

2 (d) *Battery*. -- Any person who unlawfully, knowingly and intentionally makes physical
3 contact of an insulting or provoking nature with a government representative, health care worker,
4 journalist or emergency service personnel acting in his or her official capacity, or unlawfully and
5 intentionally causes physical harm to that person acting in such capacity, is guilty of a misdemeanor
6 and, upon conviction thereof, shall be fined not more than \$500 or confined in jail not less than one
7 month nor more than twelve months or both fined and confined. If any person commits a second
8 such offense, he or she is guilty of a felony and, upon conviction thereof, shall be fined not more
9 than \$1,000 or imprisoned in a state correctional facility not less than one year nor more than three
10 years, or both fined and imprisoned. Any person who commits a third violation of this subsection
11 is guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000 or imprisoned
12 in a state correctional facility not less than two years nor more than five years, or both fined and
13 imprisoned.

14 (e) *Assault*. -- Any person who unlawfully attempts to commit a violent injury to the person
15 of a government representative, health care worker, journalist or emergency service personnel acting
16 in his or her official capacity, or unlawfully commits an act which places that person acting in his
17 or her official capacity in reasonable apprehension of immediately receiving a violent injury, is guilty
18 of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than twenty-four
19 hours nor more than six months, fined not more than \$200, or both fined and confined.

NOTE: The purpose of this bill is to include journalists as a protected profession within the definition of crimes of violence against certain categories of workers.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.