

1 **H. B. 2482**

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3 (By Delegates P. Smith, Lynch and Frich)

4 [Introduced January 28, 2015; referred to the

5 Committee on Health and Human Resources then the Judiciary.]

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10 A BILL to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating
11 to aggressive and violent behavior that is otherwise criminal activity of persons committed
12 to state hospitals; authorizing immediate discharge and transportation to a regional jail.

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

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

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

17 **§61-2-10b. Malicious assault; unlawful assault; battery; and assault on governmental**
18 **representatives, health care providers, and emergency medical service**
19 **personnel; definitions; penalties.**

20 (a) For purposes of this section:

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

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

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

21 (d) Battery. ~~Any~~ A person who unlawfully, knowingly and intentionally makes physical
22 contact of an insulting or provoking nature with a government representative, health care worker or

1 emergency service personnel acting in his or her official capacity, or unlawfully and intentionally
2 causes physical harm to that person acting in such capacity, is guilty of a misdemeanor and, upon
3 conviction thereof, shall be fined not more than \$500 or confined in jail not less than one month nor
4 more than twelve months or both fined and confined. If ~~any~~ a person commits a second such
5 offense, he or she is guilty of a felony and, upon conviction thereof, shall be fined not more than
6 \$1,000 or imprisoned in a state correctional facility not less than one year nor more than three years,
7 or both fined and imprisoned. ~~Any~~ A person who commits a third violation of this subsection is
8 guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000 or imprisoned
9 in a state correctional facility not less than two years nor more than five years, or both fined and
10 imprisoned.

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

17 (f) Mental Health Patient. A person who commits a felony or misdemeanor as defined in this
18 section while a patient in a mental health facility shall be immediately discharged from that facility
19 without further action by the court that committed him or her to the facility and be transported to the
20 custody of the regional jail serving the area in which the offense was committed.

NOTE: The purpose of this bill is to authorize the transfer of a person committed to a state facility to a regional jail following the commission of an unlawful act as defined in this section.

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