

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Enrolled**

### **Senate Bill 578**

BY SENATORS BOSO, ASHLEY, BLAIR, GAUNCH, KARNES,

KIRKENDOLL, MAYNARD, MILLER, MULLINS, ROMANO,

WILLIAMS, STOLLINGS AND PLYMALE

[Passed March 12, 2016;

in effect 90 days from passage]

1 AN ACT to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended,  
2 relating to protection of utility workers and law-enforcement officers from crimes against  
3 the person; defining terms; adding law-enforcement officers and utility workers among the  
4 list of professionals the malicious assault, unlawful assault, battery or assault of which  
5 carries increased criminal penalties; clarifying the criminal offense of battery to require  
6 that the perpetrator have knowledge that the victim was acting in his or her official capacity;  
7 and clarifying the criminal offense of assault to require that the perpetrator have  
8 knowledge that the victim was acting in his or her official capacity.

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

1 That §61-2-10b of the Code of West Virginia, 1931, as amended, be amended and  
2 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, utility workers, law-enforcement officers  
and emergency medical service personnel; definitions; penalties**

1 (a) For purposes of this section:

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

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

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

11 thereof.

12 (4) "Utility worker" means any individual employed by a public utility or electric cooperative  
13 or under contract to a public utility, electric cooperative or interstate pipeline.

14 (5) "Law-enforcement officer" has the same definition as this term is defined in W.Va. Code  
15 §30-29-1, except for purposes of this section, "law-enforcement officer" shall additionally include  
16 those individuals defined as "chief executive" in W.Va. Code §30-29-1.

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

24 (c) *Unlawful assault.* — Any person who unlawfully but not maliciously shoots, stabs, cuts  
25 or wounds or by any means causes a government representative, health care worker , utility  
26 worker, emergency service personnel or law-enforcement officer acting in his or her official  
27 capacity bodily injury with intent to maim, disfigure, disable or kill him or her and the person  
28 committing the unlawful assault knows or has reason to know that the victim is acting in his or her  
29 official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a correctional  
30 facility for not less than two nor more than five years.

31 (d) *Battery.* — Any person who unlawfully, knowingly and intentionally makes physical  
32 contact of an insulting or provoking nature with a government representative, health care worker  
33 , utility worker, emergency service personnel or law-enforcement officer acting in his or her official  
34 capacity and the person committing the battery knows or has reason to know that the victim is  
35 acting in his or her official capacity, or unlawfully and intentionally causes physical harm to that  
36 person acting in such capacity and the person committing the battery knows or has reason to

37 know that the victim is acting in his or her official capacity, is guilty of a misdemeanor and, upon  
38 conviction thereof, shall be fined not more than \$500 or confined in jail not less than one month  
39 nor more than twelve months or both fined and confined. If any person commits a second such  
40 offense, he or she is guilty of a felony and, upon conviction thereof, shall be fined not more than  
41 \$1,000 or imprisoned in a state correctional facility not less than one year nor more than three  
42 years, or both fined and imprisoned. Any person who commits a third violation of this subsection  
43 is guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000 or imprisoned  
44 in a state correctional facility not less than two years nor more than five years, or both fined and  
45 imprisoned.

46 (e) *Assault.* — Any person who unlawfully attempts to commit a violent injury to the person  
47 of a government representative, health care worker , utility worker, emergency service personnel  
48 or law- enforcement officer, acting in his or her official capacity and the person committing the  
49 battery knows or has reason to know that the victim is acting in his or her official capacity, or  
50 unlawfully commits an act which places that person acting in his or her official capacity in  
51 reasonable apprehension of immediately receiving a violent injury and the person committing the  
52 battery knows or has reason to know that the victim is acting in his or her official capacity, is guilty  
53 of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than  
54 twenty-four hours nor more than six months, fined not more than \$200, or both fined and confined.