

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2482

2015 Carryover

(BY DELEGATES P. SMITH, LYNCH AND FRICH)

[Introduced January 13, 2016; referred to the
Committee on Health and Human Resources then the
Judiciary.]

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

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, and emergency medical service personnel;
 definitions; penalties.**

1 (a) For purposes of this section:

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

4 (2) "Health care worker" means ~~any~~ a 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~~ a 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 (b) Malicious assault. ~~Any~~ A person who maliciously shoots, stabs, cuts or wounds or by
 13 any means causes bodily injury with intent to maim, disfigure, disable or kill a government
 14 representative, health care worker or emergency service personnel acting in his or her official

15 capacity and the person committing the malicious assault knows or has reason to know that the
16 victim is acting in his or her official capacity, is guilty of a felony and, upon conviction thereof, shall
17 be confined in a state correctional facility for not less than three nor more than fifteen years.

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

25 (d) Battery. ~~Any~~ A person who unlawfully, knowingly and intentionally makes physical
26 contact of an insulting or provoking nature with a government representative, health care worker
27 or emergency service personnel acting in his or her official capacity, or unlawfully and intentionally
28 causes physical harm to that person acting in such capacity, is guilty of a misdemeanor and, upon
29 conviction thereof, shall be fined not more than \$500 or confined in jail not less than one month
30 nor more than twelve months or both fined and confined. If ~~any~~ a person commits a second such
31 offense, he or she is guilty of a felony and, upon conviction thereof, shall be fined not more than
32 \$1,000 or imprisoned in a state correctional facility not less than one year nor more than three
33 years, or both fined and imprisoned. ~~Any~~ A person who commits a third violation of this
34 subsection is guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000
35 or imprisoned in a state correctional facility not less than two years nor more than five years, or
36 both fined and imprisoned.

37 (e) Assault. ~~Any~~ A person who unlawfully attempts to commit a violent injury to the person
38 of a government representative, health care worker or emergency service personnel acting in his

39 or her official capacity or unlawfully commits an act which places that person acting in his or her
40 official capacity in reasonable apprehension of immediately receiving a violent injury, is guilty of
41 a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than twenty-four
42 hours nor more than six months, fined not more than \$200, or both fined and confined.

43 (f) Mental Health Patient. A person who commits a felony or misdemeanor as defined in
44 this section while a patient in a mental health facility shall be immediately discharged from that
45 facility without further action by the court that committed him or her to the facility and be
46 transported to the 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.