

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 545

BY SENATOR CLINE

[Introduced March 8, 2017; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating
2 to increasing the criminal penalties for malicious assault, unlawful assault and assault on
3 a law-enforcement officer.

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 or 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 Any person who maliciously shoots, stabs, cuts or wounds or by any means causes bodily
25 injury with intent to maim, disfigure, disable or kill a law-enforcement officer acting in his or her
26 official capacity, and the person committing the malicious assault knows or has reason to know
27 that the victim is acting in his or her official capacity is guilty of a felony and, upon conviction
28 thereof, shall be confined in a correctional facility for not less than five nor more than twenty years.

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

36 Any person who unlawfully but not maliciously shoots, stabs, cuts or wounds or by any
37 means causes bodily injury with intent to maim, disfigure, disable or kill a law-enforcement officer
38 acting in his or her official capacity, and the person committing the malicious assault knows or
39 has reason to know that the victim is acting in his or her official capacity is guilty of a felony and,
40 upon conviction thereof, shall be confined in a correctional facility for not less than three nor more
41 than ten years.

42 (d) *Battery.* — Any person who unlawfully, knowingly and intentionally makes physical

43 contact of an insulting or provoking nature with a government representative, health care worker,
44 utility worker, emergency service personnel or law-enforcement officer acting in his or her official
45 capacity and the person committing the battery knows or has reason to know that the victim is
46 acting in his or her official capacity, or unlawfully and intentionally causes physical harm to that
47 person acting in such capacity and the person committing the battery knows or has reason to
48 know that the victim is acting in his or her official capacity, is guilty of a misdemeanor and, upon
49 conviction thereof, shall be fined not more than \$500 or confined in jail not less than one month
50 nor more than twelve months or both fined and confined. If any person commits a second such
51 offense, he or she is guilty of a felony and, upon conviction thereof, shall be fined not more than
52 \$1,000 or imprisoned in a state correctional facility not less than one year nor more than three
53 years, or both fined and imprisoned. Any person who commits a third violation of this subsection
54 is guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000 or imprisoned
55 in a state correctional facility not less than two years nor more than five years, or both fined and
56 imprisoned.

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

66 Any person who unlawfully attempts to commit a violent injury to the person of a law-
67 enforcement officer acting in his or her official capacity, and the person committing the battery
68 knows or has reason to know that the victim is acting in his or her official capacity, or unlawfully

69 commits an act which places that person acting in his or her official capacity in reasonable
70 apprehension of immediately receiving a violent injury and the person committing the battery
71 knows or has reason to know that the victim is acting in his or her official capacity, is guilty of a
72 misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one week
73 nor more than one year, fined not more than \$1,000, or both fined and confined.

NOTE: The purpose of this bill is to increase criminal penalties for malicious assault, unlawful assault and assault on a law-enforcement officer.

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