WEST VIRGINIA LEGISLATURE

**FISCAL NOTE**

2023 REGULAR SESSION

Introduced

House Bill 2392

By Delegate Rowe

[Introduced January 11, 2023; Referred to the Committee on the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-2-10c, relating to creating a misdemeanor crime of assault upon a person with bodily fluid.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. crimes against the person.

§61-2-10c. Assault with bodily fluid upon a person.

(a) A person is guilty of assault with bodily fluid when that person intentionally strikes another person with saliva, urine, feces or any other bodily fluid, knowing that the person is thereby likely to cause offense or alarm to such other person.

(b) When charged with a violation of paragraph (a) of this section, the defendant shall be tested for diseases transmittable through bodily fluids, the cost of such tests to be assessed as costs upon conviction. The results of such tests shall be provided only to the Attorney General, the victim of the offense, the defendant and the West Virginia Department of Correction's medical care provider.

(c) Any person found guilty of assault with bodily fluid shall receive a misdemeanor penalty and, upon conviction thereof, shall be confined in jail for not more than six months or fined not more than $100, or both fined and confined.

NOTE: The purpose of this bill is to create the crime of assault upon a regular citizen (non-police officer) by bodily fluid.  As of now, only three states (Delaware, Maryland, and South Dakota) include the general citizenry. This bill also addresses the issue of medical testing.

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