

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 527

By Senator Weld

[Introduced February 19, 2025; 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; and to
2 amend the code by adding a new section, designated §61-2-10c, relating to clarifying the
3 criminal offense of malicious assault, unlawful assault, and battery on law-enforcement
4 officers, correctional employees, and emergency medical service personnel; providing
5 definitions; and establishing penalties.

Be it enacted by the Legislature of West Virginia:

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,
correctional employees 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 except for any officer or employee designated in §61-2-10c of this code.

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

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

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

15 ~~(5) "Law enforcement officer" has the same definition as this term is defined in W.Va. Code~~

16 ~~§30-29-1, except for purposes of this section, "law enforcement officer" shall additionally include~~
17 ~~those individuals defined as "chief executive" in W.Va. Code §30-29-1.~~

18 ~~(6) "Correctional employee" means any individual employed by the West Virginia Division~~
19 ~~of Corrections, the West Virginia Regional Jail Authority, and the West Virginia Division of Juvenile~~
20 ~~Services and an employee of an entity providing services to incarcerated, detained or housed~~
21 ~~persons pursuant to a contract with such agencies.~~

22 (b) *Malicious assault.* — Any person who maliciously shoots, stabs, cuts or wounds or by
23 any means causes bodily injury with intent to maim, disfigure, disable or kill a government
24 representative, health care worker, or utility worker, ~~emergency service personnel, correctional~~
25 ~~employee or law enforcement officer~~ acting in his or her official capacity, and the person
26 committing the malicious assault knows or has reason to know that the victim is acting in his or her
27 official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a correctional
28 facility for not less than three nor more than 15 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, or utility
31 worker, ~~emergency service personnel, correctional employee or law enforcement officer~~ acting in
32 his or her official capacity bodily injury with intent to maim, disfigure, disable or kill him or her and
33 the person committing the unlawful assault knows or has reason to know that the victim is acting in
34 his or her official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a
35 correctional facility for not less than two nor more than five years.

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

42 or has reason to know that the victim is acting in his or her official capacity, is guilty of a
43 misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in jail
44 not less than one month nor more than twelve months or both fined and confined. If any person
45 commits a second such offense, he or she is guilty of a felony and, upon conviction thereof, shall
46 be fined not more than \$1,000 or imprisoned in a state correctional facility not less than one year
47 nor more than three years, or both fined and imprisoned. Any person who commits a third violation
48 of this subsection is guilty of a felony and, upon conviction thereof, shall be fined not more than
49 \$2,000 or imprisoned in a state correctional facility not less than two years nor more than five
50 years, or both fined and imprisoned.

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

61 ~~(f) Any person convicted of any crime set forth in this section who is incarcerated in a~~
62 ~~facility operated by the West Virginia Division of Corrections or the West Virginia Regional Jail~~
63 ~~Authority, or is in the custody of the Division of Juvenile Services and is at least eighteen years of~~
64 ~~age or subject to prosecution as an adult, at the time of committing the offense and whose victim is~~
65 ~~a correctional employee may not be sentenced in a manner by which the sentence would run~~
66 ~~concurrent with any other sentence being served at the time the offense giving rise to the~~
67 ~~conviction of a crime set forth in this section was committed.~~

§61-2-10c. Malicious assault; unlawful assault; battery; and assault on law-enforcement officers, correctional employees and emergency medical service personnel; definitions; penalties.

1 (a) For purposes of this section:

2 (1) "Emergency service personnel" means any paid or volunteer firefighter, emergency
3 medical technician, paramedic, or other emergency services personnel employed by or under
4 contract with an emergency medical service provider or a state agency or political subdivision
5 thereof.

6 (2) "Law-enforcement officer" has the same definition as this term is defined in §30-29-1 of
7 this code, except for purposes of this section, "law-enforcement officer" shall additionally include
8 those individuals defined as "chief executive" in §30-29-1 of this code.

9 (3) "Correctional employee" means any individual employed by the West Virginia Division
10 of Corrections, the West Virginia Regional Jail Authority, and the West Virginia Division of Juvenile
11 Services and an employee of an entity providing services to incarcerated, detained or housed
12 persons pursuant to a contract with such agencies.

13 (b) *Malicious assault.* -- Any person who maliciously shoots, stabs, cuts or wounds or by
14 any means causes bodily injury with intent to maim, disfigure, disable or kill an emergency service
15 personnel, correctional employee, or law-enforcement officer acting in his or her official capacity,
16 and the person committing the malicious assault knows or has reason to know that the victim is
17 acting in his or her official capacity is guilty of a felony and, upon conviction thereof, shall be
18 confined in a correctional facility for not less than three nor more than 15 years.

19 (c) *Unlawful assault.* -- Any person who unlawfully but not maliciously shoots, stabs, cuts
20 or wounds or by any means causes an emergency service personnel, correctional employee, or
21 law-enforcement officer acting in his or her official capacity bodily injury with intent to maim,
22 disfigure, disable or kill him or her and the person committing the unlawful assault knows or has
23 reason to know that the victim is acting in his or her official capacity is guilty of a felony and, upon

conviction thereof, shall be confined in a correctional facility for not less than two nor more than five years.

(d) *Battery.* -- Any person who unlawfully, knowingly and intentionally makes physical contact of an insulting or provoking nature with an emergency service personnel, correctional employee, or law-enforcement officer acting in his or her official capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, or unlawfully and intentionally causes physical harm to that person acting in such capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in jail not less than one month nor more than 12 months or both fined and confined. If any person commits a second such offense, he or she is guilty of a felony and, upon conviction thereof, shall be fined not more than \$1,000 or imprisoned in a state correctional facility not less than one year nor more than three years, or both fined and imprisoned. Any person who commits a third violation of this subsection is guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000 or imprisoned in a state correctional facility not less than two years nor more than five years, or both fined and imprisoned.

(e) *Assault.* -- Any person who unlawfully attempts to commit a violent injury to the person of an emergency service personnel, correctional employee, or law-enforcement officer acting in his or her official capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, or unlawfully commits an act which places that person acting in his or her official capacity in reasonable apprehension of immediately receiving a violent injury and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, is guilty of a felony and, upon conviction thereof, shall be fined not more than \$1,000 or imprisoned in a state correctional facility not less than one year nor more than three years, or both fined and imprisoned.

(f) Any person convicted of any crime set forth in this section who is incarcerated in a

50 facility operated by the West Virginia Division of Corrections and Rehabilitation or the West
51 Virginia Regional Jail Authority, or is in the custody of the West Virginia Division of Juvenile
52 Services and is at least 18 years of age or subject to prosecution as an adult, at the time of
53 committing the offense and whose victim is a correctional employee may not be sentenced in a
54 manner by which the sentence would run concurrent with any other sentence being served at the
55 time the offense giving rise to the conviction of a crime set forth in this section was committed.

NOTE: The purpose of this bill is to clarify the criminal offense of malicious assault, unlawful assault, and battery on law-enforcement officers, correctional employees, and emergency medical service personnel; provide definitions; and establish penalties.

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