

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

Introduced

### House Bill 2130

FISCAL  
NOTE

2015 Carryover

(BY DELEGATES WESTFALL, ESPINOSA, HAMRICK,  
McCuskey, STANSBURY, B. WHITE AND IHLE)

[Introduced January 13, 2016; 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 enhanced charges and penalties for assaults and batteries of law-enforcement officers  
 3 and defining law- enforcement officers.

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

4 That §61-2-10b of the Code of West Virginia, 1931, as amended, be amended and  
 5 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, 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  
 4 thereof.

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  
 7 hospital, county or district health department, long-term care facility, physician's office, clinic or  
 8 outpatient 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) "Law- enforcement officer" means an individual employed or otherwise engaged in  
 14 either a public or private position which involves the rendition of services relating to enforcement

15 of federal, state or local laws for the protection of public or private safety, including, but not  
16 limited to, positions as deputy sheriffs, police officers, marshals, bailiffs, court security officers or  
17 any other law-enforcement position which requires certification, but excluding positions held by  
18 elected sheriffs or appointed chiefs of police whose duties are determined by the board to be  
19 purely administrative in nature.

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

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

34 (d) *Battery.* -- Any person who unlawfully, knowingly and intentionally makes physical  
35 contact of an insulting or provoking nature with a government representative, health care worker  
36 or emergency service personnel or law-enforcement officer acting in his or her official capacity,  
37 or unlawfully and intentionally causes physical harm to that person acting in such capacity, is  
38 guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or

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

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

NOTE: The purpose of this bill is to include law-enforcement officers among those professionals the assault or battery of which leads to enhanced criminal penalties.

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