

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Committee Substitute

for

House Bill 2184

BY DELEGATES ROHRBACH, PACK AND PINSON

[Introduced January 19, 2022; 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 adding new penalties for exposure of governmental representatives, including
3 emergency medical service persons, to fentanyl, or to any other harmful drug or chemical
4 agent, and, for causing harm to such persons by exposing them to said agent.

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~~ and exposure of
governmental representatives, health care providers, utility workers, law-
enforcement officers, correctional employees and emergency medical service
personnel persons; 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 person~~nel~~" means any paid or volunteer firefighter, emergency
9 medical technician, paramedic, or other emergency services person~~nel~~, 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, that for purposes of this section, "law-enforcement officer" shall additionally
16 include those individuals defined as "chief executive" in W.Va. Code §30-29-1.

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

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

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

43 acting in his or her official capacity, is guilty of a misdemeanor and, upon conviction thereof, shall
44 be fined not more than \$500, or confined in jail not less than one month nor more than 12 months,
45 or, both fined and confined. If any person commits a second such offense, he or she is guilty of
46 a felony and, upon conviction thereof, shall be fined not more than \$1,000, or imprisoned in a
47 state correctional facility not less than one year nor more than three years, or, both fined and
48 imprisoned. Any person who commits a third violation of this subsection is guilty of a felony and,
49 upon conviction thereof, shall be fined not more than \$2,000, or imprisoned in a state correctional
50 facility not less than two years nor more than five 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, utility worker, emergency service personnel,
53 correctional employee or law-enforcement officer, who is acting in his or her official capacity and
54 whom the person committing the battery knows or has reason to know ~~that the victim~~ is acting in
55 his or her official capacity, or who unlawfully commits an act which places that person acting in
56 his or her official capacity in reasonable apprehension of immediately receiving a violent injury,
57 and whom the person committing the battery knows or has reason to know ~~that the victim~~ is acting
58 in his or her official capacity, is guilty of a misdemeanor and, upon conviction thereof, shall be
59 confined in jail for not less than 24 hours nor more than six months, fined not more than \$200, or
60 both fined and confined.

61 (f) Misdemeanor Exposure. – Any person who unlawfully and intentionally possesses
62 fentanyl or any other harmful drug or chemical agent and who exposes a government
63 representative, health care worker, utility worker, emergency service person, correctional
64 employee, or law-enforcement officer, who is acting in his or her official capacity, to such drug or
65 agent is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500,
66 or, confined in jail not less than one month nor more than 12 months, or both fined and confined.

67 (g) Felony Exposure. – Any person who unlawfully and intentionally possesses fentanyl
68 or any other harmful drug or chemical agent and who exposes a government representative,

69 health care worker, utility worker, emergency service person, correctional employee, or law-
70 enforcement officer, who is acting in his or her official capacity, to such drug or agent that causes
71 physical harm as a result of exposure to or contact with such a drug or agent is guilty of a felony
72 and, upon conviction thereof, shall be fined not more than \$2,000, or, imprisoned in a state
73 correctional facility not less than two years nor more than five years, or both fined and imprisoned.

74 ~~(f)~~ (h) Any person convicted of any crime set forth in this section who is incarcerated in a
75 facility operated by the West Virginia Division of Corrections or the West Virginia Regional Jail
76 Authority, or is in the custody of the Division of Juvenile Services and who is at least 18 years of
77 age, or is subject to prosecution as an adult, at the time of committing the offense, and whose
78 victim is a correctional employee may not be sentenced in a manner by which the sentence would
79 run concurrent with any other sentence being served at the time the offense giving rise to the
80 conviction of a crime set forth in this section was committed.

NOTE: The purpose of this bill is to increase the criminal penalties for exposure of governmental representatives, including emergency medical service personnel, to fentanyl or any other harmful drug or chemical agent.

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