

# WEST VIRGINIA LEGISLATURE

## 2023 REGULAR SESSION

Introduced

### House Bill 2392

FISCAL  
NOTE

By Delegate Rowe

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

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §61-2-10c, relating to creating a misdemeanor crime of assault upon a person  
 3 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.**

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

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

9 (c) Any person found guilty of assault with bodily fluid shall receive a misdemeanor penalty  
 10 and, upon conviction thereof, shall be confined in jail for not more than six months or fined not  
 11 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.