

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.