

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 3059**

By Delegates Mallow, Heckert, and Marple

[Introduced February 28, 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, relating  
2 to making a mandatory sentence of 25 years for an assault on any law enforcement officer  
3 or animal.

*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 (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 personnel" means any paid or volunteer firefighter, emergency  
9 medical technician, paramedic, or other emergency services personnel 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 for purposes of this section, "law-enforcement officer" shall additionally include  
16 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

of Corrections, the West Virginia Regional Jail Authority, and the West Virginia Division of Juvenile Services and an employee of an entity providing services to incarcerated, detained or housed persons pursuant to a contract with such agencies.

(b) *Malicious assault.* — Any person who maliciously shoots, stabs, cuts or wounds or by any means causes bodily injury with intent to maim, disfigure, disable or kill a government representative, health care worker, utility worker, emergency service personnel, correctional employee or law-enforcement officer acting in his or her official capacity, and the person committing the malicious assault 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 confined in a correctional facility for not less than three nor more than fifteen years.

(c) *Unlawful assault.* — Any person who unlawfully but not maliciously shoots, stabs, cuts or wounds or by any means causes a government representative, health care worker, utility worker, emergency service personnel, correctional employee or law-enforcement officer acting in his or her official capacity bodily injury with intent to maim, disfigure, disable or kill him or her and the person committing the unlawful assault 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 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 a government representative, health care worker, utility worker, 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

44 commits a second such offense, he or she is guilty of a felony and, upon conviction thereof, shall  
45 be fined not more than \$1,000 or imprisoned in a state correctional facility not less than one year  
46 nor more than three years, or both fined and imprisoned. Any person who commits a third violation  
47 of this subsection is guilty of a felony and, upon conviction thereof, shall be fined not more than  
48 \$2,000 or imprisoned in a state correctional facility not less than two years nor more than five  
49 years, or both fined and imprisoned.

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

60 (f) *Assault on a law enforcement officer or law enforcement animal.* — Any person who  
61 unlawfully attempts to commit a violent injury to the person of a law-enforcement officer or law  
62 enforcement animal, acting in his or her official capacity and the person committing the battery  
63 knows or has reason to know that the victim is acting in his or her official capacity, or unlawfully  
64 commits an act which places that person or animal acting in his or her official capacity in  
65 reasonable apprehension of immediately receiving a violent injury and the person committing the  
66 battery knows or has reason to know that the victim is acting in his or her official capacity, is guilty  
67 of a felony and, upon conviction thereof, shall be confined in jail for not less than 25 years.

68 (f) (g) Any person convicted of any crime set forth in this section who is incarcerated in a  
69 facility operated by the West Virginia Division of Corrections or the West Virginia Regional Jail

70 Authority, or is in the custody of the Division of Juvenile Services and is at least 18 years of age or  
71 subject to prosecution as an adult, at the time of committing the offense and whose victim is a  
72 correctional employee may not be sentenced in a manner by which the sentence would run  
73 concurrent with any other sentence being served at the time the offense giving rise to the  
74 conviction of a crime set forth in this section was committed.

NOTE: The purpose of this bill is to make a mandatory sentence of 25 years for anyone convicted of assault on any law enforcement officer or law enforcement animal.

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