

RECEIVED

1993 MAY -4 AM 10: 13

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993



ENROLLED

Com. Sub. For
HOUSE BILL No. *2314*

(By Delegates *Love and Pettit*)



Passed *April 9* 1993

In Effect *Ninety Days From* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2314

(By DELEGATES LOVE AND PETTIT)

[Passed April 9, 1993; in effect ninety days from passage.]

AN ACT to amend and reenact article two, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section ten-b, all relating to creating the crimes of malicious assault, unlawful assault and assault and battery against police officers; and providing criminal penalties therefor.

Be it enacted by the Legislature of West Virginia:

That article two, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section ten-b, to read as follows:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-10b. Malicious assault; unlawful assault; battery and recidivism of battery; assault on police officers, conservation officers, county or state correctional officers; penalties.

- 1 (a) *Malicious assault.* — If any person maliciously
- 2 shoots, stabs, cuts or wounds or by any means causes
- 3 bodily injury with intent to maim, disfigure, disable or
- 4 kill a police officer, county correctional officer or state
- 5 correctional officer acting in his or her official capacity

6 and the person committing the malicious assault knows
7 or has reason to know that the victim is a police officer,
8 conservation officer, county correctional officer or state
9 correctional officer acting in his or her official capacity,
10 then the offender shall be guilty of a felony, and, upon
11 conviction, shall be punished by confinement in the
12 penitentiary not less than three nor more than fifteen
13 years.

14 (b) *Unlawful assault.* — If any person unlawfully but
15 not maliciously shoots, stabs, cuts or wounds or by any
16 means causes a police officer, conservation officer,
17 county correctional officer acting in his or her official
18 capacity or state correctional officer bodily injury with
19 intent to maim, disfigure, disable or kill said officer and
20 the person committing the unlawful assault knows or
21 has reason to know that the victim is a police officer,
22 conservation officer, county correctional officer or state
23 correctional officer acting in his or her official capacity,
24 then the offender is guilty of a felony, and, upon
25 conviction, shall be confined to the penitentiary for a
26 period of not less than two years nor more than five
27 years.

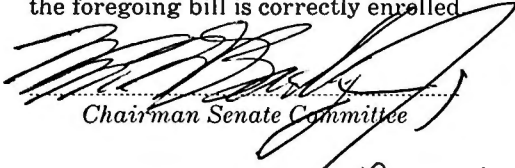
28 (c) *Battery.* — If any person unlawfully and intention-
29 ally makes physical contact of an insulting or provoking
30 nature with a police officer, conservation officer, county
31 correctional officer or state correctional officer acting in
32 his or her official capacity, or unlawfully and intention-
33 ally causes physical harm to a police officer, conserva-
34 tion officer, county correctional officer or state correc-
35 tional officer acting in such capacity, said person is
36 guilty of a misdemeanor, and, upon conviction thereof,
37 shall be confined to the county or regional jail for a
38 period of not less than forty-eight hours nor more than
39 twelve months or fined the sum of five hundred dollars
40 or both. If any person who commits a second such
41 offense, then such person is guilty of a misdemeanor,
42 and, upon conviction, shall be confined in the county or
43 regional jail for a period of not less than ten days nor
44 more than twelve months. Any person who commits a
45 third violation of this section is guilty of a felony, and,
46 upon conviction, shall be confined in the penitentiary for

47 a period of not less than one year nor more than five
48 years or fined not more than one thousand dollars or
49 both.

50 (d) *Assault.* — If any person unlawfully attempts to
51 commit a violent injury to the person of a police officer,
52 conservation officer, county correctional officer or state
53 correctional officer, or unlawfully commits an act which
54 places a police officer, conservation officer, county
55 correctional officer or state correctional officer acting in
56 his or her official capacity in reasonable apprehension
57 of immediately receiving a violent injury, he shall be
58 guilty of a misdemeanor, and upon conviction, shall be
59 confined in the county or regional jail for not less than
60 twenty-four hours or more than six months, or fined not
61 more than two hundred dollars, or both such fine and
62 imprisonment.

63 (e) *Police officer defined.* — As used in this section, a
64 police officer means any officer employed by the division
65 of public safety, any county law-enforcement agency or
66 any police officer employed by any city or municipality
67 who is responsible for the prevention or detection of
68 crime and the enforcement of the penal, traffic or
69 highway laws of this state.

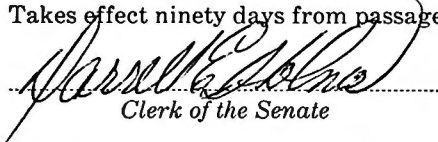
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled


.....
Chairman Senate Committee


.....
Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

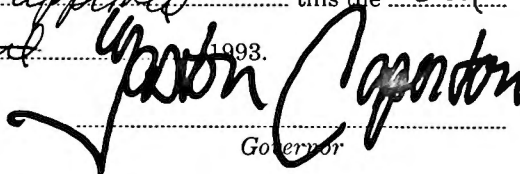

.....
Clerk of the Senate


.....
Donald L. Hogg
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker of the House of Delegates

The within as appended this the 3rd
day of May 1993.


.....
Governor

PRESENTED TO THE

GOVERNOR,

Date 4/22/93

Time 11:35 am