

SB 641 S
(veto)

FILED

2007 MAR 28 PM 3: 35

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED
Committee substitute for
Senate Bill No. 641

(SENATORS BOLEY AND LOVE, *original sponsors*)

[Passed March 6, 2007; in effect ninety days from passage.]

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 641

(SENATORS BOLEY AND LOVE, *original sponsors*)

[Passed March 6, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating to malicious assault, unlawful assault, battery and recidivism of battery on a police officer; including malicious assault, unlawful assault, battery and recidivism of battery on a Public Service Commission weight enforcement officer as a crime; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That §61-2-10b of the Code of West Virginia, 1931, as amended, be amended and reenacted 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, probation officers, humane officers, emergency medical service personnel, firefighters, fire marshal, Division of Forestry employees, Public Service Commission motor carrier inspectors, Public Service Commission weight enforcement officers, employees of an urban mass transportation system and county or state correctional employees; penalties.

1 (a) *Malicious assault.* — Any person who 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, probation officer, conservation
5 officer, humane officer, emergency medical service
6 personnel, firefighter, State Fire Marshal or employee,
7 Division of Forestry employee, county correctional
8 employee or state correctional employee, employee of an
9 urban mass transportation system, Public Service
10 Commission motor carrier inspector or Public Service
11 Commission weight enforcement officer acting in his or
12 her official capacity and the person committing the
13 malicious assault knows or has reason to know that the
14 victim is a police officer, probation officer, conservation
15 officer, humane officer, emergency medical service
16 personnel, firefighter, State Fire Marshal or employee,
17 Division of Forestry employee, county correctional
18 employee, state correctional employee, employee of an
19 urban mass transportation system, Public Service
20 Commission motor carrier inspector or Public Service
21 Commission weight enforcement officer acting in his or
22 her official capacity is guilty of a felony and, upon
23 conviction thereof, shall be confined in a state
24 correctional facility for not less than three nor more
25 than fifteen years.

26 (b) *Unlawful assault.* — Any person who unlawfully
27 but not maliciously shoots, stabs, cuts or wounds or by
28 any means causes a police officer, probation officer,
29 conservation officer, humane officer, emergency
30 medical service personnel, firefighter, State Fire

31 Marshal or employee, Division of Forestry employee,
32 county correctional employee or state correctional
33 employee, employee of an urban mass transportation
34 system, Public Service Commission motor carrier
35 inspector or Public Service Commission weight
36 enforcement officer acting in his or her official capacity
37 bodily injury with intent to maim, disfigure, disable or
38 kill him or her and the person committing the unlawful
39 assault knows or has reason to know that the victim is
40 a police officer, probation officer, conservation officer,
41 humane officer, emergency medical service personnel,
42 firefighter, State Fire Marshal or employee, Division of
43 Forestry employee, county correctional employee, state
44 correctional employee, employee of an urban mass
45 transportation system, Public Service Commission
46 motor carrier inspector or Public Service Commission
47 weight enforcement officer acting in his or her official
48 capacity is guilty of a felony and, upon conviction
49 thereof, shall be confined in a state correctional facility
50 for not less than two nor more than five years.

51 (c) *Battery*. — Any person who unlawfully, knowingly
52 and intentionally makes physical contact of an insulting
53 or provoking nature with a police officer, probation
54 officer, conservation officer, humane officer, emergency
55 medical service personnel, firefighter, State Fire
56 Marshal or employee, Division of Forestry employee,
57 county correctional employee, state correctional
58 employee, employee of a mass transportation system,
59 Public Service Commission motor carrier inspector or
60 Public Service Commission weight enforcement officer
61 acting in his or her official capacity, or unlawfully and
62 intentionally causes physical harm to a police officer,
63 probation officer, conservation officer, humane officer,
64 emergency medical service personnel, firefighter, State
65 Fire Marshal or employee, Division of Forestry
66 employee, county correctional employee, state
67 correctional employee, employee of an urban mass
68 transportation system, Public Service Commission
69 motor carrier inspector or Public Service Commission
70 weight enforcement officer acting in such capacity is
71 guilty of a misdemeanor and, upon conviction thereof,
72 shall be confined in jail for not less than one month nor

73 more than twelve months, fined the sum of five hundred
74 dollars, or both. If any person commits a second such
75 offense, he or she is guilty of a felony and, upon
76 conviction thereof, shall be confined in a state
77 correctional facility for not less than one year nor more
78 than three years or fined the sum of one thousand
79 dollars or both fined and confined. Any person who
80 commits a third violation of this subsection is guilty of
81 a felony and, upon conviction thereof, shall be confined
82 in a state correctional facility not less than two years
83 nor more than five years or fined not more than two
84 thousand dollars or both fined and confined.

85 (d) *Assault.* — Any person who unlawfully attempts to
86 commit a violent injury to the person of a police officer,
87 probation officer, conservation officer, humane officer,
88 emergency medical service personnel, firefighter, State
89 Fire Marshal or employee, Division of Forestry
90 employee, county correctional employee, state
91 correctional employee, employee of a mass
92 transportation system, Public Service Commission
93 motor carrier inspector or Public Service Commission
94 weight enforcement officer acting in his or her official
95 capacity, or unlawfully commits an act which places a
96 police officer, probation officer, conservation officer,
97 humane officer, emergency medical service personnel,
98 firefighter, Division of Forestry employee, county
99 correctional employee or state correctional employee,
100 employee of a mass transportation system, Public
101 Service Commission motor carrier inspector or Public
102 Service Commission weight enforcement officer acting
103 in his or her official capacity in reasonable
104 apprehension of immediately receiving a violent injury
105 is guilty of a misdemeanor and, upon conviction thereof,
106 shall be confined in jail for not less than twenty-four
107 hours nor more than six months, fined not more than
108 two hundred dollars, or both fined and confined.

109 (e) For purposes of this section:

110 (1) "Police officer" means any person employed by the
111 State Police, any person employed by the state to
112 perform law-enforcement duties, any person employed

113 by a political subdivision of this state who is responsible
114 for the prevention or detection of crime and the
115 enforcement of the penal, traffic or highway laws of this
116 state or employed as a special police officer as defined
117 in section forty-one, article three of this chapter.

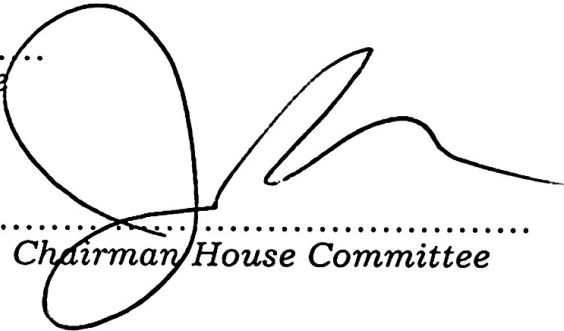
118 (2) "Employee of an urban mass transportation
119 system" means any person employed by an urban mass
120 transportation system as such is defined in section
121 three, article twenty-seven, chapter eight of this code or
122 by a system that receives federal transit administration
123 funding under 49 U. S. C. §5307 or §5311.

124 (3) "Division of Forestry employee" means an officer,
125 agent, employee or servant, whether full time or not, of
126 the Division of Forestry.

Enr. Com. Sub. for S. B. No. 641] 6

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


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Chairman Senate Committee



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Chairman House Committee

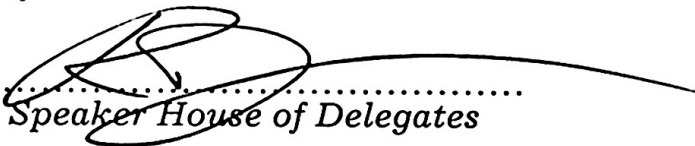
Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within *is disapproved* this
the *25th* Day of *March*, 2007.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 20 2007

Time 4:10