

1 **H. B. 2804**

2  
3 (By Delegates P. Smith, Hunt, Barill, Walker,  
4 Eldridge, Skaff, Marcum, White and Campbell)

5 [Introduced March 4, 2013; referred to the  
6 Committee on the Judiciary then Finance.]

7 **FISCAL**  
8 **NOTE**

9  
10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new section, designated §61-2-16b, relating  
12 to creating criminal penalties for assault or battery on a  
13 pregnant woman against the will and without the consent of the  
14 woman where the perpetrator knows or has reason to know that  
15 the victim is pregnant; creating both misdemeanors and  
16 felonies; and providing for incremental penalties for multiple  
17 batteries.

18 *Be it enacted by the Legislature of West Virginia:*

19 That the Code of West Virginia, 1931, as amended, be amended  
20 by adding thereto a new section, designated §61-2-16b, to read as  
21 follows:

22 **ARTICLE 2. CRIMES AGAINST THE PERSON.**

23 **§61-2-16b. Malicious assault; unlawful assault; battery and**  
24 **recidivism of battery; assault on a pregnant woman.**

1       (a) Malicious assault. -- Any person who maliciously shoots,  
2 stabs, cuts or wounds or by any means causes bodily injury with  
3 intent to maim, disfigure, disable or kill a pregnant woman against  
4 the will and without the consent of the woman and the person  
5 committing the malicious assault knows or has reason to know that  
6 the victim is pregnant is guilty of a felony and, upon conviction  
7 thereof, shall be confined in a correctional facility for not less  
8 than three nor more than fifteen years.

9       (b) Unlawful assault. -- Any person who unlawfully but not  
10 maliciously shoots, stabs, cuts or wounds or by any means causes a  
11 pregnant woman bodily injury with intent to maim, disfigure,  
12 disable or kill her against the will and without the consent of the  
13 woman and the person committing the unlawful assault knows or has  
14 reason to know that the victim is pregnant is guilty of a felony  
15 and, upon conviction thereof, shall be confined in a correctional  
16 facility for not less than two nor more than five years.

17       (c) Battery. -- Any person who unlawfully, knowingly and  
18 intentionally makes physical contact of an insulting or provoking  
19 nature with a pregnant woman or unlawfully and intentionally causes  
20 physical harm to her against the will and without the consent of  
21 the woman and the person committing the battery knows or has reason  
22 to know that the victim is pregnant is guilty of a misdemeanor and,  
23 upon conviction thereof, shall be confined in a regional jail for  
24 not less than one month nor more than twelve months, fined the sum

1 of \$500, or both fined and confined. If any person commits a  
2 second such offense, he or she is guilty of a felony and, upon  
3 conviction thereof, shall be confined in a correctional facility  
4 for not less than one year nor more than three years or fined the  
5 sum of \$1,000, or both fined and confined. Any person who commits  
6 a third violation of this subsection is guilty of a felony and,  
7 upon conviction thereof, shall be confined in a correctional  
8 facility not less than two years nor more than five years or fined  
9 not more than \$2,000, or both fined and confined.

10 (d) Assault. -- Any person who unlawfully attempts to commit  
11 a violent injury to a pregnant woman or unlawfully commits an act  
12 which places a pregnant woman in reasonable apprehension of  
13 immediately receiving a violent injury against the will and without  
14 the consent of the woman and the person committing the assault  
15 knows or has reason to know that the victim is pregnant is guilty  
16 of a misdemeanor and, upon conviction thereof, shall be confined in  
17 a regional jail for not less than twenty-four hours nor more than  
18 six months, fined not more than \$200, or both fined and confined.

NOTE: The purpose of this bill is to create enhanced criminal penalties for assaults or batteries against pregnant women against the will and without the consent of the women where the perpetrator knows or has reason to know that the victim is pregnant. The bill creates both misdemeanors and felonies. The bill also provides for incremental penalties for multiple batteries.

This section is new; therefore, it has been completely underscored.