

H. B. 2130

(By Delegates Westfall, Pasdon, Espinosa, Hamrick, McCuskey,
Stansbury, B. White, Ihle and L. Phillips)

[Introduced January 20, 2015; referred to the
Committee on the Judiciary.]

**FISCAL
NOTE**

A BILL to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating to enhanced charges and penalties for assaults and batteries of law-enforcement officers and defining law- enforcement officers.

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 assault on governmental representatives, health care providers, law enforcement officers and emergency medical service personnel; definitions; penalties.

(a) For purposes of this section:

(1) "Government representative" means any officer or employee of the state or a political subdivision thereof, or a person under contract with a state agency or political subdivision thereof.

(2) "Health care worker" means any nurse, nurse practitioner, physician, physician assistant

1 or technician practicing at, and all persons employed by or under contract to a hospital, county or
 2 district health department, long-term care facility, physician's office, clinic or outpatient treatment
 3 facility.

4 (3) "Emergency service personnel" means any paid or volunteer firefighter, emergency
 5 medical technician, paramedic, or other emergency services personnel employed by or under contract
 6 with an emergency medical service provider or a state agency or political subdivision thereof.

7 (4) "Law-enforcement officer" means an individual employed or otherwise engaged in either
 8 a public or private position which involves the rendition of services relating to enforcement of
 9 federal, state or local laws for the protection of public or private safety, including, but not limited
 10 to, positions as deputy sheriffs, police officers, marshals, bailiffs, court security officers or any other
 11 law-enforcement position which requires certification, but excluding positions held by elected
 12 sheriffs or appointed chiefs of police whose duties are determined by the board to be purely
 13 administrative in nature.

14 (b) *Malicious assault.* -- Any person who maliciously shoots, stabs, cuts or wounds or by any
 15 means causes bodily injury with intent to maim, disfigure, disable or kill a government
 16 representative, health care worker ~~or~~ emergency service personnel or law-enforcement officer acting
 17 in his or her official capacity, and the person committing the malicious assault knows or has reason
 18 to know that the victim is acting in his or her official capacity is guilty of a felony and, upon
 19 conviction thereof, shall be confined in a correctional facility for not less than three nor more than
 20 fifteen years.

21 (c) *Unlawful assault.* -- Any person who unlawfully but not maliciously shoots, stabs, cuts
 22 or wounds or by any means causes a government representative, health care worker ~~or~~ emergency

1 service personnel or law-enforcement officer acting in his or her official capacity bodily injury with
2 intent to maim, disfigure, disable or kill him or her and the person committing the unlawful assault
3 knows or has reason to know that the victim is acting in his or her official capacity is guilty of a
4 felony and, upon conviction thereof, shall be confined in a correctional facility for not less than two
5 nor more than five years.

6 (d) *Battery*. -- Any person who unlawfully, knowingly and intentionally makes physical
7 contact of an insulting or provoking nature with a government representative, health care worker ~~or~~
8 emergency service personnel or law-enforcement officer acting in his or her official capacity, or
9 unlawfully and intentionally causes physical harm to that person acting in such capacity, is guilty of
10 a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in jail
11 not less than one month nor more than twelve months or both fined and confined. If any person
12 commits a second such offense, he or she is guilty of a felony and, upon conviction thereof, shall be
13 fined not more than \$1,000 or imprisoned in a state correctional facility not less than one year nor
14 more than three years, or both fined and imprisoned. Any person who commits a third violation of
15 this subsection is guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000
16 or imprisoned in a state correctional facility not less than two years nor more than five years, or both
17 fined and imprisoned.

18 (e) *Assault*. -- Any person who unlawfully attempts to commit a violent injury to the person
19 of a government representative, health care worker ~~or~~ emergency service personnel or law-
20 enforcement officer, acting in his or her official capacity, or unlawfully commits an act which places
21 that person acting in his or her official capacity in reasonable apprehension of immediately receiving
22 a violent injury, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail

- 1 for not less than twenty-four hours nor more than six months, fined not more than \$200, or both
- 2 fined and confined.

NOTE: The purpose of this bill is to include law-enforcement officers among those professionals the assault or battery of which leads to enhanced criminal penalties.

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