

H. B. 2439

(By Delegates P. Smith, Rodighiero, Trecoast, Eldridge, Campbell,
Lynch, Williams, Longstreth, L. Phillips and Frich)

[Introduced January 27, 2015; referred to the
Committee on the Judiciary.]

**FISCAL
NOTE**

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. CRIMES AGAINST THE PERSON.

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

(a) 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 pregnant woman against the will and without the consent of the woman and the person committing the malicious assault

1 knows or has reason to know that the victim is pregnant is guilty of a felony and, upon conviction
2 thereof, shall be confined in a correctional facility for not less than three nor more than fifteen years.

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

9 (c) *Battery.* -- Any person who unlawfully, knowingly and intentionally makes physical
10 contact of an insulting or provoking nature with a pregnant woman or unlawfully and intentionally
11 causes physical harm to her against the will and without the consent of the woman and the person
12 committing the battery knows or has reason to know that the victim is pregnant is guilty of a
13 misdemeanor and, upon conviction thereof, shall be confined in a regional jail for not less than one
14 month nor more than twelve months, fined the sum of \$500, or both fined and confined. If any
15 person commits a second such offense, he or she is guilty of a felony and, upon conviction thereof,
16 shall be imprisoned in a correctional facility for not less than one year nor more than three years or
17 fined the sum of \$1,000, or both fined and imprisoned. Any person who commits a third violation
18 of this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a
19 correctional facility not less than two years nor more than five years or fined not more than \$2,000,
20 or both fined and imprisoned.

21 (d) *Assault.* -- Any person who unlawfully attempts to commit a violent injury to a pregnant
22 woman or unlawfully commits an act which places a pregnant woman in reasonable apprehension

1 of immediately receiving a violent injury against the will and without the consent of the woman and
2 the person committing the assault knows or has reason to know that the victim is pregnant is guilty
3 of a misdemeanor and, upon conviction thereof, shall be confined in a regional jail for not less than
4 twenty-four hours nor more than 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.