

Senate Bill No. 350

(By Senators D. Hall, Beach, Blair, Facemire, Ferns, Gaunch,
M. Hall, Kessler, Kirkendoll, Laird, Mullins, Plymale, Prezioso,
Snyder, Stollings, Trump, Walters, Romano, Nohe,
Williams and Leonhardt)

[Introduced January 28, 2015;
referred to the Committee on the Judiciary.]

A BILL to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating to protection of utility workers from crimes against the person; defining "utility worker"; and establishing 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 assault on governmental representatives, health care providers, utility workers and emergency medical service personnel; definitions; penalties.

- 1 (a) For purposes of this section:
 - 2 (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.

1 (2) "Health care worker" means any nurse, nurse practitioner, physician, physician assistant
2 or technician practicing at, and all persons employed by or under contract to, a hospital, county or
3 district health department, long-term care facility, physician's office, clinic or outpatient treatment
4 facility.

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

8 (4) "Utility worker" means any individual employed by a public utility or electric cooperative
9 or under contract to a public utility, electric cooperative or interstate pipeline.

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

16 (c) *Unlawful assault.* -- Any person who unlawfully but not maliciously shoots, stabs, cuts
17 or wounds or by any means causes a government representative, health care worker, utility worker
18 or emergency service personnel acting in his or her official capacity bodily injury with intent to
19 maim, disfigure, disable or kill him or her and the person committing the unlawful assault knows
20 or has reason to know that the victim is acting in his or her official capacity is guilty of a felony and,
21 upon conviction thereof, shall be confined in a correctional facility for not less than two nor more

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1 than five years.

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

14 (e) *Assault*. -- Any person who unlawfully attempts to commit a violent injury to the person
15 of a government representative, health care worker, utility worker or emergency service personnel
16 acting in his or her official capacity, or unlawfully commits an act which places that person acting
17 in his or her official capacity in reasonable apprehension of immediately receiving a violent injury,
18 is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than
19 twenty-four hours nor more than six months, fined not more than \$200, or both fined and confined.

(NOTE: Special criminal penalties are already established for assault or battery on

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government, health care or emergency service workers. The purpose of this bill is to include utility workers among those other workers for whom protections are established. Utility worker includes those employed on interstate pipelines.

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