

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

Introduced

### Senate Bill 277

FISCAL  
NOTE

BY SENATORS CARMICHAEL AND WOELFEL

[Introduced January 14, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating  
 2 to adding a definition; and increasing the criminal penalties for certain assaults and  
 3 batteries.

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

1 That §61-2-10b of the Code of West Virginia, 1931, as amended, be amended and  
 2 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, 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  
 3 subdivision thereof, or a person under contract with a state agency or political subdivision thereof.

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

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

12 (4) "Physical harm" includes cuts, scrapes, bruises or other physical injury.

13 (b) *Malicious assault.* -- Any person who maliciously shoots, stabs, cuts or wounds or by  
 14 any means causes bodily injury with intent to maim, disfigure, disable or kill a government  
 15 representative, health care worker or emergency service personnel acting in his or her official

16 capacity, and the person committing the malicious assault knows or has reason to know that the  
17 victim is acting in his or her official capacity is guilty of a felony and, upon conviction thereof, shall  
18 be confined in a correctional facility for not less than three nor more than fifteen years.

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

26 (d) *Battery.* -- Any person who unlawfully, knowingly and intentionally makes physical  
27 contact of an insulting or provoking nature with a government representative, health care worker  
28 or emergency service personnel acting in his or her official capacity, or unlawfully and intentionally  
29 causes physical harm to that person acting in such capacity, is guilty of a ~~misdemeanor~~ felony  
30 and, upon conviction thereof, shall be fined not more than ~~\$500~~ \$1,000 or confined in ~~in jail~~ a state  
31 correctional facility not less than one ~~month~~ year nor more than ~~twelve months~~ three years or both  
32 fined and confined. If any person commits a second such offense, he or she is guilty of a felony  
33 and, upon conviction thereof, shall be fined not more than ~~\$1,000~~ \$2,000 or  
34 confined in a state correctional facility not less than ~~one year~~ two years nor more than ~~three~~ five  
35 years, or both fined and ~~imprisoned~~ confined. Any person who commits a third violation of this  
36 subsection is guilty of a felony and, upon conviction thereof, shall be fined not more than ~~\$2,000~~  
37 \$3,000 or ~~imprisoned~~ confined in a state correctional facility not less than ~~two~~ years nor more  
38 than ~~five~~ ten years, or both fined and ~~imprisoned~~ confined.

39 (e) *Assault.* -- Any person who unlawfully attempts to commit a violent injury to the person

40 of a government representative, health care worker or emergency service personnel acting in his  
41 or her official capacity, or unlawfully commits an act which places that person acting in his or her  
42 official capacity in reasonable apprehension of immediately receiving a violent injury, is guilty of  
43 a ~~misdemeanor~~ felony and, upon conviction thereof, shall be confined in jail for not less than  
44 ~~twenty-four hours~~ six months nor more than ~~six~~ eighteen months, fined not more than ~~\$200,~~  
45 \$1,000 or both fined and confined.

NOTE: The purpose of this bill is to add a definition and increase the criminal penalties for certain assaults and batteries.

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