

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 578

BY SENATORS BOSO, ASHLEY, BLAIR, GAUNCH, KARNES,

KIRKENDOLL, MAYNARD, MILLER, MULLINS, ROMANO,

WILLIAMS, STOLLINGS AND PLYMALE

[Introduced February 11, 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 protection of utility workers from crimes against the person; defining “utility worker”; and
3 establishing penalties.

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, 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
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) “Utility worker” means any individual employed by a public utility or electric cooperative
13 or under contract to a public utility, electric cooperative or interstate pipeline.

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

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

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

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

40 (e) *Assault.* — Any person who unlawfully attempts to commit a violent injury to the person
41 of a government representative, health care worker, utility worker or emergency service personnel
42 acting in his or her official capacity, or unlawfully commits an act which places that person acting

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- 43 in his or her official capacity in reasonable apprehension of immediately receiving a violent injury,
44 is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than
45 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 include utility workers among government, health care and emergency service workers for whom special criminal penalties are already established for assault or battery. Utility worker includes those employed on interstate pipelines.

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