

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

Introduced

### House Bill 2402

FISCAL  
NOTE

2015 Carryover

(BY DELEGATE RODIGHIERO)

[Introduced January 13, 2016; referred to the  
Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §61-2-31, relating to crimes against the person; creating a criminal felony  
 3 offense of aggravated assault or battery of a child or a person who is mentally  
 4 incapacitated; and providing penalties.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 section, designated §61-2-31, to read as follows:

**ARTICLE 2. CRIMES AGAINST THE PERSON.**

**§61-2-31. Assault, battery on child under fifteen years of age or mentally incapacitated person; penalties.**

1 (a) If any person commits an assault as defined in subsection (b), section nine of this  
 2 article, to the person of a child under the age of fifteen years or to the person of someone who is  
 3 mentally incapacitated, regardless of age, the offender is guilty of a felony and, upon conviction  
 4 thereof, shall be fined not less than \$1,000 nor more than \$3,000 and imprisoned in a state  
 5 correctional facility for not less than one year nor more than three years, or both fined and  
 6 imprisoned.

7 (b) If any person commits a battery, as defined in subsection (c), section nine of this article,  
 8 against the person of a child under the age of fifteen years or to the person of someone who is  
 9 mentally incapacitated, regardless of age, the offender is guilty of a felony and, upon conviction  
 10 thereof, shall be fined not less than \$3,000 nor more than \$10,000 and imprisoned in a state  
 11 correctional facility for not less than one year nor more than five years, or both fined and  
 12 imprisoned.

NOTE: The purpose of this bill is to create a criminal felony offense of aggravated assault or battery of a child or a person who is mentally incapacitated.

This section is new; therefore, it has been completely underscored.