

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2763

FISCAL
NOTE

By Delegates Steele, Burkhammer, Foster, Smith,

Mazzocchi, Butler, Heckert and Brooks

[Introduced January 18, 2023; Referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §61-2-1 of the Code of West Virginia, 1931, as amended, relating to
2 crimes against the person and updating the definition of murder in the first degree when the
3 intended victim is engaged in the course of performing his or her official duties as a law
4 enforcement officer or employee in designated classifications of law enforcement
5 employees; whether federal or state; including specifically identified intended victims who
6 are employees engaged in the course of performing his or her official duties as employees
7 of the Division of Juvenile services; including specifically identified intended victims who
8 are employees engaged in the course of performing his or her official duties and defined as
9 employees as first responders; including specifically identified intended victims who are
10 employees engaged in the course of performing his or her official duties as employees of a
11 state correctional facility, federal correctional facility, regional jail, county operated jail or
12 holding facility or other such facilities; including when the intended victim is actively
13 engaged in the course of performing his or her official duties as a Justice of the West
14 Virginia Supreme Court of Appeals, Judge with the West Virginia Intermediate Court of
15 Appeals, Circuit Judge, Family Court Judge, or Magistrate; or when the intended victim is
16 actively engaged in the course of performing his or her official duties as a Child Protective
17 Services worker employed by the West Virginia Department of Health and Human
18 Resources, or individuals employed or contracted to provide social services for the West
19 Virginia Department of Health and Human Resources.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-1. First and second degree murder defined; allegations in indictment for homicide.

1 (a) Murder by poison, lying in wait, imprisonment, starving, or by any willful, deliberate, and
2 premeditated killing, or in the commission of, or attempt to commit, arson, kidnapping, sexual
3 assault, robbery, burglary, breaking and entering, escape from lawful custody, or a felony offense
4 of manufacturing or delivering a controlled substance as defined in §60A-4-1 *et seq.* of this code,

5 is murder of the first degree.

6 (b) A person is guilty of murder in the first degree when an individual feloniously,
7 intentionally, deliberately, willfully, and unlawfully kills an individual; and

8 (1) The intended victim was a federal, state, county or municipal law-enforcement officer,
9 parole officer, probation officer, or day report officer who was at the time of the killing engaged in
10 the course of performing his or her official duties, and the defendant knew or reasonably should
11 have known that the intended victim was a federal, state, county or municipal law-enforcement
12 officer, parole officer, probation officer, or day report officer; or

13 (2) The intended victim was an employee of the Division of Juvenile Services of who was at
14 the time of the killing engaged in the course of performing his or her official duties, and the
15 defendant knew or reasonably should have known that the intended victim was an officer, parole
16 officer, probation officer, correctional officer, social worker, or other employee of the Division of
17 Juvenile Services; or

18 (3) The intended victim was a firefighter, emergency medical technician, ambulance driver,
19 paramedic, physician or nurse involved in a first response team, or any other individual who, in the
20 course of official duties, performs emergency response activities and was engaged in those
21 activities at the time of killing and the defendant knew or reasonably should have known that the
22 intended victim was a firefighter, emergency medical technician, ambulance driver, paramedic,
23 physician, nurse, or other individual who, in the course of official duties, was performing
24 emergency response activities and was engaged in those activities; or

25 (4) The intended victim was an employee of a state correctional facility, federal correctional
26 facility, regional jail, county operated jail or holding facility, or was an employee of a locally
27 operated correctional facility, or privately operated correctional facility who was at the time of the
28 killing engaged in the course of performing his or her official duties, and the defendant knew or
29 reasonably should have known that the intended victim was an employee of a state correctional
30 facility, federal correctional facility, regional jail, county operated jail or holding facility, or was an

31 employee of a locally operated correctional facility, or privately operated correctional facility; or

32 (5) The intended victim was an actively employed Justice of the West Virginia Supreme
33 Court of Appeals, Judge with the West Virginia Intermediate Court of Appeals, Circuit Judge,
34 Family Court Judge, or Magistrate and the defendant killed the victim because the victim was, at
35 the time of the killing, a Justice of the West Virginia Supreme Court of Appeals, Judge with the
36 West Virginia Intermediate Court of Appeals, Circuit Judge, Family Court Judge, or Magistrate; or

37 (6) The intended victim was a Child Protective Services worker employed by the West
38 Virginia Department of Health and Human Resources, or individuals employed or contracted to
39 provide social services for the West Virginia Department of Health and Human Resources, who
40 was at the time of the killing engaged in the course of performing his or her official or contractual
41 duties, and the defendant knew or reasonably should have known that the intended victim was
42 employed as a child protective services worker for the West Virginia Department of Health and
43 Human Resources, or was an individual contracted to provide social services for the West Virginia
44 Department of Health and Human Resources.

45 (c) All other murder is murder of the second degree.

46 (d) In an indictment for murder and manslaughter, it shall not be necessary to set forth the
47 manner in which, or the means by which, the death of the deceased was caused, but it shall be
48 sufficient in every such indictment to charge that the defendant did feloniously, willfully,
49 maliciously, deliberately, and unlawfully slay, kill, and murder the deceased.

NOTE: The purpose of this bill is to update the definition of murder in the first degree when the intended victim is engaged in the course of performing certain specific types of employment in law enforcement, employees of the correctional systems; employees of first responder services, the members of the state judiciary system, and employees of various social services provided by the state.

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