

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 5575**

By Delegate Young

[Introduced February 12, 2024; Referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §29-3A-4 of the Code of West Virginia, 1931, as amended; and to  
 2 amend and reenact §61-2-10b of said code, relating to doubling the penalties associated  
 3 with civilians attacking law enforcement, firefighters, and other emergency services  
 4 personnel.

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

**CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

**ARTICLE 3A. AUTHORITY OF LOCAL FIRE DEPARTMENTS.**

**§29-3A-4. Person attacking or hindering or obstructing firefighter or emergency equipment; penalties.**

1 (a) It is unlawful, while any fire department or company or firefighter is lawfully exercising or  
 2 discharging the department's, company's or firefighter's official duty during an emergency, for any  
 3 person to:

4 (1) Attack any firefighter or any of his or her equipment with any deadly weapon as defined  
 5 in section two, article seven, chapter sixty-one of this code; or

6 (2) Intentionally hinder, obstruct, oppose, or attempt to hinder, obstruct or oppose, or  
 7 counsel, advise or invite others to hinder, obstruct or oppose, any fire department, fire company or  
 8 firefighter.

9 (b) Any person violating the provisions of this section is guilty of a felony and, upon  
 10 conviction thereof, shall be confined in a state correctional facility not less than one nor more than  
 11 ten years, or, in the discretion of the court, be confined in the regional or county jail not more than  
 12 ~~one year~~ two years or fined not more than ~~\$500~~ \$1,000, or both.

13 (c) Any person willfully violating any of the provisions of section one or three of this article is  
 14 guilty of a ~~misdemeanor~~ felony and, upon conviction thereof, shall be fined not less than \$100  
 15 \$200 nor more than ~~\$500~~ \$1,000.

16 (d) Nothing in this article shall be construed to prevent law-enforcement officials from

17 controlling traffic and otherwise maintaining order at the scene of a fire.

18 (e) No person may willfully fail or refuse to comply with a lawful order or direction of any fire  
 19 department or company or firefighter who is lawfully exercising or discharging the department's,  
 20 company's or firefighter's official duty during an emergency, relating to directing, controlling or  
 21 regulating traffic, so long as such order or direction is conveyed by a retro-reflective hand signing  
 22 device. Any person violating the provisions of this subsection is guilty of a misdemeanor and, upon  
 23 conviction thereof: (1) For a first offense shall be fined not more than ~~\$400~~ \$200; (2) for a second  
 24 offense occurring within one year of a previous conviction shall be fined not more than ~~\$200~~ \$400;  
 25 and (3) for a third and subsequent offense shall be fined not more than ~~\$500~~ \$1,000.

**CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

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

**§61-2-10b. Malicious assault; unlawful assault; battery; and assault on governmental representatives, health care providers, utility workers, law-enforcement officers, correctional employees 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 (5) "Law-enforcement officer" has the same definition as this term is defined in W.Va. Code  
15 §30-29-1, except for purposes of this section, "law-enforcement officer" shall additionally include  
16 those individuals defined as "chief executive" in W.Va. Code §30-29-1.

17 (6) "Correctional employee" means any individual employed by the West Virginia Division  
18 of Corrections, the West Virginia Regional Jail Authority, and the West Virginia Division of Juvenile  
19 Services and an employee of an entity providing services to incarcerated, detained or housed  
20 persons pursuant to a contract with such agencies.

21 (b) *Malicious assault.* — Any person who maliciously shoots, stabs, cuts or wounds or by  
22 any means causes bodily injury with intent to maim, disfigure, disable or kill a government  
23 representative, health care worker, utility worker, emergency service personnel, correctional  
24 employee or law-enforcement officer acting in his or her official capacity, and the person  
25 committing the malicious assault knows or has reason to know that the victim is acting in his or her  
26 official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a correctional  
27 facility for not less than ~~three~~ six nor more than ~~fifteen~~ 30 years.

28 (c) *Unlawful assault.* — Any person who unlawfully but not maliciously shoots, stabs, cuts  
29 or wounds or by any means causes a government representative, health care worker, utility  
30 worker, emergency service personnel, correctional employee or law-enforcement officer acting in  
31 his or her official capacity bodily injury with intent to maim, disfigure, disable or kill him or her and  
32 the person committing the unlawful assault knows or has reason to know that the victim is acting in  
33 his or her official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a  
34 correctional facility for not less than ~~two~~ four nor more than ~~five~~ 10 years.

35 (d) *Battery.* — Any person who unlawfully, knowingly and intentionally makes physical  
36 contact of an insulting or provoking nature with a government representative, health care worker,

37 utility worker, emergency service personnel, correctional employee or law-enforcement officer  
38 acting in his or her official capacity and the person committing the battery knows or has reason to  
39 know that the victim is acting in his or her official capacity, or unlawfully and intentionally causes  
40 physical harm to that person acting in such capacity and the person committing the battery knows  
41 or has reason to know that the victim is acting in his or her official capacity, is guilty of a  
42 misdemeanor and, upon conviction thereof, shall be fined not more than ~~\$500~~ \$1,000 or confined  
43 in jail not less than ~~one~~ two months nor more than ~~twelve~~ 24 months or both fined and confined. If  
44 any person commits a second such offense, he or she is guilty of a felony and, upon conviction  
45 thereof, shall be fined not more than ~~\$1,000~~ \$2,000 or imprisoned in a state correctional facility not  
46 less than ~~one~~ two years nor more than ~~three~~ six years, or both fined and imprisoned. Any person  
47 who commits a third violation of this subsection is guilty of a felony and, upon conviction thereof,  
48 shall be fined not more than ~~\$2,000~~ \$4,000 or imprisoned in a state correctional facility not less  
49 than ~~two~~ four years nor more than ~~five~~ 10 years, or both fined and imprisoned.

50 (e) *Assault.* — Any person who unlawfully attempts to commit a violent injury to the person  
51 of a government representative, health care worker, utility worker, emergency service personnel,  
52 correctional employee or law-enforcement officer, acting in his or her official capacity and the  
53 person committing the battery knows or has reason to know that the victim is acting in his or her  
54 official capacity, or unlawfully commits an act which places that person acting in his or her official  
55 capacity in reasonable apprehension of immediately receiving a violent injury and the person  
56 committing the battery knows or has reason to know that the victim is acting in his or her official  
57 capacity, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not  
58 less than ~~twenty-four~~ 48 hours nor more than ~~six months~~ one year, fined not more than ~~\$200~~ \$400,  
59 or both fined and confined.

60 (f) Any person convicted of any crime set forth in this section who is incarcerated in a  
61 facility operated by the West Virginia Division of Corrections or the West Virginia Regional Jail  
62 Authority, or is in the custody of the Division of Juvenile Services and is at least eighteen years of

63 age or subject to prosecution as an adult, at the time of committing the offense and whose victim is  
64 a correctional employee may not be sentenced in a manner by which the sentence would run  
65 concurrent with any other sentence being served at the time the offense giving rise to the  
66 conviction of a crime set forth in this section was committed.

NOTE: The purpose of this bill is to double the penalties associated with civilians attacking law enforcement, firefighters, and other emergency services personnel.

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