

SB 507

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SENATE CLERK  
STATE HOUSE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999



## ENROLLED

*Committee Substitute for*

SENATE BILL NO. 507

(By Senator *McCabe, et al*)



PASSED March 8, 1999

In Effect ninety days from Passage

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OFFICE OF THE CLERK  
SENATE OF WEST VIRGINIA

## ENROLLED

COMMITTEE SUBSTITUTE

FOR

### Senate Bill No. 507

(SENATORS McCABE, MITCHELL, WALKER, SPROUSE, KESSLER, REDD, DEEM, OLIVERIO, HUNTER, SHARPE, ROSS, SCHOONOVER, BALL, MCKENZIE, UNGER, ANDERSON, BOWMAN, PLYMALE AND PREZIOSO, *original sponsors*)

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[Passed March 8, 1999; in effect ninety days from passage.]

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AN ACT to amend and reenact section ten-b, article two, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to criminal assault and battery on certain classes of public employees; adding assault on employees of urban mass transportation systems to listed offenses; and penalties therefor.

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

That section ten-b, article two, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

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

**§61-2-10b. Malicious assault; unlawful assault; battery and recidivism of battery; assault on police officers,**

**conservation officers, humane officers, emergency medical service personnel, firefighters, fire marshal and county or state correctional employees; penalties.**

1 (a) *Malicious assault.* – Any person who maliciously  
2 shoots, stabs, cuts or wounds or by any means causes  
3 bodily injury with intent to maim, disfigure, disable or kill  
4 a police officer, conservation officer, humane officer,  
5 emergency medical service personnel, firefighter, state fire  
6 marshal or employee, county correctional employee, state  
7 correctional employee, employee of an urban mass trans-  
8 portation system acting in his or her official capacity and  
9 the person committing the malicious assault knows or has  
10 reason to know that the victim is a police officer, conser-  
11 vation officer, humane officer, emergency medical service  
12 personnel, firefighter, state fire marshal or employee,  
13 county correctional employee, state correctional employee,  
14 employee of an urban mass transportation system acting  
15 in his or her official capacity, is guilty of a felony and,  
16 upon conviction, shall be confined in a correctional facility  
17 for not less than three nor more than fifteen years.

18 (b) *Unlawful assault.* – Any person who unlawfully but  
19 not maliciously shoots, stabs, cuts or wounds or by any  
20 means causes a police officer, conservation officer, humane  
21 officer, emergency medical service personnel, firefighter,  
22 state fire marshal or employee, county correctional  
23 employee, state correctional employee, employee of an  
24 urban mass transportation system acting in his or her  
25 official capacity, bodily injury with intent to maim,  
26 disfigure, disable or kill said person and the person  
27 committing the unlawful assault knows or has reason to  
28 know that the victim is a police officer, conservation  
29 officer, humane officer, emergency medical service person-  
30 nel, firefighter, state fire marshal or employee, county  
31 correctional employee, state correctional employee,  
32 employee of an urban mass transportation system acting  
33 in his or her official capacity, is guilty of a felony and,  
34 upon conviction, shall be confined in a correctional facility  
35 for not less than two nor more than five years.

36 (c) *Battery*. – Any person who unlawfully, knowingly  
37 and intentionally makes physical contact of an insulting or  
38 provoking nature with a police officer, conservation  
39 officer, humane officer, emergency medical service person-  
40 nel, firefighter, state fire marshal or employee, county  
41 correctional employee, state correctional employee,  
42 employee of an urban mass transportation system acting  
43 in his or her official capacity, or unlawfully and intention-  
44 ally causes physical harm to a police officer, conservation  
45 officer, humane officer, emergency medical service person-  
46 nel, firefighter, state fire marshal or employee, county  
47 correctional employee, state correctional employee,  
48 employee of an urban mass transportation system acting  
49 in such capacity, is guilty of a misdemeanor and, upon  
50 conviction thereof, shall be confined in the county or  
51 regional jail for not less than one month nor more than  
52 twelve months, fined the sum of five hundred dollars, or  
53 both. If any person commits a second such offense, he or  
54 she is guilty of a felony and, upon conviction thereof, shall  
55 be confined in a correctional facility for not less than one  
56 year nor more than three years or fined the sum of one  
57 thousand dollars or both fined and confined. Any person  
58 who commits a third violation of this subsection is guilty  
59 of a felony and, upon conviction, shall be confined in a  
60 correctional facility not less than two years nor more than  
61 five years or fined not more than two thousand dollars or  
62 both fined and confined.

63 (d) *Assault*. – Any person who unlawfully attempts to  
64 commit a violent injury to the person of a police officer,  
65 conservation officer, humane officer, emergency medical  
66 service personnel, firefighter, state fire marshal or em-  
67 ployee, county correctional employee, state correctional  
68 employee, employee of an urban mass transportation  
69 system acting in his or her official capacity, or unlawfully  
70 commits an act which places a police officer, conservation  
71 officer, humane officer, emergency medical service person-  
72 nel, firefighter, county correctional employee, state  
73 correctional employee, employee of an urban mass trans-  
74 portation system acting in his or her official capacity in  
75 reasonable apprehension of immediately receiving a  
76 violent injury, is guilty of a misdemeanor and, upon

77 conviction, shall be confined in the county or regional jail  
78 for not less than twenty-four hours nor more than six  
79 months, fined not more than two hundred dollars, or both  
80 fined and imprisoned.

81 (e) For purposes of this section:

82 (1) "Police officer" means any person employed by the  
83 state police, any person employed by the state to perform  
84 law-enforcement duties, any person employed by a politi-  
85 cal subdivision of this state who is responsible for the  
86 prevention or detection of crime and the enforcement of  
87 the penal, traffic or highway laws of this state or employed  
88 as a special police officer as such is defined in section  
89 forty-one, article three, chapter sixty-one of this code.

90 (2) "Employee of an urban mass transportation system"  
91 means any person employed by an urban mass transporta-  
92 tion system as such is defined in section three, article  
93 twenty-seven, chapter eight of this code or by a system  
94 that receives federal transit administration funding under  
95 49 U. S. C. §§ 5307 or 5311.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Signature]*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within..... *approved* ..... this the *18<sup>th</sup>*  
Day of..... *March* ....., 1999

*[Signature]*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date. 3/15/09

Time 3:03 pm