WEST VIRGINIA CODE: §61-2-10B

§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.

(a) For purposes of this section:

(1) "Government representative" means any officer or employee of the state or a political subdivision thereof, or a person under contract with a state agency or political subdivision of this state.

(2) "Health care worker" means any nurse, nurse practitioner, physician, physician assistant, or technician practicing at, and all persons employed by or under contract to a hospital, county, or district health department, long-term care facility, physician's office, clinic, or outpatient treatment facility.

(3) "Emergency service personnel" means any paid or volunteer firefighter, emergency medical technician, paramedic, or other emergency services personnel employed by or under contract with an emergency medical service provider or a state agency or political subdivision thereof.

(4) "Utility worker" means any individual employed by a public utility or electric cooperative or under contract to a public utility, electric cooperative, or interstate pipeline.

(5) "Law-enforcement officer" has the same definition as this term is defined in §30-29-1 of this code, except for purposes of this section, "law-enforcement officer" additionally includes those individuals defined as "chief executive" in §30-29-1 of this code.

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

(b) Malicious assault. — Any person who maliciously shoots, stabs, cuts, or wounds or by any means causes bodily injury with intent to maim, disfigure, disable, or kill a government representative, health care worker, utility worker, emergency service personnel, correctional employee, or law-enforcement officer acting in his or her official capacity, and the person committing the malicious assault knows or has reason to know that the victim is acting in his or her official capacity is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than three nor more than 15 years.

(c) Unlawful assault. — Any person who unlawfully but not maliciously shoots, stabs, cuts, or

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wounds or by any means causes a government representative, health care worker, utility worker, emergency service personnel, correctional employee, or law-enforcement officer acting in his or her official capacity bodily injury with intent to maim, disfigure, disable, or kill him or her and the person committing the unlawful assault knows or has reason to know that the victim is acting in his or her official capacity is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than five years.

(d) Battery. — Any person who unlawfully, knowingly, and intentionally makes physical contact of an insulting or provoking nature with a government representative, health care worker, utility worker, emergency service personnel, correctional employee, or law-enforcement officer acting in his or her official capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, or unlawfully and intentionally causes physical harm to that person acting in such capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, is guilty of a felony and, upon conviction thereof, shall be fined not more than $500 or imprisoned in a state correctional facility not less than one year nor more than three years, or both fined and imprisoned. If any person commits a second such offense, he or she is guilty of a felony and, upon conviction thereof, shall be fined not more than $1,000 or imprisoned in a state correctional facility not less than two years nor more than five years, or both fined and imprisoned. Any person who commits a third violation of this subsection is guilty of a felony and, upon conviction thereof, shall be fined not more than $2,000 or imprisoned in a state correctional facility not less than five years nor more than 10 years, or both fined and imprisoned.

(e) Assault. — Any person who unlawfully attempts to commit a violent injury to the person of a government representative, health care worker, utility worker, emergency service personnel, correctional employee, or law-enforcement officer, acting in his or her official capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, or unlawfully commits an act which places that person acting in his or her official capacity in reasonable apprehension of immediately receiving a violent injury and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one year nor more than three years or fined not more than $200, or both fined and imprisoned.

(f) Any person convicted of any crime set forth in this section who is incarcerated in a facility operated by the West Virginia Division of Corrections and Rehabilitation or the West Virginia Regional Jail Authority, or is in the custody of the Division of Juvenile Services and is at least 18 years of age or subject to prosecution as an adult, at the time of committing the offense and whose victim is a correctional employee may not be sentenced in a manner by which the sentence would run concurrent with any other sentence being served at the time the offense giving rise to the conviction of a crime set forth in this section was committed.

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