WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993

- - -

ENROLLED

Com. Sub. For
HOUSE BILL No. 2314

(By Delegates Love and Pettit)

- - -

Passed April 9, 1993

In Effect Ninety Days From Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2314
(By Delegates Love and Pettit)

[Passed April 9, 1993; in effect ninety days from passage.]

AN ACT to amend and reenact article two, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section ten-b, all relating to creating the crimes of malicious assault, unlawful assault and assault and battery against police officers; and providing criminal penalties therefor.

Be it enacted by the Legislature of West Virginia:

That article two, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section ten-b, 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, county or state correctional officers; penalties.

1 (a) Malicious assault. — If any person maliciously
2 shoots, stabs, cuts or wounds or by any means causes
3 bodily injury with intent to maim, disfigure, disable or
4 kill a police officer, county correctional officer or state
5 correctional 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 a police officer, conservation officer, county correctional officer or state correctional officer acting in his or her official capacity, then the offender shall be guilty of a felony, and, upon conviction, shall be punished by confinement in the penitentiary not less than three nor more than fifteen years.

(b) Unlawful assault. — If any person unlawfully but not maliciously shoots, stabs, cuts or wounds or by any means causes a police officer, conservation officer, county correctional officer or state correctional officer bodily injury with intent to maim, disfigure, disable or kill said officer and the person committing the unlawful assault knows or has reason to know that the victim is a police officer, conservation officer, county correctional officer or state correctional officer acting in his or her official capacity, then the offender is guilty of a felony, and, upon conviction, shall be confined to the penitentiary for a period of not less than two years nor more than five years.

(c) Battery. — If any person unlawfully and intentionally makes physical contact of an insulting or provoking nature with a police officer, conservation officer, county correctional officer or state correctional officer acting in his or her official capacity, or unlawfully and intentionally causes physical harm to a police officer, conservation officer, county correctional officer or state correctional officer acting in such capacity, said person is guilty of a misdemeanor, and, upon conviction thereof, shall be confined to the county or regional jail for a period of not less than forty-eight hours nor more than twelve months or fined the sum of five hundred dollars or both. If any person who commits a second such offense, then such person is guilty of a misdemeanor, and, upon conviction, shall be confined in the county or regional jail for a period of not less than ten days nor more than twelve months. Any person who commits a third violation of this section is guilty of a felony, and, upon conviction, shall be confined in the penitentiary for
a period of not less than one year nor more than five years or fined not more than one thousand dollars or both.

(d) Assault. — If any person unlawfully attempts to commit a violent injury to the person of a police officer, conservation officer, county correctional officer or state correctional officer, or unlawfully commits an act which places a police officer, conservation officer, county correctional officer or state correctional officer acting in his or her official capacity in reasonable apprehension of immediately receiving a violent injury, he shall be guilty of a misdemeanor, and upon conviction, shall be confined in the county or regional jail for not less than twenty-four hours or more than six months, or fined not more than two hundred dollars, or both such fine and imprisonment.

(e) Police officer defined. — As used in this section, a police officer means any officer employed by the division of public safety, any county law-enforcement agency or any police officer employed by any city or municipality who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of this state.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within appeared this the 3rd day of May 1993.

Governor