

HB 2847

RECEIVED

97 MAY -7 PM 5:36

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



# ENROLLED

HOUSE BILL No. 2847

(By Delegate \_\_\_\_\_  
Stemple, Martin, Kominar,  
Tucker and Boggs )



Passed \_\_\_\_\_ April 12, \_\_\_\_\_ 1997

In Effect \_\_\_\_\_ Ninety Days From \_\_\_\_\_ Passage

RECEIVED

97 MAY -7 PM 5:36

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

## ENROLLED

COMMITTEE SUBSTITUTE

FOR

# H. B. 2847

(BY DELEGATES STEMPLE, MARTIN, KOMINAR, TUCKER AND BOGGS)

---

[Passed April 12, 1997; in effect ninety days from passage.]

---

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 changing a second offense of battery upon a police officer from a misdemeanor to a felony; and increasing penalties for convictions of battery upon a police officer.

*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, 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 bodi-
- 3 ly injury with intent to maim, disfigure, disable or kill a
- 4 police officer, county correctional officer or state correc-
- 5 tional officer acting in his or her official capacity and the

6 person committing the malicious assault knows or has  
7 reason to know that the victim is a police officer, conserva-  
8 tion officer, humane officer, emergency medical techni-  
9 cian, firefighter, county correctional officer or state cor-  
10 rectional officer acting in his or her official capacity, then  
11 the offender shall be guilty of a felony and, upon convic-  
12 tion, shall be punished by confinement in the penitentiary  
13 not less than three nor more than fifteen years.

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

27 (c) *Battery.* — If any person unlawfully and inten-  
28 tionally makes physical contact of an insulting or provok-  
29 ing nature with a police officer, conservation officer,  
30 county correctional officer or state correctional officer  
31 acting in his or her official capacity, or unlawfully and  
32 intentionally causes physical harm to a police officer,  
33 conservation officer, county correctional officer or state  
34 correctional officer acting in such capacity, said person is  
35 guilty of a misdemeanor and, upon conviction thereof,  
36 shall be confined to the county or regional jail not less  
37 than one month nor more than twelve months or fined the  
38 sum of five hundred dollars or both fined and imprisoned.  
39 If any person commits a second such offense, then such  
40 person is guilty of a felony and, upon conviction thereof,  
41 shall be confined in the state correctional facility not less  
42 than one year nor more than three years or fined the sum  
43 of one thousand dollars or both fined and imprisoned.  
44 Any person who commits a third violation of this subsec-  
45 tion is guilty of a felony and, upon conviction, shall be  
46 confined in the state correctional facility not less than two

47 two years nor more than five years or fined not more than  
48 two thousand dollars or both fined and imprisoned.

49 (d) *Assault.* — If any person unlawfully attempts to  
50 commit a violent injury to the person of a police officer,  
51 conservation officer, county correctional officer or state  
52 correctional officer, or unlawfully commits an act which  
53 places a police officer, conservation officer, county cor-  
54 rectional officer or state correctional officer acting in his  
55 or her official capacity in reasonable apprehension of  
56 immediately receiving a violent injury, he shall be guilty  
57 of a misdemeanor and, upon conviction, shall be confined  
58 in the county or regional jail for not less than twenty-four  
59 hours nor more than six months, or fined not more than  
60 two hundred dollars, or both such fine and imprisonment.

61 (e) *Police officer defined.* — As used in this section, a  
62 police officer means any officer employed by the division  
63 of public safety, any county law-enforcement agency, any  
64 officer employed by the state to perform law-enforcement  
65 duties or any police officer employed by any city or mu-  
66 nicipality who is responsible for the prevention or detec-  
67 tion of crime and the enforcement of the penal, traffic or  
68 highway laws of this state.

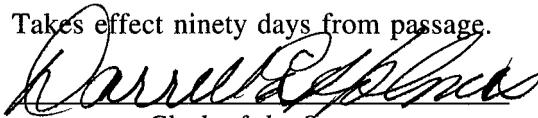
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
Chairman Senate Committee

  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

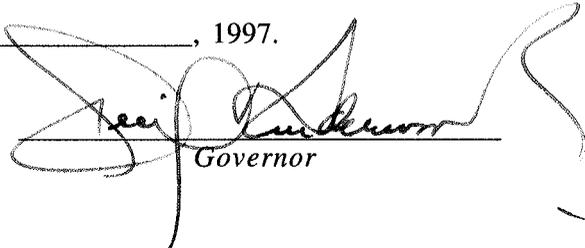
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 7th  
day of May, 1997.

  
Governor

PRESENTED TO THE

GOVERNOR

Date 5/1/97

Time 3:49 pm