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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

Com. Sub. for House Bill No. 4098

(By Delegates Leach, Pino and Clerments)



Passed March 11, 1998

In Effect Ninety Days from Passage

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ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4098

(BY DELEGATES LEACH, PINO AND CLEMENTS)

[Passed March 11, 1998; 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 crimes against the person; assaults and batteries on enumerated persons; extending protections of section to humane officers, emergency medical personnel, firefighters, state fire marshal or employee, state and county correctional employees and special police; and penalties.

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 or
7 state correctional employee acting in his or her official
8 capacity and the person committing the malicious assault
9 knows or has reason to know that the victim is a police
10 officer, conservation officer, humane officer, emergency
11 medical service personnel, firefighter, state fire marshal or
12 employee, county correctional employee, or state
13 correctional employee acting in his or her official
14 capacity, is guilty of a felony and, upon conviction, shall
15 be confined in a correctional facility for not less than
16 three nor more than fifteen years.

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

34 (c) *Battery*. — Any person who unlawfully, knowingly
35 and intentionally makes physical contact of an insulting or
36 provoking nature with a police officer, conservation
37 officer, humane officer, emergency medical service
38 personnel, firefighter, state fire marshal or employee,
39 county correctional employee or state correctional
40 employee acting in his or her official capacity, or
41 unlawfully and intentionally causes physical harm to a
42 police officer, conservation officer, humane officer,

43 emergency medical service personnel, firefighter, state fire
44 marshal or employee, county correctional employee, or
45 state correctional employee acting in such capacity, is
46 guilty of a misdemeanor and, upon conviction thereof,
47 shall be confined in the county or regional jail for not less
48 than one month nor more than twelve months, fined the
49 sum of five hundred dollars, or both. If any person
50 commits a second such offense, he or she is guilty of a
51 felony and, upon conviction thereof, shall be confined in a
52 correctional facility for not less than one year nor more
53 than three years or fined the sum of one thousand dollars
54 or both fined and confined. Any person who commits a
55 third violation of this subsection is guilty of a felony and,
56 upon conviction, shall be confined in a correctional
57 facility not less than two years nor more than five years or
58 fined not more than two thousand dollars or both fined
59 and confined.

60 (d) *Assault.* — Any person who unlawfully attempts to
61 commit a violent injury to the person of a police officer,
62 conservation officer, humane officer, emergency medical
63 service personnel, firefighter, state fire marshal or
64 employee, county correctional employee, or state
65 correctional employee unlawfully commits an act which
66 places a police officer, conservation officer, humane
67 officer, emergency medical service personnel, firefighter,
68 county correctional employee, or state correctional
69 employee acting in his or her official capacity in
70 reasonable apprehension of immediately receiving a
71 violent injury, is guilty of a misdemeanor and, upon
72 conviction, shall be confined in the county or regional jail
73 for not less than twenty-four hours nor more than six
74 months, fined not more than two hundred dollars, or both.

75 (e) For purposes of this section, “police officer”
76 means any person employed by the state police, any
77 person employed by the state to perform law-enforcement
78 duties, any person employed by a political subdivision of
79 this state who is responsible for the prevention or detection
80 of crime and the enforcement of the penal, traffic or
81 highway laws of this state or employed as a special police
82 officer as such is defined in section forty-one, article three,
83 chapter sixty-one of this code.

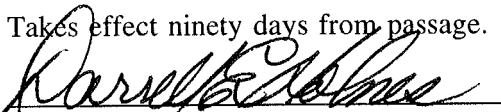
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

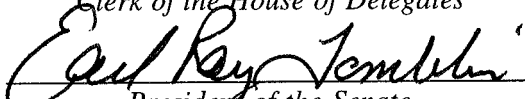

Chairman House Committee

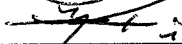
Originating in the House.

Takes effect ninety days from passage.

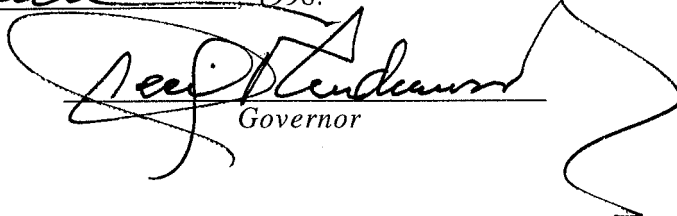

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 27th
day of March 1998.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/23/98

Time 3:00 pm
