WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1998

ENROLLED

Com. Sub. for House Bill No. 4098
(By Delegates Leach, Pino and Clements)

Passed March 11, 1998

In Effect Ninety Days from Passage
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.
(a) **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 police officer, conservation officer, humane officer,
emergency medical service personnel, firefighter, state fire
marshal or employee, county correctional employee or
state correctional employee 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, humane officer, emergency
medical service personnel, firefighter, state fire marshal or
employee, county correctional employee, or state
correctional employee acting in his or her official
capacity, is guilty of a felony and, upon conviction, shall
be confined in a correctional facility for not less than
three nor more than fifteen years.

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

(c) **Battery.** — Any person who unlawfully, knowingly
and intentionally makes physical contact of an insulting or
provoking nature with a police officer, conservation
officer, humane officer, emergency medical service
personnel, firefighter, state fire marshal or employee,
county correctional employee or state correctional
employee acting in his or her official capacity, or
unlawfully and intentionally causes physical harm to a
police officer, conservation officer, humane officer,
emergency medical service personnel, firefighter, state fire
marshal or employee, county correctional employee, or
state correctional employee acting in such capacity, is
guilty of a misdemeanor and, upon conviction thereof,
shall be confined in the county or regional jail for not less
than one month nor more than twelve months, fined the
sum of five hundred dollars, or both. If any person
commits a second such offense, he or she is guilty of a
felony and, upon conviction thereof, shall be confined in a
correctional facility for not less than one year nor more
than three years or fined the sum of one thousand dollars
or both fined and confined. Any person who commits a
third violation of this subsection is guilty of a felony and,
upon conviction, shall be confined in a correctional
facility not less than two years nor more than five years or
fined not more than two thousand dollars or both fined
and confined.

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

(e) For purposes of this section, "police officer"
means any person employed by the state police, any
person employed by the state to perform law-enforcement
duties, any person employed by a political subdivision of
this state who is responsible for the prevention or detection
of crime and the enforcement of the penal, traffic or
highway laws of this state or employed as a special police
officer as such is defined in section forty-one, article three,
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