WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1999

ENROLLED
Committee Substitute for
SENATE BILL NO. 507

(By Senator McCabe, et al)

PASSED March 8, 1999
In Effect ninety days from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 507

(SENATORS McCabe, Mitchell, Walker, Sprouse, Kessler, Redd, Deem, Oliverio, Hunter, Sharpe, Ross, Schoonover, Ball, McKenzie, Unger, Anderson, Bowman, Plymale and Prezioso, original sponsors)

[Passed March 8, 1999; 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 criminal assault and battery on certain classes of public employees; adding assault on employees of urban mass transportation systems to listed offenses; and penalties therefor.

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,
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, state correctional employee, employee of an urban mass transportation system 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, state correctional employee, employee of an urban mass transportation system 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.

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, state correctional employee, employee of an urban mass transportation system 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, state correctional employee, employee of an urban mass transportation system 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 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, state correctional employee, employee of an urban mass transportation system 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, state correctional employee, employee of an urban mass transportation system 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, state correctional employee, employee of an urban mass transportation system acting in his or her official capacity, or unlawfully commits an act which places a police officer, conservation officer, humane officer, emergency medical service personnel, firefighter, county correctional employee, state correctional employee, employee of an urban mass transportation system 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
fined and imprisoned.

(e) For purposes of this section:

(1) "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 politi-
cal 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.

(2) "Employee of an urban mass transportation system"
means any person employed by an urban mass transporta-
tion system as such is defined in section three, article
twenty-seven, chapter eight of this code or by a system
that receives federal transit administration funding under
49 U. S. C. §§ 5307 or 5311.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within... approvethis the 18th

Day of... , 1999

Governor