

HB 2770

FILED

2007 APR -4 PM 3:54

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007



ENROLLED

House Bill No. 2770

(By Delegate Ellem, Webster, Hamilton, Proudfoot, Schadler,
Guthrie, Shook, Burdiss, Amores, Kessler and Mahan)



Passed March 10, 2007

In Effect Ninety Days from Passage

FILED

2007 APR -4 PM 3: 54

OFFICE WEST VIRGINIA
SECRETARY OF STATE

E N R O L L E D

H. B. 2770

(BY DELEGATE ELLEM, WEBSTER, HAMILTON, PROUDFOOT,
SCHADLER, GUTHRIE, SHOOK, BURDISS, AMORES, KESSLER AND
MAHAN)

[Passed March 10, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended; relating to court security personnel and Public Service Commission motor carrier inspector and enforcement officer; enhancing penalties for certain acts against court security personnel and Public Service Commission motor carrier inspector and enforcement officer; defining “court security personnel” and “Public Service Commission motor carrier inspector and enforcement officer”; and incorporating certain acts previously enacted by the Legislature during the 2007 regular session.

Be it enacted by the Legislature of West Virginia:

That §61-2-10b of the Code of West Virginia, 1931, 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, probation officers, humane officers, emergency medical service personnel, firefighters, fire marshal, Division of Forestry employees, county or state correctional employees, Public Service Commission motor carrier inspector and enforcement officer and court security personnel; penalties.**

1 (a) *Malicious assault.* -- Any person who maliciously
2 shoots, stabs, cuts or wounds or by any means causes bodily
3 injury with intent to maim, disfigure, disable or kill a police
4 officer, probation officer, conservation officer, humane
5 officer, emergency medical service personnel, firefighter,
6 State Fire Marshal or employee, Division of Forestry
7 employee, county correctional employee or state correctional
8 employee, employee of an urban mass transportation system,
9 court security personnel or Public Service Commission motor
10 carrier inspector and enforcement officer acting in his or her
11 official capacity and the person committing the malicious
12 assault knows or has reason to know that the victim is acting
13 in his or her official capacity is guilty of a felony and, upon
14 conviction thereof, shall be confined in a correctional facility
15 for not less than three nor more than fifteen years.

16 (b) *Unlawful assault.* -- Any person who unlawfully but
17 not maliciously shoots, stabs, cuts or wounds or by any
18 means causes a police officer, probation officer, conservation
19 officer, humane officer, emergency medical service
20 personnel, firefighter, State Fire Marshal or employee,
21 Division of Forestry employee, county correctional employee
22 or state correctional employee, employee of an urban mass
23 transportation system, court security personnel or Public
24 Service Commission motor carrier inspector and enforcement
25 officer acting in his or her official capacity bodily injury with
26 intent to maim, disfigure, disable or kill him or her and the
27 person committing the unlawful assault knows or has reason

28 to know that the victim is acting in his or her official capacity
29 is guilty of a felony and, upon conviction thereof, shall be
30 confined in a correctional facility for not less than two nor
31 more than five years.

32 (c) *Battery*. -- Any person who unlawfully, knowingly
33 and intentionally makes physical contact of an insulting or
34 provoking nature with a police officer, probation officer,
35 conservation officer, humane officer, emergency medical
36 service personnel, firefighter, State Fire Marshal or
37 employee, Division of Forestry employee, county
38 correctional employee, state correctional employee, employee
39 of a mass transportation system, court security personnel or
40 Public Service Commission motor carrier inspector and
41 enforcement officer acting in his or her official capacity, or
42 unlawfully and intentionally causes physical harm to that
43 person acting in such capacity, is guilty of a misdemeanor
44 and, upon conviction thereof, shall be confined in jail for not
45 less than one month nor more than twelve months, fined the
46 sum of five hundred dollars, or both. If any person commits
47 a second such offense, he or she is guilty of a felony and,
48 upon conviction thereof, shall be confined in a correctional
49 facility for not less than one year nor more than three years
50 or fined the sum of one thousand dollars or both fined and
51 confined. Any person who commits a third violation of this
52 subsection is guilty of a felony and, upon conviction thereof,
53 shall be confined in a correctional facility not less than two
54 years nor more than five years or fined not more than two
55 thousand dollars or both fined and confined.

56 (d) *Assault*. -- Any person who unlawfully attempts to
57 commit a violent injury to the person of a police officer,
58 probation officer, conservation officer, humane officer,
59 emergency medical service personnel, firefighter, State Fire
60 Marshal or employee, Division of Forestry employee, county
61 correctional employee, state correctional employee, employee
62 of a mass transportation system, court security personnel or
63 Public Service Commission motor carrier inspector and
64 enforcement officer acting in his or her official capacity, or
65 unlawfully commits an act which places that person acting in
66 his or her official capacity in reasonable apprehension of
67 immediately receiving a violent injury, is guilty of a
68 misdemeanor and, upon conviction thereof, shall be confined
69 in jail for not less than twenty-four hours nor more than six

70 months, fined not more than two hundred dollars, or both
71 fined and confined.

72 (e) For purposes of this section:

73 (1) "Police officer" means any person employed by the
74 State Police, any person employed by the state to perform
75 law-enforcement duties, any person employed by a political
76 subdivision of this state who is responsible for the prevention
77 or detection of crime and the enforcement of the penal, traffic
78 or highway laws of this state or employed as a special police
79 officer as defined in section forty-one, article three of this
80 chapter.

81 (2) "Employee of an urban mass transportation system"
82 means any person employed by an urban mass transportation
83 system as such is defined in section three, article twenty-
84 seven, chapter eight of this code or by a system that receives
85 federal transit administration funding under 49 U.S.C. §5307
86 or §5311.

87 (3) "Division of Forestry employee" means an officer,
88 agent, employee or servant, whether full-time or not, of the
89 Division of Forestry.

90 (4) "Court security personnel" means any person
91 employed by a circuit court, family court, magistrate court,
92 county commission, sheriff, the state or other political
93 subdivision to operate and maintain security devices,
94 including but not limited to a metal detector, x-ray machine,
95 video monitoring equipment and/or other security devices,
96 prevent or detect crime, enforce the laws of this state, or
97 otherwise provide court security.

98 (5) "Public Service Commission motor carrier inspector
99 and enforcement officer" means an officer, agent or
100 employee of the Public Service Commission charged with the
101 enforcement of commercial motor vehicle safety and weight
102 restriction laws of the State of West Virginia.

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



Chairman Senate Committee



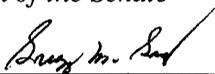
Chairman House Committee

Originating in the House.

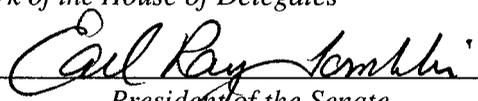
In effect ninety days from passage.



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 4th
day of April, 2007.



Governor

PRESENTED TO THE
GOVERNOR

MAR 21 2007

Time 4:05 pm