

SB 590

FILED

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WEST VIRGINIA LEGISLATURE

SEVENTY-EIGHTH LEGISLATURE

REGULAR SESSION, 2008

SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 590

(SENATORS PREZIOSO, STOLLINGS, JENKINS, KESSLER,
MCKENZIE AND FOSTER, *original sponsors*)

[Passed March 8, 2008; in effect ninety days from passage.]

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AN ACT to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating to the protection of health care workers and protective services workers; establishing enhanced criminal penalties for crimes of violence against listed persons when they are engaged in official duties; and defining “health care worker” and “protective services worker”.

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
3 bodily injury with intent to maim, disfigure, disable or
4 kill a police officer, probation officer, conservation
5 officer, humane officer, emergency medical service
6 personnel, health care worker, protective services
7 worker, firefighter, State Fire Marshal or employee,
8 Division of Forestry employee, county correctional
9 employee or state correctional employee, employee of an
10 urban mass transportation system, court security
11 personnel or Public Service Commission motor carrier
12 inspector and enforcement officer acting in his or her
13 official capacity and the person committing the
14 malicious assault knows or has reason to know that the
15 victim is acting in his or her official capacity is guilty of
16 a felony and, upon conviction thereof, shall be confined
17 in a correctional facility for not less than three nor more
18 than fifteen years.

19 (b) *Unlawful assault.* — Any person who unlawfully
20 but not maliciously shoots, stabs, cuts or wounds or by
21 any means causes a police officer, probation officer,
22 conservation officer, humane officer, emergency medical
23 service personnel, health care worker, protective
24 services worker, firefighter, State Fire Marshal or
25 employee, Division of Forestry employee, county
26 correctional employee or state correctional employee,
27 employee of an urban mass transportation system, court
28 security personnel or Public Service Commission motor
29 carrier inspector and enforcement officer acting in his
30 or her official capacity bodily injury with intent to
31 maim, disfigure, disable or kill him or her and the
32 person committing the unlawful assault knows or has
33 reason to know that the victim is acting in his or her
34 official capacity is guilty of a felony and, upon
35 conviction thereof, shall be confined in a correctional
36 facility for not less than two nor more than five years.

37 (c) *Battery.* — Any person who unlawfully, knowingly
38 and intentionally makes physical contact of an insulting
39 or provoking nature with a police officer, probation
40 officer, conservation officer, humane officer, emergency
41 medical service personnel, health care worker,
42 protective services worker, firefighter, State Fire
43 Marshal or employee, Division of Forestry employee,
44 county correctional employee, state correctional
45 employee, employee of an urban mass transportation
46 system, court security personnel or Public Service
47 Commission motor carrier inspector and enforcement
48 officer acting in his or her official capacity, or
49 unlawfully and intentionally causes physical harm to
50 that person acting in such capacity, is guilty of a
51 misdemeanor and, upon conviction thereof, shall be
52 confined in jail for not less than one month nor more

53 than twelve months, fined the sum of five hundred
54 dollars, or both. If any person commits a second such
55 offense, he or she is guilty of a felony and, upon
56 conviction thereof, shall be confined in a correctional
57 facility for not less than one year nor more than three
58 years or fined the sum of one thousand dollars or both
59 fined and confined. Any person who commits a third
60 violation of this subsection is guilty of a felony and,
61 upon conviction thereof, shall be confined in a
62 correctional facility not less than two years nor more
63 than five years or fined not more than two thousand
64 dollars or both fined and confined.

65 (d) *Assault.* — Any person who unlawfully attempts to
66 commit a violent injury to the person of a police officer,
67 probation officer, conservation officer, humane officer,
68 emergency medical service personnel, health care
69 worker, protective services worker, firefighter, State
70 Fire Marshal or employee, Division of Forestry
71 employee, county correctional employee, state
72 correctional employee, employee of an urban mass
73 transportation system, court security personnel or
74 Public Service Commission motor carrier inspector and
75 enforcement officer acting in his or her official capacity,
76 or unlawfully commits an act which places that person
77 acting in his or her official capacity in reasonable
78 apprehension of immediately receiving a violent injury,
79 is guilty of a misdemeanor and, upon conviction thereof,
80 shall be confined in jail for not less than twenty-four
81 hours nor more than six months, fined not more than
82 two hundred dollars, or both fined and confined.

83 (e) For purposes of this section:

84 (1) "Court security personnel" means any person

85 employed by a circuit court, family court, magistrate
86 court, county commission, sheriff, the state or other
87 political subdivision to operate and maintain security
88 devices, including, but not limited to, a metal detector,
89 X-ray machine, video monitoring equipment and/or
90 other security devices, prevent or detect crime, enforce
91 the laws of this state or otherwise provide court
92 security.

93 (2) "Division of Forestry employee" means an officer,
94 agent, employee or servant, whether full time or not, of
95 the Division of Forestry.

96 (3) "Employee of an urban mass transportation
97 system" means any person employed by an urban mass
98 transportation system as such is defined in section
99 three, article twenty-seven, chapter eight of this code or
100 by a system that receives federal transit administration
101 funding under 49 U. S. C. §5307 or §5311.

102 (4) "Health care worker" means any nurse, nurse
103 practitioner, physician, physician assistant or
104 technician practicing at, and all persons employed by,
105 a hospital, county or district health department, long-
106 term care facility, physician's office, clinic or outpatient
107 treatment facility.

108 (5) "Police officer" means any person employed by the
109 State Police, any person employed by the state to
110 perform law-enforcement duties, any person employed
111 by a political subdivision of this state who is responsible
112 for the prevention or detection of crime and the
113 enforcement of the penal, traffic or highway laws of this
114 state or employed as a special police officer as defined
115 in section forty-one, article three of this chapter.

116 (6) "Protective services worker" means an employee of
117 the Department of Health and Human Resources
118 employed as, or a person contracted with the
119 Department of Health and Human Resources as, a child
120 or adult protective services worker.

121 (7) "Public Service Commission motor carrier
122 inspector and enforcement officer" means an officer,
123 agent or employee of the Public Service Commission
124 charged with the enforcement of commercial motor
125 vehicle safety and weight restriction laws of the State of
126 West Virginia.

7 [Enr. Com. Sub for S. B. No. 590

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

.....
Ch. White
Chairman Senate Committee

.....
[Signature]
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

.....
Darrell H. Baker
Clerk of the Senate

.....
Buss D. Bell
Clerk of the House of Delegates

.....
Carl Ray Tomblin
President of the Senate

.....
[Signature]
Speaker House of Delegates

The within *is approved* this
the *18th* Day of *April*, 2008.

.....
[Signature]
Governor

PRESENTED TO THE
GOVERNOR

MAR 25 2008

Time 3:50 pm