

HB 2566

FILED

2009 MAY -4 PM 3: 18

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2009



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR

**House Bill No. 2566**

(By Delegates Mahan, Brown, Eldridge, Ennis, Fragale,  
Longstreth, Ashley, Rowan and Schadler)



Passed April 11, 2009

In Effect Ninety Days from Passage

**E N R O L L E D**

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LONGSTRETH, ASHLEY, ROWAN AND SCHADLER)

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[Passed April 11, 2009; 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 crimes against certain protected persons; expanding applicability of increased criminal penalties for battery, malicious assault and unlawful assault against a government employee or contract worker; expanding existing protections for health care workers to include contract workers; and changing fine structure for the penalty for battery on a government employee, contract worker, or health care 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 malicious assault on governmental representatives and health care providers providing services to the public; penalties.**

1 (a) For purposes of this section:

2 (1) "Government representative" means any officer or  
3 employee of the state or a political subdivision thereof, or a  
4 person under contract with a state agency or political  
5 subdivision thereof.

6 (2) "Health care worker" means any nurse, nurse  
7 practitioner, physician, physician assistant or technician  
8 practicing at, and all persons employed by or under contract  
9 to a hospital, county or district health department, long-term  
10 care facility, physician's office, clinic or outpatient treatment  
11 facility.

12 (b) *Malicious assault.* -- Any person who maliciously  
13 shoots, stabs, cuts or wounds or by any means causes bodily  
14 injury with intent to maim, disfigure, disable or kill a  
15 government representative or health care worker acting in his  
16 or her official capacity, and the person committing the  
17 malicious assault knows or has reason to know that the victim  
18 is acting in his or her official capacity is guilty of a felony  
19 and, upon conviction thereof, shall be confined in a state  
20 correctional facility for not less than three nor more than  
21 fifteen years.

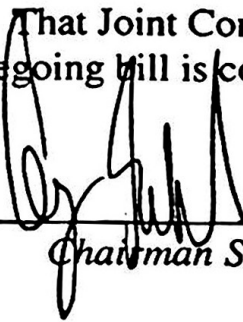
22 (c) *Unlawful assault.* -- Any person who unlawfully but  
23 not maliciously shoots, stabs, cuts or wounds or by any  
24 means causes a government representative or health care  
25 worker acting in his or her official capacity bodily injury with  
26 intent to maim, disfigure, disable or kill him 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 state correctional facility for not less than two  
31 nor more than five years.

32 (d) *Battery*. -- Any person who unlawfully, knowingly  
33 and intentionally makes physical contact of an insulting or  
34 provoking nature with a government representative or health  
35 care worker acting in his or her official capacity, or  
36 unlawfully and intentionally causes physical harm to that  
37 person acting in such capacity, is guilty of a misdemeanor  
38 and, upon conviction thereof, shall be fined not more than  
39 \$500 or confined in jail not less than one month nor more  
40 than twelve months or both fined and confined. If any person  
41 commits a second such offense, he or she is guilty of a felony  
42 and, upon conviction thereof, shall be fined not more than  
43 \$1,000 or imprisoned in a state correctional facility not less  
44 than one year nor more than three years, or both fined and  
45 imprisoned. Any person who commits a third violation of  
46 this subsection is guilty of a felony and, upon conviction  
47 thereof, shall be fined not more than \$2,000 or imprisoned in  
48 a state correctional facility not less than two years nor more  
49 than five years, or both fined and imprisoned.

50 (e) *Assault*. -- Any person who unlawfully attempts to  
51 commit a violent injury to the person of a government  
52 representative or health care worker acting in his or her  
53 official capacity, or unlawfully commits an act which places  
54 that person acting in his or her official capacity in reasonable  
55 apprehension of immediately receiving a violent injury, is  
56 guilty of a misdemeanor and, upon conviction thereof, shall  
57 be confined in jail for not less than twenty-four hours nor  
58 more than six months, fined not more than two hundred  
59 dollars, or both fined and confined.


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

  
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Chairman Senate Committee

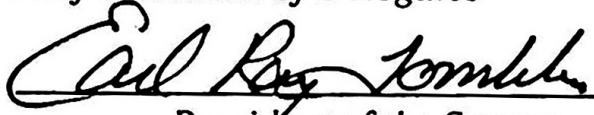
  
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Chairman House Committee

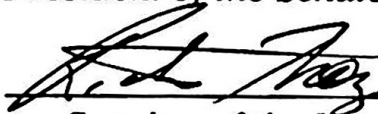
Originating in the House.

In effect ninety days from passage.

  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker of the House of Delegates

The within is appended this the 4<sup>th</sup>  
day of May, 2009.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

APR 30 2009

Time 3:20 pm