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
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.

(a) For purposes of this section:

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

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

(b) 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 government representative or health care worker acting in his or her official capacity, and the person committing the malicious assault knows or has reason to know that the victim is acting in his or her official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not less than three nor more than fifteen years.

(c) Unlawful assault. -- Any person who unlawfully but not maliciously shoots, stabs, cuts or wounds or by any means causes a government representative or health care worker acting in his or her official capacity bodily injury with intent to maim, disfigure, disable or kill him or her and the person committing the unlawful assault knows or has reason
to know that the victim is acting in his or her official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not less than two nor more than five years.

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

(e) Assault. -- Any person who unlawfully attempts to commit a violent injury to the person of a government representative or health care worker acting in his or her official capacity, or unlawfully commits an act which places that person acting in his or her official capacity in reasonable apprehension of immediately receiving a violent injury, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than twenty-four hours nor more than six months, fined not more than two hundred dollars, or both fined and confined.
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 ___ day of ___, 2009.

Governor