Enrolled

Senate Bill 578

By Senators Boso, Ashley, Blair, Gaunch, Karnes, Kirkendoll, Maynard, Miller, Mullins, Romano, Williams, Stollings and Plymale

[Passed March 12, 2016; in effect 90 days from passage]
WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

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AN ACT to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating to protection of utility workers and law-enforcement officers from crimes against the person; defining terms; adding law-enforcement officers and utility workers among the list of professionals the malicious assault, unlawful assault, battery or assault of which carries increased criminal penalties; clarifying the criminal offense of battery to require that the perpetrator have knowledge that the victim was acting in his or her official capacity; and clarifying the criminal offense of assault to require that the perpetrator have knowledge that the victim was acting in his or her official capacity.

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 assault on governmental representatives, health care providers, utility workers, law-enforcement officers and emergency medical service personnel; definitions; 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.

(3) “Emergency service personnel” means any paid or volunteer firefighter, emergency medical technician, paramedic, or other emergency services personnel employed by or under contract with an emergency medical service provider or a state agency or political subdivision thereof.
(4) "Utility worker" means any individual employed by a public utility or electric cooperative or under contract to a public utility, electric cooperative or interstate pipeline.

(5) "Law-enforcement officer" has the same definition as this term is defined in W.Va. Code §30-29-1, except for purposes of this section, "law-enforcement officer" shall additionally include those individuals defined as "chief executive" in W.Va. Code §30-29-1.

(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, health care worker, utility worker, emergency service personnel or law-enforcement officer 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 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, health care worker, utility worker, emergency service personnel or law-enforcement officer 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 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, health care worker, utility worker, emergency service personnel or law-enforcement officer acting in his or her official capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, or unlawfully and intentionally causes physical harm to that person acting in such capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, is guilty of a misdemeanor and, upon
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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, health care worker, utility worker, emergency service personnel
or law-enforcement officer, acting in his or her official capacity and the person committing the
battery knows or has reason to know that the victim is 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 and the person committing the
battery knows or has reason to know that the victim is acting in his or her official capacity, 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 $200, or both fined and confined.
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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman, Senate Committee

[Signature]
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within ... approved this the 30th
Day of March, 2016.

[Signature]
Governor
PRESENTED TO THE GOVERNOR

MAR 28 2016

Time 3:05 pm