

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2395

By Delegates Pinson and B. Smith

[Introduced February 14, 2025; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §30-29-1 and §61-2-10b, of the Code of West Virginia, 1931, as
2 amended, relating to classifying police canine units, and community search and rescue
3 group canines under the West Virginia Emergency management Search and Rescue
4 Program assisting law-enforcement officers in the search and rescue for individuals and
5 cadavers, as "law enforcement officers" in relation to their standing as victims and the level
6 of force able to be used in their protection; and crimes against the person.

Be it enacted by the Legislature of West Virginia:

CHAPTER 30. PROFESSIONS AND OCCUPATIONS

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-1. Definitions.

1 For the purposes of this article, unless a different meaning clearly appears in the context:

2 ~~(1)~~-"Approved law-enforcement training academy" means any training facility which is
3 approved and authorized to conduct law-enforcement training as provided in this article;

4 ~~(2)~~-"Chief executive" means the Superintendent of the State Police; the chief Natural
5 Resources police officer of the Division of Natural Resources; the sheriff of any West Virginia
6 county; any administrative deputy appointed by the chief natural resources police officer of the
7 Division of Natural Resources; or the chief of any West Virginia municipal law-enforcement
8 agency;

9 ~~(3)~~-"County" means the 55 major political subdivisions of the state;

10 ~~(4)~~-"Exempt rank" means any noncommissioned or commissioned rank of sergeant or
11 above;

12 ~~(5)~~-"Governor's Committee on Crime, Delinquency, and Correction" or "Governor's
13 committee" means the Governor's Committee on Crime, Delinquency, and Correction established
14 as a state planning agency pursuant to §15-9-1 of this code;

15 ~~(6)~~-"Law-enforcement officer" means any duly authorized member of a law-enforcement

16 agency who is authorized to maintain public peace and order, prevent and detect crime, make
17 arrests, and enforce the laws of the state or any county or municipality thereof, other than parking
18 ordinances, and includes those persons employed as campus police officers at state institutions of
19 higher education in accordance with the provisions of §18B-4-5 of this code, persons employed as
20 hospital police officers in accordance with the provisions of §16-5B-19 of this code, and persons
21 employed by the Public Service Commission as motor carrier inspectors and weight-enforcement
22 officers charged with enforcing commercial motor vehicle safety and weight restriction laws,
23 although those institutions and agencies may not be considered law-enforcement agencies. The
24 term also includes those persons employed as county litter control officers charged with enforcing
25 litter laws: Provided, That those persons have been trained and certified as law-enforcement
26 officers and that certification is currently active. The term also includes those persons employed as
27 rangers by resort area districts in accordance with the provisions of §7-25-23 of this code,
28 although no resort area district may be considered a law-enforcement agency: Provided, however,
29 That the subject rangers shall pay the tuition and costs of training. As used in this article, the term
30 "law-enforcement officer" does not apply to the chief executive of any West Virginia law-
31 enforcement agency, nor to any watchman or special natural resources police officer, or to any
32 litter control officer who is authorized and trained under the provisions of §7-1-3ff(d) of this code
33 but is not trained and currently certified as a law-enforcement officer;

34 (A) The term further includes canine units animals trained to assist law enforcement
35 officers, including canines and other animals trained for a law enforcement purpose, or trained as
36 part of a community search and rescue group under the West Virginia Emergency Management
37 Search and Rescue Program created under §15-5-3 to assist in the search and rescue for
38 individuals and cadavers. This inclusion extends only insofar as the animals are designated as law
39 enforcement officers while they are actively working with a human officer or a member of
40 community search and rescue group in the field or resting in between assignments with a human
41 law enforcement officer or search and rescue group member in the field.

42 (B) If an individual or a member of community search and rescue group is forced to defend
43 an animal working as a law enforcement officer, that individual or search and rescue group
44 member may use whatever reasonable force necessary which the human officer or search and
45 rescue group member would use while defending or protecting another human officer or search
46 and rescue group member.

47 (C) The animal is not an employee of the state and is entitled to neither the administrative
48 protections nor personnel status afforded to other employees.

49 ~~(7)~~—"Law-enforcement official" means the duly appointed chief administrator of a
50 designated law-enforcement agency or a duly authorized designee;

51 ~~(8)~~—"Municipality" means any incorporated town or city whose boundaries lie within the
52 geographic boundaries of the state;

53 ~~(9)~~—"Pre-certified law-enforcement officer" means a person employed or offered
54 employment by a West Virginia law-enforcement agency prior to his or her initial certification by
55 the subcommittee. This term does not include a person employed or offered employment by a
56 West Virginia law-enforcement agency whose certification status is inactive, suspended, or has
57 been revoked;

58 ~~(10)~~—"Subcommittee" or "law-enforcement professional standards subcommittee" means
59 the subcommittee of the Governor's Committee on Crime, Delinquency, and Correction created by
60 §30-29-2 of this code; and

61 ~~(11)~~—"West Virginia law-enforcement agency" means any duly authorized state, county, or
62 municipal organization employing one or more persons whose responsibility is the enforcement of
63 laws of the state or any county or municipality thereof: *Provided*, That neither the Public Service
64 Commission nor any state institution of higher education, nor any hospital, nor any resort area
65 district is a law-enforcement agency.

CHAPTER 61. CRIMES AND THEIR PUNISHMENTS

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, correctional employees 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. "Law-enforcement officer" also includes the animals used in police investigations, including, but not limited to, animals trained for a law enforcement purpose or trained as part of a community search and rescue group under the West Virginia Emergency Management Search and Rescue Program created under §15-5-3 to assist in the search and rescue for individuals and cadavers. All crimes against an animal acting in its capacity as a law enforcement officer or with a community search and rescue

22 group assisting law-enforcement officers in the search and rescue for individuals and cadaver
23 shall carry the same penalties as though the crime were committed against a human law
24 enforcement officer.

25 (6)-"Correctional employee" means any individual employed by the West Virginia Division
26 of Corrections, the West Virginia Regional Jail Authority, and the West Virginia Division of Juvenile
27 Services and an employee of an entity providing services to incarcerated, detained, or housed
28 persons pursuant to a contract with such agencies.

29 (b) Malicious assault. — Any person who maliciously shoots, stabs, cuts or wounds or by
30 any means causes bodily injury with intent to maim, disfigure, disable or kill a government
31 representative, health care worker, utility worker, emergency service personnel, correctional
32 employee or law-enforcement officer acting in his or her official capacity, and the person
33 committing the malicious assault knows or has reason to know that the victim is acting in his or her
34 official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a correctional
35 facility for not less than three nor more than 15 years. This penalty also applies to animals,
36 including, but not limited to, canines, who are working in the field with a human law- enforcement
37 officer or with a community search and rescue group member assisting law-enforcement officers
38 in the search and rescue for individuals and cadavers.

39 (c) Unlawful assault. — Any person who unlawfully but not maliciously shoots, stabs, cuts
40 or wounds or by any means causes a government representative, health care worker, utility
41 worker, emergency service personnel, correctional employee or law-enforcement officer acting in
42 his or her official capacity bodily injury with intent to maim, disfigure, disable or kill him or her and
43 the person committing the unlawful assault knows or has reason to know that the victim is acting in
44 his or her official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a
45 correctional facility for not less than two nor more than five years. This penalty also applies to
46 animals, including, but not limited to, canines, who are working in the field with a human law-
47 enforcement officer or with a community search and rescue group member assisting law-

48 enforcement officers in the search and rescue for individuals and cadavers.

49 (d) Battery. — Any person who unlawfully, knowingly and intentionally makes physical
50 contact of an insulting or provoking nature with a government representative, health care worker,
51 utility worker, emergency service personnel, correctional employee or law-enforcement officer
52 acting in his or her official capacity and the person committing the battery knows or has reason to
53 know that the victim is acting in his or her official capacity, or unlawfully and intentionally causes
54 physical harm to that person acting in such capacity and the person committing the battery knows
55 or has reason to know that the victim is acting in his or her official capacity, is guilty of a
56 misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in jail
57 not less than one month nor more than twelve months or both fined and confined. If any person
58 commits a second such offense, he or she is guilty of a felony and, upon conviction thereof, shall
59 be fined not more than \$1,000 or imprisoned in a state correctional facility not less than one year
60 nor more than three years, or both fined and imprisoned. Any person who commits a third violation
61 of this subsection is guilty of a felony and, upon conviction thereof, shall be fined not more than
62 \$2,000 or imprisoned in a state correctional facility not less than two years nor more than five
63 years, or both fined and imprisoned. This penalty also applies to animals, including, but not limited
64 to, canines, who are working in the field with a human law-enforcement officer or with a community
65 search and rescue group member assisting law-enforcement officers in the search and rescue for
66 individuals and cadavers.

67 (e) Assault. — Any person who unlawfully attempts to commit a violent injury to the person
68 of a government representative, health care worker, utility worker, emergency service personnel,
69 correctional employee or law-enforcement officer, acting in his or her official capacity and the
70 person committing the battery knows or has reason to know that the victim is acting in his or her
71 official capacity, or unlawfully commits an act which places that person acting in his or her official
72 capacity in reasonable apprehension of immediately receiving a violent injury and the person
73 committing the battery knows or has reason to know that the victim is acting in his or her official

74 capacity, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not
75 less than twenty-four hours nor more than six months, fined not more than \$200, or both fined and
76 confined. This penalty also applies to animals, including, but not limited to, canines, who are
77 working in the field with a human law-enforcement officer or with a community search and rescue
78 group member assisting law-enforcement officers in the search and rescue for individuals and
79 cadavers..

80 (f) Any person convicted of any crime set forth in this section who is incarcerated in a
81 facility operated by the West Virginia Division of Corrections or the West Virginia Regional Jail
82 Authority, or is in the custody of the Division of Juvenile Services and is at least 18 years of age or
83 subject to prosecution as an adult, at the time of committing the offense and whose victim is a
84 correctional employee may not be sentenced in a manner by which the sentence would run
85 concurrent with any other sentence being served at the time the offense giving rise to the
86 conviction of a crime set forth in this section was committed.

NOTE: The purpose of this bill is to include police canine units and community search and rescue group canines assisting law-enforcement officers in the search and rescue for individuals and cadavers in definitions of "law enforcement officers" in relation to crimes against law enforcement officers and the level of force allowable to protect the canines as law enforcement officers.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.