

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **Senate Bill 250**

BY SENATORS AZINGER AND CLINE

[ Introduced January 11, 2018; Referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-2-9 of the Code of West Virginia, 1931, as amended, relating  
 2 to creating the crime of aggravated malicious wounding; making the crime a felony; and  
 3 establishing a penalty.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 2. CRIMES AGAINST THE PERSON.**

### **§61-2-9. Malicious or unlawful assault; assault; battery; penalties.**

1 (a) If any person maliciously shoots, stabs, cuts or wounds any person, or by any means  
 2 cause him or her bodily injury with intent to maim, disfigure, disable or kill, he or she, except where  
 3 it is otherwise provided, is guilty of a felony and, upon conviction thereof, shall be punished by  
 4 confinement in a state correctional facility not less than two nor more than ten years. If the act is  
 5 done unlawfully, but not maliciously, with the intent aforesaid, the offender is guilty of a felony  
 6 and, upon conviction thereof, shall either be imprisoned in a state correctional facility not less than  
 7 one nor more than five years, or be confined in jail not exceeding twelve months and fined not  
 8 exceeding \$500.

9 (b) Aggravated malicious wounding. – (1) If any person maliciously shoots, stabs, cuts or  
 10 wounds any person, or by any means cause him or her bodily injury with intent to maim, disfigure,  
 11 disable or kill and the victim is severely injured and suffers significant and permanent physical  
 12 impairment, is guilty of a felony and, upon conviction, shall be confined in a state correctional  
 13 facility not less than five nor more than fifteen years.

14 (2) If any person maliciously shoots, stabs, cuts or wounds a pregnant woman, or by any  
 15 means cause her bodily injury with intent to maim, disfigure, disable or kill and the victim is  
 16 severely injured and suffers significant and permanent physical impairment or results in an  
 17 involuntary termination of the pregnancy, is guilty of a felony and, upon conviction, shall be  
 18 confined in a state correctional facility not less than five nor more than fifteen years.

19 ~~(b)~~ (c) Assault. — Any person who unlawfully attempts to commit a violent injury to the  
 20 person of another or unlawfully commits an act that places another in reasonable apprehension

21 of immediately receiving a violent injury is guilty of a misdemeanor and, upon conviction thereof,  
22 shall be confined in jail for not more than six months or fined not more than \$100, or both fined  
23 and confined.

24 ~~(e)~~ (d) *Battery*. — Any person who unlawfully and intentionally makes physical contact of  
25 an insulting or provoking nature to the person of another or unlawfully and intentionally causes  
26 physical harm to another person is guilty of a misdemeanor and, upon conviction thereof, shall be  
27 confined in jail for not more than twelve months or fined not more than \$500, or both fined and  
28 confined.

29 ~~(d)~~ (e) Any person convicted of a violation of subsection (b) or (c) of this section who has,  
30 in the ten years prior to the conviction, been convicted of a violation of either subsection (b) or (c)  
31 of this section where the victim was a current or former spouse, current or former sexual or  
32 intimate partner, a person with whom the defendant has a child in common, a person with whom  
33 the defendant cohabits or has cohabited, a parent or guardian or the defendant's child or ward at  
34 the time of the offense or convicted of a violation of §61-2-28 of this code or has served a period  
35 of pretrial diversion for an alleged violation of subsection (b) or (c) of this section or §61-2-28 of  
36 this code when the victim has a present or past relationship, upon conviction, is subject to the  
37 penalties set forth in §61-2-28 of this code for a second, third or subsequent criminal act of  
38 domestic violence offense, as appropriate.

NOTE: This purpose of this bill is to create the crime of aggravated malicious wounding.  
The bill makes the crime a felony and, establishes a penalty.

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