

1 S.30

2 Introduced by Senators Doyle, Cummings and Mullin

3 Referred to Committee on Judiciary

4 Date: January 25, 2011

5 Subject: Crimes; assault of nurse

6 Statement of purpose: This bill proposes to increase the penalty for assault of
7 a nurse so that the offense is always a felony rather than a misdemeanor.

8 *An act relating to assault of a health care worker.*

9 ~~An act relating to enhancing the penalty for assault of a nurse~~

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 ~~Sec. 1. 13 V.S.A. § 1028b is added to read:~~

12 ~~§ 1028b. ASSAULT OF NURSE~~

13 ~~A person convicted of a simple or aggravated assault against a nurse as~~
14 ~~defined in 18 V.S.A. § 4201(17) while the nurse is performing a lawful duty, in~~
15 ~~addition to any other penalties imposed under sections 1023 and 1024 of this~~
16 ~~title, shall:~~

17 ~~(1) For the first offense, be imprisoned not more than five years;~~

18 ~~(2) For the second offense and subsequent offenses, be imprisoned not~~
19 ~~more than ten years.~~

20 ~~Sec. 2. EFFECTIVE DATE~~

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~~This act shall take effect on passage.~~

~~Sec. 1. 13 V.S.A. § 1028 is amended to read:~~

~~§ 1028. ASSAULT OF LAW ENFORCEMENT OFFICER, FIREFIGHTER, EMERGENCY ROOM PERSONNEL, OR EMERGENCY MEDICAL PERSONNEL MEMBER, OR HEALTH CARE WORKER; ASSAULT WITH BODILY FLUIDS~~

~~(a) A person convicted of a simple or aggravated assault against a law enforcement officer, a firefighter, emergency room personnel, an employee of a health care facility as defined in 18 V.S.A. § 9432(8) who provides direct care to patients or who is part of a team-response to a patient or visitor incident involving real or potential violence, or a member of emergency services personnel as defined in subdivision 24 V.S.A. § 2651(6) while the officer, firefighter, health care worker, employee, or emergency medical personnel member is performing a lawful duty, in addition to any other penalties imposed under sections 1023 and 1024 of this title, shall:~~

~~(1) For the first offense, be imprisoned not more than one year;~~

~~(2) For the second offense and subsequent offenses, be imprisoned not more than ten years.~~

~~(a) A person convicted of a simple or aggravated assault against a law enforcement officer, a firefighter, emergency room personnel a health care worker, or a member of emergency services medical personnel as defined in subdivision 24 V.S.A. § 2651(6) of Title 24 while the officer, firefighter, health care worker, or emergency medical personnel member is performing a lawful duty, in addition to any other penalties imposed under sections 1023 and 1024 of this title, shall:~~

~~(1) For the first offense, be imprisoned not more than one year;~~

~~(2) For the second offense and subsequent offenses, be imprisoned not more than 10 years.~~

~~(b)(1) No person shall intentionally cause blood, vomitus, excrement, mucus, saliva, semen, or urine to come in contact with a law enforcement officer person designated in subsection (a) of this section while the officer person is performing a lawful duty.~~

~~(2) A person who violates this subsection shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.~~

~~(c) For purposes of this section:~~

~~(1) "Health care worker" means an employee of a health care facility or a licensed physician who is on the medical staff of a health care facility who~~

~~provides direct care to patients or who is part of a team-response to a patient or visitor incident involving real or potential violence.~~

~~(2) "Health care facility" shall have the same meaning as defined in 18 V.S.A. § 9432(8)~~

~~Sec. 2. LAW ENFORCEMENT ADVISORY BOARD~~

~~The law enforcement advisory board shall adopt a model policy to address enforcement of the criminal code as it relates to an assault of a health care worker while he or she is engaged in his or her official duties providing patient care.~~

~~Sec. 3. EFFECTIVE DATE~~

~~This act shall take effect on passage.~~

~~Sec. 1. 13 V.S.A. § 1028 is amended to read:~~

~~§ 1028. ASSAULT OF LAW ENFORCEMENT OFFICER, FIREFIGHTER, EMERGENCY ROOM PERSONNEL, OR EMERGENCY MEDICAL PERSONNEL MEMBER, OR HEALTH CARE WORKER; ASSAULT WITH BODILY FLUIDS~~

~~(a) A person convicted of a simple or aggravated assault against a law enforcement officer, a firefighter, emergency room personnel a health care worker, or a member of emergency services medical personnel as defined in subdivision 24 V.S.A. § 2651(6) of Title 24 while the officer, firefighter, health care worker, or emergency medical personnel member is performing a lawful duty, in addition to any other penalties imposed under sections 1023 and 1024 of this title, shall:~~

~~(1) For the first offense, be imprisoned not more than one year;~~

~~(2) For the second offense and subsequent offenses, be imprisoned not more than 10 years.~~

~~(b)(1) No person shall intentionally cause blood, vomitus, excrement, mucus, saliva, semen, or urine to come in contact with a law enforcement officer person designated in subsection (a) of this section while the officer person is performing a lawful duty.~~

~~(2) A person who violates this subsection shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.~~

~~(c) In imposing a sentence under this section, the court shall take into consideration whether the defendant was a patient at the time of the offense and had a psychiatric illness, the symptoms of which were exacerbated by the surrounding circumstances, irrespective of whether the illness constituted an affirmative defense to the charge.~~

(d) For purposes of this section:

(1) "Health care facility" shall have the same meaning as defined in 18 V.S.A. § 9432(8)

(2) "Health care worker" means an employee of a health care facility or a licensed physician who is on the medical staff of a health care facility who provides direct care to patients or who is part of a team-response to a patient or visitor incident involving real or potential violence.

Sec. 2. LAW ENFORCEMENT ADVISORY BOARD

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