

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~~

1 ~~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.