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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001

ENROLLED

House Bill No. 2275

(By Delegates Stemple, Shelton and Williams)

Passed April 14, 2001

In Effect Ninety Days from Passage

FILED

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H. B. 2275

(BY DELEGATES STEMPLE, SHELTON AND WILLIAMS)

[Passed April 14, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact section seventeen, article five, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to obstructing law enforcement officer; creating felony offense of disarming or attempting to disarm an officer; creating misdemeanor offense of making false statement to officer; providing exceptions; providing penalties; and defining term.

Be it enacted by the Legislature of West Virginia:

That section seventeen, article five, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.

§61-5-17. Obstructing officer; fleeing from officer; making false statement to officer; penalties; definitions.

- 1 (a) Any person who by threats, menaces, acts or otherwise,
- 2 forcibly or illegally hinders or obstructs, or attempts to hinder

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3 or obstruct, any law-enforcement officer, probation officer or
4 parole officer acting in his or her official capacity is guilty of a
5 misdemeanor and, upon conviction thereof, shall be fined not
6 less than fifty nor more than five hundred dollars or confined in
7 the county or regional jail not more than one year, or both.

8 (b) Any person who intentionally disarms or attempts to
9 disarm any law-enforcement officer acting in his or her official
10 capacity, is guilty of a felony and, upon conviction thereof,
11 shall be imprisoned in the state correctional facility not less
12 than one nor more than five years.

13 (c) Any person who, with intent to impede or obstruct a law
14 enforcement officer in the conduct of a investigation of a felony
15 offense, knowingly and wilfully makes a materially false
16 statement, is guilty of a misdemeanor and, upon conviction
17 thereof, shall be fined not less than twenty-five dollars and not
18 more than two hundred dollars, or confined in the county or
19 regional jail for five days, or both: *Provided*, That the provi-
20 sions of this section shall not apply to statements made by a
21 spouse, parent, stepparent, grandparent, sibling, half-sibling,
22 child, stepchild or grandchild, whether related by blood or
23 marriage, of the person under investigation. Statements made
24 by the person under investigation may not be used as the basis
25 for prosecution under this subsection. For the purposes of this
26 subsection, "law enforcement officer" shall not include watch-
27 man, state police or college security personnel.

28 (d) Any person who intentionally flees or attempts to flee
29 by any means other than the use of a vehicle from any
30 law-enforcement officer, probation officer or parole officer
31 acting in his or her official capacity who is attempting to make
32 a lawful arrest of the person, and who knows or reasonably
33 believes that the officer is attempting to arrest him or her, is
34 guilty of a misdemeanor and, upon conviction thereof, shall be
35 fined not less than fifty nor more than five hundred dollars or

36 confined in the county or regional jail not more than one year,
37 or both.

38 (e) Any person who intentionally flees or attempts to flee
39 in a vehicle from any law-enforcement officer, probation officer
40 or parole officer acting in his or her official capacity, after the
41 officer has given a clear visual or audible signal directing the
42 person to stop, is guilty of a misdemeanor and, upon conviction
43 thereof, shall be fined not less than five hundred nor more than
44 one thousand dollars, and shall be confined in the county or
45 regional jail not more than one year.

46 (f) Any person who intentionally flees or attempts to flee in
47 a vehicle from any law-enforcement officer, probation officer
48 or parole officer acting in his or her official capacity, after the
49 officer has given a clear visual or audible signal directing the
50 person to stop, and who causes damage to the real or personal
51 property of any person during or resulting from his or her flight,
52 is guilty of a misdemeanor and, upon conviction thereof, shall
53 be fined not less than one thousand nor more than three
54 thousand dollars, and shall be confined in the county or regional
55 jail for not less than six months nor more than one year.

56 (g) Any person who intentionally flees or attempts to flee
57 in a vehicle from any law-enforcement officer, probation officer
58 or parole officer acting in his or her official capacity, after the
59 officer has given a clear visual or audible signal directing the
60 person to stop, and who causes bodily injury to any person
61 during or resulting from his or her flight, is guilty of a felony
62 and, upon conviction thereof, shall be imprisoned in a state
63 correctional facility not less than one nor more than five years.

64 (h) Any person who intentionally flees or attempts to flee
65 in a vehicle from any law-enforcement officer, probation officer
66 or parole officer acting in his or her official capacity, after the
67 officer has given a clear visual or audible signal directing the

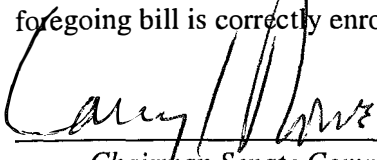
68 person to stop, and who causes death to any person during or
69 resulting from his or her flight, is guilty of a felony and, upon
70 conviction thereof, shall be punished by a definite term of
71 imprisonment in a state correctional facility which is not less
72 than three nor more than fifteen years. A person imprisoned
73 pursuant to the provisions of this subsection is not eligible for
74 parole prior to having served a minimum of three years of his
75 or her sentence or the minimum period required by the provi-
76 sions of section thirteen, article twelve, chapter sixty-two of this
77 code, whichever is greater.

78 (i) Any person who intentionally flees or attempts to flee in
79 a vehicle from any law-enforcement officer, probation officer
80 or parole officer acting in his or her official capacity, after the
81 officer has given a clear visual or audible signal directing the
82 person to stop, and who is under the influence of alcohol,
83 controlled substances or drugs at the time, is guilty of a felony
84 and, upon conviction thereof, shall be imprisoned in a state
85 correctional facility not less than one nor more than five years.

86 (j) For purposes of this section, the term "vehicle" includes
87 any motor vehicle, motorcycle, motorboat, all-terrain vehicle or
88 snowmobile, as those terms are defined in section one, article
89 one, chapter seventeen-a of this code, whether or not it is being
90 operated on a public highway at the time and whether or not it
91 is licensed by the state.

92 (k) For purposes of this section, the terms "flee," "fleeing"
93 and "flight" do not include any person's reasonable attempt to
94 travel to a safe place, allowing the pursuing law-enforcement
95 officer to maintain appropriate surveillance, for the purpose of
96 complying with the officer's direction to stop.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

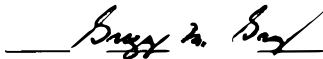

Chairman Senate Committee


Chairman House Committee

Originating in the House.

In effect ninety days from passage.

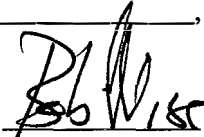

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 27th
day of April, 2001.


Governor

PRESENTED TO THE
GOVERNOR

Date 4/24/01

Time 4:40 pm