

Senate Bill No. 166

(By Senators Laird, Tucker, Yost, Barnes, Plymale, Unger,
Miller, Jenkins, Wills and Klempa)

[Introduced January 12, 2012; referred to the Committee on the
Judiciary; and then to the Committee on Finance.]

A BILL to amend and reenact §61-5-17 of the Code of West
Virginia, 1931, as amended, relating to making it a felony to
disarm or attempt to disarm correctional officers.

Be it enacted by the Legislature of West Virginia:

That §61-5-17 of the Code of West Virginia, 1931, 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
statements to officer; penalties; definitions.**

- 1 (a) Any person who by threats, menaces, acts or other-
- 2 wise, forcibly or illegally hinders or obstructs, or attempts to
- 3 hinder or obstruct, any law-enforcement officer, probation
- 4 officer or parole officer acting in his or her official capacity

5 is guilty of a misdemeanor and, upon conviction thereof,
6 shall be fined not less than \$50 nor more than \$500 or
7 confined in jail not more than one year, or both fined and
8 confined.

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

15 (c) Any person who, with intent to impede or obstruct a
16 law-enforcement officer in the conduct of an investigation of
17 a felony offense, knowingly and willfully makes a materially
18 false statement, is guilty of a misdemeanor and, upon
19 conviction thereof, shall be fined not less than \$25 and not
20 more than \$200, or confined in jail for five days, or both
21 fined ~~or~~ and confined. However, the provisions of this section
22 do not apply to statements made by a spouse, parent, step-
23 parent, grandparent, sibling, half sibling, child, stepchild or
24 grandchild, whether related by blood or marriage, of the
25 person under investigation. Statements made by the person
26 under investigation may not be used as the basis for prosecu-

27 tion under this subsection. For the purposes of this subsec-
28 tion, “law-enforcement officer” does not include a watch-
29 man, a member of the West Virginia State Police or college
30 security personnel who is not a certified law-enforcement
31 officer.

32 (d) Any person who intentionally flees or attempts to flee
33 by any means other than the use of a vehicle from any law-
34 enforcement officer, probation officer or parole officer acting
35 in his or her official capacity who is attempting to make a
36 lawful arrest of the person, and who knows or reasonably
37 believes that the officer is attempting to arrest him or her, is
38 guilty of a misdemeanor and, upon conviction thereof, shall
39 be fined not less than \$50 nor more than \$500 or confined in
40 jail not more than one year, or both.

41 (e) Any person who intentionally flees or attempts to flee
42 in a vehicle from any law-enforcement officer, probation
43 officer or parole officer acting in his or her official capacity,
44 after the officer has given a clear visual or audible signal
45 directing the person to stop, is guilty of a misdemeanor and,
46 upon conviction thereof, shall be fined not less than \$500 nor
47 more than \$1,000 and shall be confined in a regional jail not
48 more than one year.

49 (f) Any person who intentionally flees or attempts to flee
50 in a vehicle from any law-enforcement officer, probation
51 officer or parole officer acting in his or her official capacity,
52 after the officer has given a clear visual or audible signal
53 directing the person to stop, and who operates the vehicle in
54 a manner showing a reckless indifference to the safety of
55 others, is guilty of a felony and, upon conviction thereof,
56 shall be fined not less than \$1,000 nor more than \$2,000, and
57 shall be imprisoned in a state correctional facility not less
58 than one nor more than five years.

59 (g) Any person who intentionally flees or attempts to flee
60 in a vehicle from any law-enforcement officer, probation
61 officer or parole officer acting in his or her official capacity,
62 after the officer has given a clear visual or audible signal
63 directing the person to stop, and who causes damage to the
64 real or personal property of any person during or resulting
65 from his or her flight, is guilty of a misdemeanor and, upon
66 conviction thereof, shall be fined not less than \$1,000 nor
67 more than \$3,000 and shall be confined in the county or
68 regional jail for not less than six months nor more than one
69 year.

70 (h) Any person who intentionally flees or attempts to flee
71 in a vehicle from any law-enforcement officer, probation
72 officer or parole officer acting in his or her official capacity,
73 after the officer has given a clear visual or audible signal
74 directing the person to stop, and who causes bodily injury to
75 any person during or resulting from his or her flight, is guilty
76 of a felony and, upon conviction thereof, shall be imprisoned
77 in a state correctional facility not less than three nor more
78 than ten years.

79 (i) Any person who intentionally flees or attempts to flee
80 in a vehicle from any law-enforcement officer, probation
81 officer or parole officer acting in his or her official capacity,
82 after the officer has given a clear visual or audible signal
83 directing the person to stop, and who causes death to any
84 person during or resulting from his or her flight, is guilty of
85 a felony and, upon conviction thereof, shall be punished by
86 a definite term of imprisonment in a state correctional
87 facility which is not less than five nor more than fifteen
88 years. A person imprisoned pursuant to the provisions of this
89 subsection is not eligible for parole prior to having served a
90 minimum of three years of his or her sentence or the mini-
91 mum period required by the provisions of section thirteen,

92 article twelve, chapter sixty-two of this code, whichever is
93 greater.

94 (j) Any person who intentionally flees or attempts to flee
95 in a vehicle from any law-enforcement officer, probation
96 officer or parole officer acting in his or her official capacity,
97 after the officer has given a clear visual or audible signal
98 directing the person to stop, and who is under the influence
99 of alcohol, controlled substances or drugs at the time, is
100 guilty of a felony and, upon conviction thereof, shall be
101 imprisoned in a state correctional facility not less than three
102 nor more than ten years.

103 (k) For purposes of this section, the term "vehicle"
104 includes any motor vehicle, motorcycle, motorboat, all-
105 terrain vehicle or snowmobile, as those terms are defined in
106 section one, article one, chapter seventeen-a of this code,
107 whether or not it is being operated on a public highway at
108 the time and whether or not it is licensed by the state.

109 (l) For purposes of this section, the terms "flee",
110 "fleeing" and "flight" do not include any person's reasonable
111 attempt to travel to a safe place, allowing the pursuing law-
112 enforcement officer to maintain appropriate surveillance, for
113 the purpose of complying with the officer's direction to stop.

114 (m) The revisions to subsections (e), (f), (g) and (h) of this
115 article enacted during the regular session of the 2010 regular
116 legislative session shall be known as the Jerry Alan Jones
117 Act.

(NOTE: The purpose of this bill is to make it a felony to disarm or attempt to disarm a correctional officer.

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

This bill was recommended for introduction and passage during the 2012 Regular Session of the Legislature by the Legislative Oversight Committee on Regional Jail and Correctional Facility Authority.)

FINANCE COMMITTEE AMENDMENT

On page seven, section seventeen, line one hundred fifteen, by striking out the word "article" and inserting in lieu thereof the word "section".