

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 372

(By Senators Laird, Beach, Miller, Prezioso, Unger, Stollings,
Plymale, Cann, Fitzsimmons, Jenkins and Williams)

[Originating in the Committee on the Judiciary;
reported March 8, 2013.]

A BILL to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating to creating a criminal offense for interfering with or preventing a person from calling for assistance of emergency service personnel; and establishing penalties.

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; interfering with emergency communications; penalties; definitions.

1 (a) ~~Any~~ A person who by threats, menaces, acts or
2 otherwise forcibly or illegally hinders or obstructs or
3 attempts to hinder or obstruct ~~any~~ a law-enforcement officer,
4 probation officer or parole officer acting in his or her official
5 capacity is guilty of a misdemeanor and, upon conviction
6 thereof, shall be fined not less than \$50 nor more than \$500
7 or confined in jail not more than one year, or both fined and
8 confined.

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

15 (c) ~~Any~~ A person who, with intent to impede or obstruct
16 a law-enforcement officer in the conduct of an investigation
17 of a felony offense, knowingly and willfully makes a
18 materially false statement, is guilty of a misdemeanor and,
19 upon conviction thereof, shall be fined not less than \$25 ~~and~~
20 ~~not~~ nor more than \$200, or confined in jail for five days, or
21 both fined and confined. ~~However,~~ The provisions of this
22 section do not apply to statements made by a spouse, parent,
23 stepparent, grandparent, sibling, half sibling, child, stepchild
24 or 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
27 prosecution under this subsection. For ~~the~~ purposes of this
28 subsection, “law-enforcement officer” does not include a
29 watchman, a member of the West Virginia State Police or
30 college security personnel who is not a certified
31 law-enforcement officer.

32 (d) ~~Any~~ A person who intentionally flees or attempts to
33 flee by any means other than the use of a vehicle from ~~any~~ a

34 law-enforcement officer, probation officer or parole officer
35 acting in his or her official capacity who is attempting to
36 make a lawful arrest of the person, and who knows or
37 reasonably believes that the officer is attempting to arrest him
38 or her, is guilty of a misdemeanor and, upon conviction
39 thereof, shall be fined not less than \$50 nor more than \$500
40 or confined in jail not more than one year, or both.

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

49 (f) ~~Any~~ A person who intentionally flees or attempts to
50 flee in a vehicle from ~~any~~ a law-enforcement officer,
51 probation officer or parole officer acting in his or her official
52 capacity after the officer has given a clear visual or audible

53 signal directing the person to stop, and who operates the
54 vehicle in a manner showing a reckless indifference to the
55 safety of others, is guilty of a felony and, upon conviction
56 thereof, shall be fined not less than \$1,000 nor more than
57 \$2,000, and shall be imprisoned in a state correctional facility
58 not less than one nor more than five years.

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

70 (h) ~~Any~~ A person who intentionally flees or attempts to
71 flee in a vehicle from ~~any~~ a law-enforcement officer,

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

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

91 sentence or the minimum period required by the provisions
92 of section thirteen, article twelve, chapter sixty-two of this
93 code, whichever is greater.

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

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

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

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

119 (n)(1) No person, with the intent to purposefully deprive
120 a person of emergency services, may interfere with or prevent
121 a person from using or accessing a 911 emergency telephone
122 system or making a report to a law-enforcement officer, to an
123 agency, to a fire department or from requesting emergency
124 medical assistance.

125 (2) For the purpose of this subsection, the term “interfere
126 with or prevent” includes, but is not limited to, seizing,
127 concealing, obstructing access to or disabling or

128 disconnecting a telephone, telephone line or equipment or
129 other communication device.

130 (3) For the purpose of this subsection, the term
131 “emergency communication” means any means of
132 communication that allows the transmission of warnings or
133 other information pertaining to a crime, fire, accident, power
134 outage, disaster or risk of injury or damage to a person or
135 property including, but not limited to, telephone lines,
136 cellular telephone towers and equipment, radio channels,
137 railroad communication devices, electrical towers and
138 equipment and utility lines.

139 (4) A person who violates a provision of this subsection
140 is guilty of a misdemeanor and, upon conviction thereof,
141 shall be confined in jail for a period of not less than one day
142 nor more than one year and shall be fined not less than \$250
143 nor more than \$2,000, or both confined and fined.

144 (5) A person who is convicted of a second offense under
145 this subsection is guilty of a misdemeanor and, upon
146 conviction thereof, shall be confined in jail for not less than

147 three months nor more than one year and fined not less than

148 \$500 nor more than \$3,000, or both confined and fined.

149 (6) A person who is convicted of a third or subsequent

150 offense under this subsection within ten years of a prior

151 conviction of this offense is guilty of a misdemeanor and,

152 upon conviction thereof, shall be confined in jail not less than

153 six months nor more than one year and fined not less than

154 \$500 nor more than \$4,000, or both confined and fined.

(NOTE: The purpose of this bill is to create a criminal offense for intentionally interfering with or preventing a person from calling for the assistance of emergency service personnel and to establish criminal penalties.

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