

WEST VIRGINIA LEGISLATURE
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REGULAR SESSION, 2014



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 90

(SENATORS LAIRD, COOKMAN AND FITZSIMMONS,
ORIGINAL SPONSORS)

[PASSED MARCH 5, 2014; IN EFFECT NINETY DAYS FROM PASSAGE.]

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original sponsors)

[Passed March 5, 2014; in effect ninety days from passage.]

AN ACT 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 the assistance of emergency service personnel; defining terms; and establishing criminal 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) A person who by threats, menaces, acts or otherwise
- 2 forcibly or illegally hinders or obstructs or attempts to hinder

3 or obstruct a law-enforcement officer, probation officer or
4 parole officer acting in his or her official capacity is guilty of
5 a misdemeanor and, upon conviction thereof, shall be fined
6 not less than \$50 nor more than \$500 or confined in jail not
7 more than one year, or both fined and confined.

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

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

31 (d) A person who intentionally flees or attempts to flee by
32 any means other than the use of a vehicle from a
33 law-enforcement officer, probation officer or parole officer
34 acting in his or her official capacity who is attempting to
35 make a lawful arrest of the person, and who knows or

36 reasonably believes that the officer is attempting to arrest him
37 or her, is guilty of a misdemeanor and, upon conviction
38 thereof, shall be fined not less than \$50 nor more than \$500
39 or confined in jail not more than one year, or both.

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

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

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

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

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

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

98 (k) For purposes of this section, the term "vehicle"
99 includes any motor vehicle, motorcycle, motorboat,
100 all-terrain vehicle or snowmobile as those terms are defined

101 in section one, article one, chapter seventeen-a of this code,
102 whether or not it is being operated on a public highway at the
103 time and whether or not it is licensed by the state.

104 (l) For purposes of this section, the terms “flee”, “fleeing”
105 and “flight” do not include a person’s reasonable attempt to
106 travel to a safe place, allowing the pursuing law-enforcement
107 officer to maintain appropriate surveillance, for the purpose
108 of complying with the officer’s direction to stop.

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

113 (n) (1) No person, with the intent to purposefully deprive
114 another person of emergency services, may interfere with or
115 prevent another person from making an emergency
116 communication, which a reasonable person would consider
117 necessary under the circumstances, to law-enforcement, fire,
118 or emergency medical service personnel.

119 (2) For the purpose of this subsection, the term “interfere
120 with or prevent” includes, but is not limited to, seizing,
121 concealing, obstructing access to or disabling or
122 disconnecting a telephone, telephone line or equipment or
123 other communication device.

124 (3) For the purpose of this subsection, the term
125 “emergency communication” means communication to
126 transmit warnings or other information pertaining to a crime,
127 fire, accident, power outage, disaster or risk of injury or
128 damage to a person or property.

129 (4) A person who violates this subsection is guilty of a
130 misdemeanor and, upon conviction thereof, shall be confined

131 in jail for a period of not less than one day nor more than one
132 year and shall be fined not less than \$250 nor more than
133 \$2,000, or both.

134 (5) A person who is convicted of a second offense under
135 this subsection is guilty of a misdemeanor and, upon
136 conviction thereof, shall be confined in jail for not less than
137 three months nor more than one year and fined not less than
138 \$500 nor more than \$3,000, or both.

139 (6) A person who is convicted of a third or subsequent
140 offense under this subsection is guilty of a misdemeanor and,
141 upon conviction thereof, shall be confined in jail not less than
142 six months nor more than one year and fined not less than
143 \$500 nor more than \$4,000, or both.

144 (7) In determining the number of prior convictions for
145 purposes of imposing punishment under this subsection, the
146 court shall disregard all such prior convictions occurring
147 more than ten years prior to the offense in question.

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

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the

Day of, 2014.

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Governor