

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 90**

(By Senators Laird, Cookman and Fitzsimmons)

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[Originating in the Committee on the Judiciary;  
reported February 6, 2014.]

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

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.

149 (6) A person who is convicted of a third or subsequent  
 150 offense under this subsection is guilty of a misdemeanor and,

- 151 upon conviction thereof, shall be confined in jail not less than  
152 six months nor more than one year and fined not less than  
153 \$500 nor more than \$4,000, or both.