

H. B. 2607

(BY DELEGATE(S) SPONAUGLE AND SHOTT)

[Introduced February 4, 2015; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §61-5-17 of the Code of West Virginia, 1931, relating to the violation of interfering with emergency services communications and clarifying penalties under subdivision (n) of this section for the violation.

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 or

3 obstruct a law-enforcement officer, probation officer or parole
4 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 \$50 nor more than \$500 or confined in jail not more
7 than one year, or both fined and confined.

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

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

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

39 (e) A person who intentionally flees or attempts to flee in a
40 vehicle from a law-enforcement officer, probation officer or
41 parole officer acting in his or her official capacity after the
42 officer has given a clear visual or audible signal directing the

43 person to stop is guilty of a misdemeanor and, upon conviction
44 thereof, shall be fined not less than \$500 nor more than \$1,000
45 and shall be confined in ~~a regional~~ jail not more than one year.

46 (f) A person who intentionally flees or attempts to flee in a
47 vehicle from a law-enforcement officer, probation officer or
48 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 operates the vehicle in a manner
51 showing a reckless indifference to the safety of others, is guilty
52 of a felony and, upon conviction thereof, shall be fined not less
53 than \$1,000 nor more than \$2,000 and shall be imprisoned in a
54 state correctional facility not less than one nor more than five
55 years.

56 (g) A person who intentionally flees or attempts to flee in a
57 vehicle from a law-enforcement officer, probation officer or
58 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 damage to the real or personal
61 property of a person during or resulting from his or her flight, is
62 guilty of a misdemeanor and, upon conviction thereof, shall be

63 fined not less than \$1,000 nor more than \$3,000 and shall be
64 confined in jail for not less than six months nor more than one
65 year.

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

74 (i) A person who intentionally flees or attempts to flee in a
75 vehicle from a law-enforcement officer, probation officer or
76 parole officer acting in his or her official capacity after the
77 officer has given a clear visual or audible signal directing the
78 person to stop, and who causes death to a person during or
79 resulting from his or her flight, is guilty of a felony and, upon
80 conviction thereof, shall be imprisoned in a state correctional
81 facility for not less than five nor more than fifteen years. A
82 person imprisoned pursuant to this subsection is not eligible for

83 parole prior to having served a minimum of three years of his or
84 her sentence or the minimum period required by section thirteen,
85 article twelve, chapter sixty-two of this code, whichever is
86 greater.

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

95 (k) For purposes of this section, the term “vehicle” includes
96 any motor vehicle, motorcycle, motorboat, all-terrain vehicle or
97 snowmobile as those terms are defined in section one, article
98 one, chapter seventeen-a of this code, whether or not it is being
99 operated on a public highway at the time and whether or not it is
100 licensed by the state.

101 (l) For purposes of this section, the terms “flee”, “fleeing”
102 and “flight” do not include a person’s reasonable attempt to

103 travel to a safe place, allowing the pursuing law-enforcement
104 officer to maintain appropriate surveillance, for the purpose of
105 complying with the officer's direction to stop.

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

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

115 (2) For the purpose of this subsection, the term "interfere
116 with or prevent" includes, but is not limited to, seizing,
117 concealing, obstructing access to or disabling or disconnecting
118 a telephone, telephone line or equipment or other communication
119 device.

120 (3) For the purpose of this subsection, the term "emergency
121 communication" means communication to transmit warnings or
122 other information pertaining to a crime, fire, accident, power

123 outage, disaster or risk of injury or damage to a person or
124 property.

125 (4) A person who violates this subsection is guilty of a
126 misdemeanor and, upon conviction thereof, shall be confined in
127 jail for a period of not less than one day nor more than one year
128 ~~and~~ or shall be fined not less than \$250 nor more than \$2,000, or
129 both fined and confined.

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

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

140 (7) In determining the number of prior convictions for
141 purposes of imposing punishment under this subsection, the

142 court shall disregard all such prior convictions occurring more
143 than ten years prior to the offense in question.

NOTE: The purpose of this bill is to clarify penalties under subdivision (n) of this section for violations of interfering with emergency services communications.

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

