

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2021**

BY DELEGATE SPONAUGLE

[Introduced February 8, 2017; Referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating  
2 to penalties incurred from obstructing, fleeing from and making false statements to law-  
3 enforcement, probation and parole officers and interfering with emergency  
4 communications; and amending the penalties for several of the violations to make it clear  
5 that the convicted person may be fined and confined.

*Be it enacted by the Legislature of West Virginia:*

1 That §61-5-17 of the Code of West Virginia, 1931, as amended, be amended and  
2 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 forcibly or illegally hinders or  
2 obstructs or attempts to hinder or obstruct a law-enforcement officer, probation officer or parole  
3 officer acting in his or her official capacity is guilty of a misdemeanor and, upon conviction thereof,  
4 shall be fined not less than \$50 nor more than \$500 or confined in jail not more than one year, or  
5 both fined and confined.

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

10 (c) A person who, with intent to impede or obstruct a law-enforcement officer in the conduct  
11 of an investigation of a felony offense, knowingly and willfully makes a materially false statement  
12 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more  
13 than \$200, or confined in jail for five days, or both fined and confined. The provisions of this  
14 section do not apply to statements made by a spouse, parent, stepparent, grandparent, sibling,  
15 half sibling, child, stepchild or grandchild, whether related by blood or marriage, of the person

16 under investigation. Statements made by the person under investigation may not be used as the  
17 basis for prosecution under this subsection. For purposes of this subsection, “law-enforcement  
18 officer” does not include a watchman, a member of the West Virginia State Police or college  
19 security personnel who is not a certified law-enforcement officer.

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

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

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

37 (g) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement  
38 officer, probation officer or parole officer acting in his or her official capacity after the officer has  
39 given a clear visual or audible signal directing the person to stop, and who causes damage to the  
40 real or personal property of a person during or resulting from his or her flight, is guilty of a  
41 misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than

42 \$3,000 and shall be confined in jail for not less than six months nor more than one year.

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

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

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

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

65 (l) For purposes of this section, the terms "flee", "fleeing" and "flight" do not include a  
66 person's reasonable attempt to travel to a safe place, allowing the pursuing law-enforcement  
67 officer to maintain appropriate surveillance, for the purpose of complying with the officer's

68 direction to stop.

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

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

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

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

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

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

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

93 (7) In determining the number of prior convictions for purposes of imposing punishment

- 94 under this subsection, the court shall disregard all such prior convictions occurring more than ten  
95 years prior to the offense in question.

NOTE: The purpose of this bill is to amend the penalties for several of the violations under this section to make it clear that the convicted person may be fined and confined. The offenses include obstructing, fleeing from and making false statements to law-enforcement, probation and parole officers and interfering with emergency communications.

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