

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **Senate Bill 283**

BY SENATORS SYPOLT, BEACH, BOSO, CLEMENTS,  
HAMILTON, MAYNARD, SMITH, CLINE, BALDWIN, TARR,  
AND MARONEY

[ Introduced January 11, 2019; Referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-5-7 of the Code of West Virginia, 1931, as amended, relating  
2 to making it a misdemeanor for a person to impede or obstruct a law-enforcement officer  
3 in the conduct of an investigation of a misdemeanor who knowingly and willfully makes a  
4 materially false statement; establishing a penalty; and making a technical correction.

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

## **ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.**

1 **§61-5-17. Obstructing officer; fleeing from officer; making false statements to officer;**  
2 **interfering with emergency communications; penalties; definitions.**

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

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

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

20 subsection, "law-enforcement officer" does not include a watchman, a member of the West  
21 Virginia State Police or college security personnel who is not a certified law-enforcement officer.

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

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

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

39 (g) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement  
40 officer, probation officer or parole officer acting in his or her official capacity after the officer has  
41 given a clear visual or audible signal directing the person to stop, and who causes damage to the  
42 real or personal property of a person during or resulting from his or her flight, is guilty of a  
43 misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than  
44 \$3,000 and shall be confined in jail for not less than six months nor more than one year.

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

50 (i) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement  
51 officer, probation officer or parole officer acting in his or her official capacity after the officer has  
52 given a clear visual or audible signal directing the person to stop, and who causes death to a  
53 person during or resulting from his or her flight, is guilty of a felony and, upon conviction thereof,  
54 shall be imprisoned in a state correctional facility for not less than five nor more than 15 years. A  
55 person imprisoned pursuant to this subsection is not eligible for parole prior to having served a  
56 minimum of three years of his or her sentence or the minimum period required by §62-12-13 of  
57 this code, whichever is greater.

58 (j) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement  
59 officer, probation officer or parole officer acting in his or her official capacity after the officer has  
60 given a clear visual or audible signal directing the person to stop, and who is under the influence  
61 of alcohol, controlled substances or drugs, is guilty of a felony and, upon conviction thereof, shall  
62 be imprisoned in a state correctional facility not less than three nor more than 10 years.

63 (k) For purposes of this section, the term "vehicle" includes any motor vehicle, motorcycle,  
64 motorboat, all-terrain vehicle or snowmobile as those terms are defined in §17A-1-1 of this code,  
65 whether or not it is being operated on a public highway at the time and whether or not it is licensed  
66 by the state.

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

71 (m) The revisions to §61-5-7(e), §61-5-7(f), §61-5-7(g), and §61-5-7(h) of this code  
72 enacted during the regular session of the 2010 regular legislative session shall be known as the  
73 Jerry Alan Jones Act.

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

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

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

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

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

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

95           (7) In determining the number of prior convictions for purposes of imposing punishment  
96 under this subsection, the court shall disregard all such prior convictions occurring more than 10  
97 years prior to the offense in question.

NOTE: The purpose of this bill is to make it a misdemeanor for a person to impede or obstruct a law-enforcement officer in the conduct of an investigation of a misdemeanor who knowingly and willfully makes a materially false statement. The bill establishes a penalty. The bill makes a technical correction.

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