

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 144

SENATORS SYPOLT AND CLINE, *original sponsors*

[Passed March 6, 2020; in effect 90 days from
passage]

1 AN ACT to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating
2 to precluding the charge of making a materially false statement in the investigation of a
3 misdemeanor offense serving as the basis for a secured bond or pre-trial incarceration;
4 establishing a criminal offense in certain circumstances for initiating a false complaint or
5 report against a law-enforcement officer, knowing the information is false; and providing
6 misdemeanor criminal penalties for a false report.

Be it enacted by the Legislature of West Virginia:

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, parole
3 officer, courthouse security officer, correctional officer, the State Fire Marshal, or a full-time deputy
4 or assistant fire marshal acting in his or her official capacity is guilty of a misdemeanor and, upon
5 conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail not more
6 than one year, or both fined and confined.

7 (b) A person who intentionally disarms or attempts to disarm a law-enforcement officer,
8 correctional officer, probation officer, parole officer, courthouse security officer, the State Fire
9 Marshal, or a full-time deputy or assistant fire marshal 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, the State
13 Fire Marshal or a full-time deputy or assistant fire marshal in the conduct of an investigation of a
14 misdemeanor or felony offense, knowingly and willfully makes a materially false statement is guilty
15 of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than
16 \$200, or confined in jail for five days, or both fined and confined. The provisions of this section

17 do not apply to statements made by a spouse, parent, stepparent, grandparent, sibling, half-
18 sibling, child, stepchild or grandchild, whether related by blood or marriage, of the person under
19 investigation. Statements made by the person under investigation may not be used as the basis
20 for prosecution under this subsection. For purposes of this subsection, "law-enforcement officer"
21 does not include a watchman, a member of the West Virginia State Police or college security
22 personnel who is not a certified law-enforcement officer. A criminal charge under this subsection
23 relating to the investigation of a misdemeanor offense may not be used to seek or support a
24 secured bond or pre-trial incarceration.

25 (d) A person who intentionally flees or attempts to flee by any means other than the use
26 of a vehicle from a law-enforcement officer, probation officer, parole officer, courthouse security
27 officer, correctional officer, the State Fire Marshal, or a full-time deputy or assistant fire marshal
28 acting in his or her official capacity who is attempting to make a lawful arrest of or to lawfully detain
29 the person, and who knows or reasonably believes that the officer is attempting to arrest or
30 lawfully detain him or her, is guilty of a misdemeanor and, upon conviction thereof, shall be fined
31 not less than \$50 nor more than \$500 or confined in jail not more than one year, or both fined and
32 confined.

33 (e) 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 is guilty of a misdemeanor and,
36 upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000 and shall be
37 confined in jail not more than one year.

38 (f) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement
39 officer, probation officer, or parole officer acting in his or her official capacity after the officer has
40 given a clear visual or audible signal directing the person to stop, and who operates the vehicle
41 in a manner showing a reckless indifference to the safety of others, is guilty of a felony and, upon

42 conviction thereof, shall be fined not less than \$1,000 nor more than \$2,000 and shall be
43 imprisoned in a state correctional facility not less than one nor more than five years.

44 (g) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement
45 officer, probation officer, or parole officer acting in his or her official capacity after the officer has
46 given a clear visual or audible signal directing the person to stop, and who causes damage to the
47 real or personal property of a person during or resulting from his or her flight, is guilty of a
48 misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than
49 \$3,000 and shall be confined in jail for not less than six months nor more than one year.

50 (h) 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 bodily injury to
53 a 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 not less than three nor more than 10 years.

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

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

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

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

76 (m) The revisions to subsections (e), (f), (g), and (h) of this section enacted during the
77 2010 regular legislative session shall be known as the Jerry Alan Jones Act.

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

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

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

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

91 (5) A person who is convicted of a second offense under this subsection is guilty of a
92 misdemeanor and, upon conviction thereof, shall be confined in jail for not less than three months

93 nor more than one year or fined not less than \$500 nor more than \$3,000, or both fined and
94 confined.

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

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

102 (o) A person is guilty of filing a false complaint against a law-enforcement officer when,
103 knowing the information reported is false or baseless, he or she:

104 (1) Initiates a false complaint of improper action of a law-enforcement officer relating to an
105 incident or other circumstance; or

106 (2) Reports, by word or action, to any official or quasi-official agency or organization having
107 the function of dealing with conduct of law-enforcement officers which did not occur, does not in
108 fact exist; or

109 (3) Reports to a law-enforcement officer or agency the alleged occurrence of any offense
110 or incident which did not in fact occur.

111 Any person who violates this subsection is guilty of a misdemeanor and, upon conviction
112 thereof, shall be fined not more than \$1,000 or confined in jail not more than six months, or both
113 fined and confined.

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 90 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, 2020.

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Governor