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**ENROLLED**

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**Senate Bill No. 166**

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(BY SENATORS LAIRD, TUCKER, YOST, BARNES, PLYMALE, UNGER, MILLER, JENKINS,  
4 WILLS AND KLEMPA)

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6 [Passed March 8, 2012; in effect ninety days from passage.]

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11 AN ACT to amend and reenact §61-5-17 of the Code of West Virginia,  
12 1931, as amended, relating to making it a felony to disarm or  
13 attempt to disarm correctional officers.

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

15 That §61-5-17 of the Code of West Virginia, 1931, as amended,  
16 be amended and reenacted to read as follows:

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

18 **§61-5-17. Obstructing officer; fleeing from officer; making false  
19 statements to officer; penalties; definitions.**

20 (a) Any person who by threats, menaces, acts or otherwise,  
21 forcibly or illegally hinders or obstructs, or attempts to hinder  
22 or obstruct, any law-enforcement officer, probation officer or  
23 parole officer acting in his or her official capacity is guilty of

1 a misdemeanor and, upon conviction thereof, shall be fined not less  
2 than \$50 nor more than \$500 or confined in jail not more than one  
3 year, or both fined and confined.

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

10       (c) Any person who, with intent to impede or obstruct a law-  
11 enforcement officer in the conduct of an investigation of a felony  
12 offense, knowingly and willfully makes a materially false  
13 statement, is guilty of a misdemeanor and, upon conviction thereof,  
14 shall be fined not less than \$25 and not more than \$200, or  
15 confined in jail for five days, or both fined and confined.  
16 However, the provisions of this section do not apply to statements  
17 made by a spouse, parent, stepparent, grandparent, sibling, half  
18 sibling, child, stepchild or grandchild, whether related by blood  
19 or marriage, of the person under investigation. Statements made by  
20 the person under investigation may not be used as the basis for  
21 prosecution under this subsection. For the purposes of this  
22 subsection, "law-enforcement officer" does not include a watchman,  
23 a member of the West Virginia State Police or college security  
24 personnel who is not a certified law-enforcement officer.

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

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

16      (f) Any person who intentionally flees or attempts to flee in  
17 a vehicle from any law-enforcement officer, probation officer or  
18 parole officer acting in his or her official capacity, after the  
19 officer has given a clear visual or audible signal directing the  
20 person to stop, and who operates the vehicle in a manner showing a  
21 reckless indifference to the safety of others, is guilty of a  
22 felony and, upon conviction thereof, shall be fined not less than  
23 \$1,000 nor more than \$2,000, and shall be imprisoned in a state  
24 correctional facility not less than one nor more than five years.

1                 (g) Any person who intentionally flees or attempts to flee in  
2 a vehicle from any law-enforcement officer, probation officer or  
3 parole officer acting in his or her official capacity, after the  
4 officer has given a clear visual or audible signal directing the  
5 person to stop, and who causes damage to the real or personal  
6 property of any person during or resulting from his or her flight,  
7 is guilty of a misdemeanor and, upon conviction thereof, shall be  
8 fined not less than \$1,000 nor more than \$3,000 and shall be  
9 confined in the county or regional jail for not less than six  
10 months nor more than one year.

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

19                 (i) Any person who intentionally flees or attempts to flee in  
20 a vehicle from any law-enforcement officer, probation officer or  
21 parole officer acting in his or her official capacity, after the  
22 officer has given a clear visual or audible signal directing the  
23 person to stop, and who causes death to any person during or  
24 resulting from his or her flight, is guilty of a felony and, upon

1 conviction thereof, shall be punished by a definite term of  
2 imprisonment in a state correctional facility which is not less  
3 than five nor more than fifteen years. A person imprisoned  
4 pursuant to the provisions of this subsection is not eligible for  
5 parole prior to having served a minimum of three years of his or  
6 her sentence or the minimum period required by the provisions of  
7 section thirteen, article twelve, chapter sixty-two of this code,  
8 whichever is greater.

9                 (j) Any person who intentionally flees or attempts to flee in  
10 a vehicle from any law-enforcement officer, probation officer or  
11 parole officer acting in his or her official capacity, after the  
12 officer has given a clear visual or audible signal directing the  
13 person to stop, and who is under the influence of alcohol,  
14 controlled substances or drugs at the time, is guilty of a felony  
15 and, upon conviction thereof, shall be imprisoned in a state  
16 correctional facility not less than three nor more than ten years.

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

23                 (l) For purposes of this section, the terms "flee", "fleeing"  
24 and "flight" do not include any person's reasonable attempt to

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

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