

**Senate Bill No. 372**

(By Senators Laird, Beach, Miller, Prezioso, Unger, Stollings,  
Plymale, Cann, Fitzsimmons, Jenkins and Williams)

[Introduced February 26, 2013; referred to the Committee on the  
Judiciary.]

**FISCAL  
NOTE**

A BILL to amend and reenact §61-5-17 of the Code of West Virginia,  
1931, as amended, relating to creating a criminal offense for  
interfering with or preventing a person from calling for  
assistance of emergency service personnel; and establishing  
penalties.

*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.**

(a) ~~Any~~ A person who by threats, menaces, acts or otherwise,

1 forcibly or illegally hinders or obstructs or attempts to hinder or  
2 obstruct ~~any~~ a law-enforcement officer, probation officer or parole  
3 officer acting in his or her official capacity is guilty of a  
4 misdemeanor and, upon conviction thereof, shall be fined not less  
5 than \$50 nor more than \$500 or confined in jail not more than one  
6 year, or both fined and confined.

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

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

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

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

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

20 (f) ~~Any~~ A person who intentionally flees or attempts to flee  
21 in a vehicle from ~~any~~ a law-enforcement officer, probation officer  
22 or parole officer acting in his or her official capacity after the  
23 officer has given a clear visual or audible signal directing the  
24 person to stop, and who operates the vehicle in a manner showing a

1 reckless indifference to the safety of others, is guilty of a  
2 felony and, upon conviction thereof, shall be fined not less than  
3 \$1,000 nor more than \$2,000, and shall be imprisoned in a state  
4 correctional facility not less than one nor more than five years.

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

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

23 (i) ~~Any~~ A person who intentionally flees or attempts to flee  
24 in a vehicle from ~~any~~ a law-enforcement officer, probation officer

1 or parole officer acting in his or her official capacity after the  
2 officer has given a clear visual or audible signal directing the  
3 person to stop, and who causes death to ~~any~~ a person during or  
4 resulting from his or her flight, is guilty of a felony and, upon  
5 conviction thereof, shall be ~~punished by a definite term of~~  
6 imprisonment in a state correctional facility ~~which is~~ for not less  
7 than five nor more than fifteen years. A person imprisoned  
8 pursuant to the provisions of this subsection is not eligible for  
9 parole prior to having served a minimum of three years of his or  
10 her sentence or the minimum period required by the provisions of  
11 section thirteen, article twelve, chapter sixty-two of this code,  
12 whichever is greater.

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

21 (k) For purposes of this section, the term "vehicle" includes  
22 any motor vehicle, motorcycle, motorboat, all-terrain vehicle or  
23 snowmobile as those terms are defined in section one, article one,  
24 chapter seventeen-a of this code, whether or not it is being

1 operated on a public highway at the time and whether or not it is  
2 licensed by the state.

3 (1) For purposes of this section, the terms "flee", "fleeing"  
4 and "flight" do not include ~~any~~ a person's reasonable attempt to  
5 travel to a safe place, allowing the pursuing law-enforcement  
6 officer to maintain appropriate surveillance, for the purpose of  
7 complying with the officer's direction to stop.

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

11 (n) (1) No person, with the intent to purposefully deprive a  
12 person of emergency services, may interfere with or prevent a  
13 person from using or accessing a 911 emergency telephone system or  
14 making a report to a law-enforcement officer, to an agency, to a  
15 fire department or from requesting emergency medical assistance.

16 (2) For the purpose of this subsection, the term "interfere  
17 with or prevent" includes, but is not limited to, seizing,  
18 concealing, obstructing access to or disabling or disconnecting a  
19 telephone, telephone line or equipment or other communication  
20 device;

21 (3) For the purpose of this subsection, the term "emergency  
22 communication" means any means of communication that allows the  
23 transmission of warnings or other information pertaining to a  
24 crime, fire, accident, power outage, disaster or risk of injury or

1 damage to a person or property including, but not limited to,  
2 telephone lines, cellular telephone towers and equipment, radio  
3 channels, railroad communication devices, electrical towers and  
4 equipment and utility lines.

5 (4) A person that violates a provision of this subsection is  
6 guilty of a misdemeanor and, upon conviction thereof, shall be  
7 confined in jail for a period of not less than one day nor more  
8 than one year and shall be fined not less than \$250 nor more than  
9 \$2,000, or both confined and fined.

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

15 (6) A person who is convicted of a third or subsequent offense  
16 under this subsection within ten years of a prior conviction of  
17 this offense is guilty of a misdemeanor and, upon conviction  
18 thereof, shall be confined in jail not less than six months nor  
19 more than one year and fined not less than \$500 nor more than  
\$4,000, or both confined and fined.

NOTE: The purpose of this bill is to create a criminal offense for intentionally interfering with or preventing a person from calling for the assistance of emergency service personnel and to establish criminal penalties.

Strike-throughs indicate language that would be stricken from

the present law and underscoring indicates new language that would be added.