

1 **Senate Bill No. 90**

2 (By Senators Laird, Cookman and Fitzsimmons)

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4 [Introduced January 8, 2014; referred to the Committee on the
5 Judiciary.]
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**FISCAL
NOTE**

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10 A BILL to amend and reenact §61-5-17 of the Code of West Virginia,
11 1931, as amended, relating to creating a criminal offense for
12 interfering with or preventing a person from calling for the
13 assistance of emergency service personnel; defining terms; and
14 establishing criminal penalties.

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

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

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

19 **§61-5-17. Obstructing officer; fleeing from officer; making false**
20 **statements to officer; interfering with emergency**
21 **communications; penalties; definitions.**

22 (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~~ nor more than \$200, or
18 confined in jail for five days, or both fined and confined.
19 ~~However, The provisions of this section do~~ This section does not
20 apply to statements made by a spouse, parent, stepparent,
21 grandparent, sibling, half sibling, child, stepchild or grandchild,
22 whether related by blood or marriage, of the person under
23 investigation. Statements made by the person under investigation

1 may not be used as the basis for prosecution under this subsection.
2 For ~~the~~ purposes of this subsection, "law-enforcement officer" does
3 not include a watchman, a member of the West Virginia State Police
4 or college security personnel who is not a certified
5 law-enforcement officer.

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

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

22 (f) ~~Any~~ A person who intentionally flees or attempts to flee
23 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 operates the vehicle in a manner showing a
4 reckless indifference to the safety of others, is guilty of a
5 felony and, upon conviction thereof, shall be fined not less than
6 \$1,000 nor more than \$2,000 and shall be imprisoned in a state
7 correctional facility not less than one nor more than five years.

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

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

1 upon conviction thereof, shall be imprisoned in a state
2 correctional facility not less than three nor more than ten years.

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

17 (j) ~~Any~~ A person who intentionally flees or attempts to flee
18 in a vehicle from ~~any~~ a law-enforcement officer, probation officer
19 or parole officer acting in his or her official capacity after the
20 officer has given a clear visual or audible signal directing the
21 person to stop, and who is under the influence of alcohol,
22 controlled substances or drugs, ~~at the time,~~ is guilty of a felony
23 and, upon conviction thereof, shall be imprisoned in a state

1 correctional facility not less than three nor more than ten years.

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

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

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

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

21 (2) For the purpose of this subsection, the term "interfere
22 with or prevent" includes, but is not limited to, seizing,
23 concealing, obstructing access to or disabling or disconnecting a

1 telephone, telephone line or equipment or other communication
2 device.

3 (3) For the purpose of this subsection, the term "emergency
4 communication" means any means of communication that allows the
5 transmission of warnings or other information pertaining to a
6 crime, fire, accident, power outage, disaster or risk of injury or
7 damage to a person or property including, but not limited to,
8 telephone lines, cellular telephone towers and equipment, radio
9 channels, railroad communication devices, electrical towers and
10 equipment and utility lines.

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

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

21 (6) A person who is convicted of a third or subsequent offense
22 under this subsection within ten years of a prior conviction of
23 this offense is guilty of a misdemeanor and, upon conviction

1 thereof, shall be confined in jail not less than six months nor
2 more than one year and fined not less than \$500 nor more than
3 \$4,000, or both fined and confined.

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. The bill defines terms. The bill establishes criminal penalties.

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