

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 90**

5 (SENATORS LAIRD, COOKMAN AND FITZSIMMONS, *original sponsors*)

6 \_\_\_\_\_  
7 [Passed March 5, 2014; 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 creating a criminal offense for  
13 interfering with or preventing a person from calling for the  
14 assistance of emergency service personnel; defining terms; and  
15 establishing criminal penalties.

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

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

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

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

23 (a) A person who by threats, menaces, acts or otherwise  
24 forcibly or illegally hinders or obstructs or attempts to hinder or

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

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

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

1 State Police or college security personnel who is not a certified  
2 law-enforcement officer.

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

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

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

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

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

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

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

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

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

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

22 (l) For purposes of this section, the terms "flee", "fleeing"  
23 and "flight" do not include a person's reasonable attempt to travel  
24 to a safe place, allowing the pursuing law-enforcement officer to

1 maintain appropriate surveillance, for the purpose of complying  
2 with the officer's direction to stop.

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

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

11 (2) For the purpose of this subsection, the term "interfere  
12 with or prevent" includes, but is not limited to, seizing,  
13 concealing, obstructing access to or disabling or disconnecting a  
14 telephone, telephone line or equipment or other communication  
15 device.

16 (3) For the purpose of this subsection, the term "emergency  
17 communication" means communication to transmit warnings or other  
18 information pertaining to a crime, fire, accident, power outage,  
19 disaster or risk of injury or damage to a person or property.

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

24 (5) A person who is convicted of a second offense under this

1 subsection is guilty of a misdemeanor and, upon conviction thereof,  
2 shall be confined in jail for not less than three months nor more  
3 than one year and fined not less than \$500 nor more than \$3,000, or  
4 both.

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

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