H. B. 2607

(BY DELEGATE(S) SPONAUGLE AND SHOTT)

[Introduced February 4, 2015; referred to the Committee on the Judiciary.]

A BILL to amend and reenact §61-5-17 of the Code of West Virginia, 1931, relating to the violation of interfering with emergency services communications and clarifying penalties under subdivision (n) of this section for the violation.

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.

1 (a) A person who by threats, menaces, acts or otherwise forcibly or illegally hinders or obstructs or attempts to hinder or
obstruct a law-enforcement officer, probation officer or parole
officer acting in his or her official capacity is guilty of a
misdemeanor and, upon conviction thereof, shall be fined not
less than $50 nor more than $500 or confined in jail not more
than one year, or both fined and confined.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: The purpose of this bill is to clarify penalties under subdivision (n) of this section for violations of interfering with emergency services communications.

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