

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 295

BY SENATORS HAMILTON, BOSO, FACEMIRE, IHLENFELD,
JEFFRIES, MAYNARD, SMITH, SYPOLT, CLINE, TRUMP,
RUCKER, AND LINDSAY

[Introduced January 14, 2019; Referred

to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating
2 to crimes against public justice; obstructing an officer; including court security officers in
3 the definition of persons against whom obstructing an officer is a crime; and adding
4 protection for court security personnel and bailiffs as it relates to the potential to charge
5 individuals for obstruction of such officers.

Be it enacted by the Legislature of West Virginia:

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

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

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

17 basis for prosecution under this subsection. For purposes of this subsection, "law-enforcement
18 officer" does not include a watchman, a member of the West Virginia State Police or college
19 security personnel who is not a certified law-enforcement officer.

20 (d) A person who intentionally flees or attempts to flee by any means other than the use
21 of a vehicle from a law-enforcement officer, probation officer, or parole officer or court security
22 officer acting in his or her official capacity who is attempting to make a lawful arrest of the person,
23 or reasonably believes that the officer is attempting to arrest and who knows him or her, is guilty
24 of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than
25 \$500 or confined in jail not more than one year, or both fined and confined.

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

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

37 (g) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement
38 officer, probation officer or parole officer acting in his or her official capacity after the officer has
39 given a clear visual or audible signal directing the person to stop, and who causes damage to the
40 real or personal property of a person during or resulting from his or her flight, is guilty of a
41 misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than
42 \$3,000 and shall be confined in jail for not less than six months nor more than one year.

43 (h) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement
44 officer, probation officer or parole officer acting in his or her official capacity after the officer has
45 given a clear visual or audible signal directing the person to stop, and who causes bodily injury to
46 a person during or resulting from his or her flight, is guilty of a felony and, upon conviction thereof,
47 shall be imprisoned in a state correctional facility not less than three nor more than 10 years.

48 (i) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement
49 officer, probation officer or parole officer acting in his or her official capacity after the officer has
50 given a clear visual or audible signal directing the person to stop, and who causes death to a
51 person during or resulting from his or her flight, is guilty of a felony and, upon conviction thereof,
52 shall be imprisoned in a state correctional facility for not less than five nor more than 15 years. A
53 person imprisoned pursuant to this subsection is not eligible for parole prior to having served a
54 minimum of three years of his or her sentence or the minimum period required by §62-12-13 of
55 this code, whichever is greater.

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

61 (k) For purposes of this section, the term "vehicle" includes any motor vehicle, motorcycle,
62 motorboat, all-terrain vehicle or snowmobile as those terms are defined in §17A-1-1 of this code,
63 whether or not it is being operated on a public highway at the time and whether or not it is licensed
64 by the state.

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

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

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

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

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

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

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

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

93 (7) In determining the number of prior convictions for purposes of imposing punishment
94 under this subsection, the court shall disregard all such prior convictions occurring more than ten

95 years prior to the offense in question.

NOTE: The purpose of this bill is to include court security officers in the definition of persons against whom obstructing an officer is a crime, adding protection for court security personnel and bailiffs as it relates to the potential to charge individuals for obstruction of such officers.

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