

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 144**

SENATORS SYPOLT AND CLINE, *original sponsors*

[Originating in the Committee on the Judiciary;  
reported on January 21, 2020]



1 A BILL to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating  
2 to precluding the charge of making a materially false statement in the investigation of a  
3 misdemeanor offense serving as the basis for a secured bond or pre-trial incarceration.

*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, parole  
3 officer, courthouse security officer, correctional officer, the State Fire Marshal, or a full-time deputy  
4 or assistant fire marshal acting in his or her official capacity is guilty of a misdemeanor and, upon  
5 conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail not more  
6 than one year, or both fined and confined.

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

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

20 for prosecution under this subsection. For purposes of this subsection, “law-enforcement officer”  
21 does not include a watchman, a member of the West Virginia State Police or college security  
22 personnel who is not a certified law-enforcement officer. A criminal charge under this subsection  
23 relating to the investigation of a misdemeanor offense may not be used to seek or support a  
24 secured bond or pre-trial incarceration.

25 (d) A person who intentionally flees or attempts to flee by any means other than the use  
26 of a vehicle from a law-enforcement officer, probation officer, parole officer, courthouse security  
27 officer, correctional officer, the State Fire Marshal, or a full-time deputy or assistant fire marshal  
28 acting in his or her official capacity who is attempting to make a lawful arrest of or to lawfully detain  
29 the person, and who knows or reasonably believes that the officer is attempting to arrest or  
30 lawfully detain him or her, is guilty of a misdemeanor and, upon conviction thereof, shall be fined  
31 not less than \$50 nor more than \$500 or confined in jail not more than one year, or both fined and  
32 confined.

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

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

44 (g) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement  
45 officer, probation officer, or parole officer acting in his or her official capacity after the officer has

46 given a clear visual or audible signal directing the person to stop, and who causes damage to the  
47 real or personal property of a person during or resulting from his or her flight, is guilty of a  
48 misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than  
49 \$3,000 and shall be confined in jail for not less than six months nor more than one year.

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

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

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

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

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

76 (m) The revisions to subsections (e), (f), (g), and (h) of this section enacted during the  
77 2010 regular legislative session shall be known as the Jerry Alan Jones Act.

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

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

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

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

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

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

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