

SB295 CC #1 3-7

90 days

Smith 7883

Senator Trump, from the committee of conference on matters of disagreement between the two houses, as to

**Eng. Senate Bill No. 295**, Relating to crimes against public justice.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the House to Engrossed Committee Substitute for Senate Bill No. 295 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the House of Delegates, by striking out everything after the enacting clause, and that the Senate and House agree to an amendment as follows:

### **ARTICLE 3. COURTS IN GENERAL.**

#### **§51-3-19. Courthouse security officers; arrest authority; concealed-carry authority; requirements for participation; authorization to carry firearms concealed consistent with federal law.**

1 (a) In furtherance of enhanced courthouse security for court personnel, litigants, and the  
2 general public, courthouse security officers charged with effecting courthouse security may arrest  
3 any person committing a violation of the criminal laws of the State of West Virginia, the United  
4 States, or a violation of Rule 42 of the West Virginia Rules of Criminal Procedure occurring within  
5 a courthouse while the courthouse security officer is engaged in his or her official duties;

6 (b) For purposes of subsection (a) of this section, the arrest authority of courthouse  
7 security officers is consistent with that of a county deputy sheriff;

8           (c) In any judicial circuit where there is an order in effect authorizing courthouse security  
9 officers to carry a firearm, the circuit court may also authorize, consistent with the provisions of  
10 this section, qualifying courthouse security officers to carry a concealed firearm for self-defense  
11 purposes pursuant to 18 U.S.C. § 926B, upon the following criteria being met:

12           (1) The supervising authority of the courthouse security officer shall require courthouse  
13 security officers desiring to participate to regularly qualify in the use of firearms with standards  
14 therefor which are equal to or exceed those required of sheriff's deputies in the county in which  
15 the courthouse security officers are employed;

16           (2) The supervising authority of the courthouse security officers shall issue photographic  
17 identification and certification cards which identify the courthouse security officers as law-  
18 enforcement employees of the supervising entity pursuant to the provisions of §30-29-12 of this  
19 code;

20           (3) Any policy instituted pursuant to this section shall include provisions that:

21           (A) Preclude or remove a person from participation in the concealed firearm program who  
22 is subject to any disciplinary or legal action which could result in the loss of his or her authority to  
23 participate in the program;

24           (B) Preclude from participation persons prohibited by federal or State law from possessing  
25 or receiving a firearm; and

26           (C) Prohibit persons from carrying a firearm pursuant to this subsection while in an  
27 impaired State as defined in §17C-5-2 of this code; and

28           (4) A courthouse security officer who participates in a program authorized by this section  
29 is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and  
30 ammunition for use when not engaged in his or her official duties.

31           (d) It is the intent of the Legislature in enacting this section during the 2019 regular session  
32 of the Legislature that active courthouse security personnel meeting all the requirements of this  
33 section to also meet the requirements of the federal Law-Enforcement Officers Safety Act, 18

34 U.S.C. § 926B.

35 (e) The provisions of this section shall become effective July 1, 2020.

## **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, 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, ~~or 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.

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

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

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

42 (g) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement  
43 officer, probation officer or parole officer acting in his or her official capacity after the officer has  
44 given a clear visual or audible signal directing the person to stop, and who causes damage to the  
45 real or personal property of a person during or resulting from his or her flight, is guilty of a

46 misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than  
47 \$3,000 and shall be confined in jail for not less than six months nor more than one year.

48 (h) 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 bodily injury to  
51 a 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 not less than three nor more than ten years.

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

58 A person imprisoned pursuant to this subsection is not eligible for parole prior to having served a  
59 minimum of three years of his or her sentence or the minimum period required by section thirteen,  
60 article twelve, chapter sixty-two of this code, whichever is greater.

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

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

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

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

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

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

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

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

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

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

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

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

And,

That both houses recede from their respective positions as to the title of the bill and agree to a new title as follows:

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §51-3-19, and to amend and reenact §61-5-7 of said code relating to granting courthouse security officers arrest powers under certain circumstances; authorizing certain West Virginia courthouse security officers to carry concealed firearms while off duty with court approval; setting forth firearm training and qualification requirements; requiring supervising authority to issue photo identification and certification cards; specifying policy content; stating legislative intent that the new code section be consistent with the federal Law-Enforcement Officers Safety Act; establishing an effective date of July 1, 2020; criminalizing the obstruction of a courthouse security officer, correctional officer, and certain Fire Marshal's office personnel while they are acting in their official capacities; criminalizing fleeing from a courthouse security officer, correctional officer, and certain Fire Marshal's office personnel; criminalizing the disarming or attempted disarming of courthouse security officers and certain Fire Marshal's office personnel; including the investigation of misdemeanor offenses as subject to prohibition against making false statements; criminalizing the making of materially false statements as to misdemeanor and felony investigations to the State Fire Marshal and certain Fire Marshal's office personnel; and setting criminal penalties.

Respectfully submitted,

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Ray Hollen

*Chair.*

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Charles S. Trump IV

*Chair.*

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David Kelly

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Sue Cline

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Rodney Miller

*Conferees on the part of the House  
of Delegates*

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Richard D Lindsey II

*Conferees on the part of the Senate*