

2010 APR -1 PM 4:22

WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2010

—●—
SECOND
ENROLLMENT

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4604

(By Delegates Armstead, Miley, Iaquina,
Walters, Fragale, Skaff, Cann and Lane)

—●—
Amended and Again Passed March 20, 2010,
as a result of the objections of the Governor

In Effect Ninety Days From Passage

4604
HB

S E C O N D
E N R O L L M E N T

COMMITTEE SUBSTITUTE

FOR

H. B. 4604

(BY DELEGATES ARMSTEAD, MILEY, IAQUINTA,
WALTERS, FRAGALE, SKAFF, CANN AND LANE)

[Amended and again passed March 20, 2010, as a result of the objections of the Governor; in effect ninety days from passage.]

AN ACT to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating to increasing the criminal penalties for crimes against law enforcement, probation and parole officers; establishing crime for disarming or attempting to disarm probation and parole officers; establishing new crime for reckless fleeing from law-enforcement officers and parole and probation officers; increasing penalties for fleeing or attempting to flee in a vehicle causing property damage; increasing penalties for fleeing or attempting to flee in a vehicle causing injury; increasing penalties for fleeing or attempting to flee in a vehicle causing death; and designating this act as the “Jerry Alan Jones Act.”

Be it enacted by the Legislature of West Virginia:

FILED
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OFFICE OF THE CLERK
WEST VIRGINIA
SECRETARY OF STATE

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; penalties; definitions.

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

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

15 (c) Any person who, with intent to impede or obstruct a
16 law-enforcement officer in the conduct of an investigation of
17 a felony offense, knowingly and willfully makes a materially
18 false statement, is guilty of a misdemeanor and, upon
19 conviction thereof, shall be fined not less than \$25 and not
20 more than \$200, or confined in jail for five days, or both fined
21 or confined. However, the provisions of this section do not
22 apply to statements made by a spouse, parent, stepparent,
23 grandparent, sibling, half-sibling, child, stepchild or grandchild,
24 whether related by blood or marriage, of the person under
25 investigation. Statements made by the person under
26 investigation may not be used as the basis for prosecution

27 under this subsection. For the purposes of this subsection,
28 “law-enforcement officer” does not include a watchman, a
29 member of the West Virginia State Police or college security
30 personnel who is not a certified law-enforcement officer.

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

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

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

58 (g) Any person who intentionally flees or attempts to flee
59 in a vehicle from any law-enforcement officer, probation

60 officer or parole officer acting in his or her official capacity,
61 after the officer has given a clear visual or audible signal
62 directing the person to stop, and who causes damage to the
63 real or personal property of any person during or resulting
64 from his or her flight, is guilty of a misdemeanor and, upon
65 conviction thereof, shall be fined not less than \$1,000 nor
66 more than \$3,000 and shall be confined in the county or
67 regional jail for not less than six months nor more than one
68 year.

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

78 (i) Any person who intentionally flees or attempts to flee
79 in a vehicle from any law-enforcement officer, probation
80 officer or parole officer acting in his or her official capacity,
81 after the officer has given a clear visual or audible signal
82 directing the person to stop, and who causes death to any
83 person during or resulting from his or her flight, is guilty of
84 a felony and, upon conviction thereof, shall be punished by
85 a definite term of imprisonment in a state correctional facility
86 which is not less than five nor more than fifteen years. A
87 person imprisoned pursuant to the provisions of this
88 subsection is not eligible for parole prior to having served a
89 minimum of three years of his or her sentence or the
90 minimum period required by the provisions of section
91 thirteen, article twelve, chapter sixty-two of this code,
92 whichever is greater.

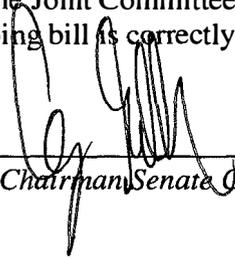
93 (j) Any person who intentionally flees or attempts to flee
94 in a vehicle from any law-enforcement officer, probation
95 officer or parole officer acting in his or her official capacity,
96 after the officer has given a clear visual or audible signal
97 directing the person to stop, and who is under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

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

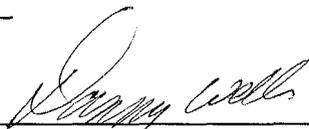
108 (l) For purposes of this section, the terms “flee,”
109 “fleeing” and “flight” do not include any person’s reasonable
110 attempt to travel to a safe place, allowing the pursuing law-
111 enforcement officer to maintain appropriate surveillance, for
112 the purpose of complying with the officer’s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

113 (m) The revisions to subsections (e), (f), (g) and (h) of
114 this article enacted during the Regular Session of the 2010
115 Regular Legislative Session shall be known as the “Jerry
116 Alan Jones Act.”

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



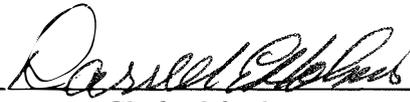
Chairman Senate Committee



Chairman House Committee

Originating in the House.

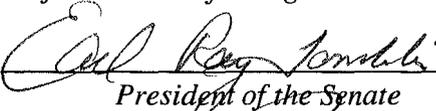
In effect ninety days from passage.



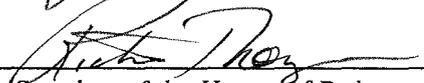
Clerk of the Senate



Clerk of the House of Delegates



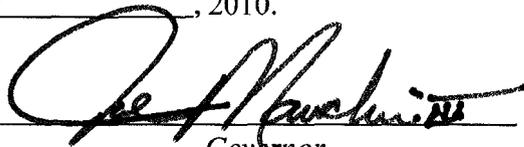
President of the Senate



Speaker of the House of Delegates

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SECRETARY OF STATE
FILE

The within is approved this the 15th
day of April, 2010.



Governor

PRESENTED TO THE
GOVERNOR

MAR 31 2010

Time 3:55 p