

FILED

2012 APR -2 PM 1:01

**WEST VIRGINIA LEGISLATURE**  
**EIGHTIETH LEGISLATURE**  
**REGULAR SESSION, 2012**

WEST VIRGINIA  
SECRETARY OF STATE

—●—  
**ENROLLED**

**Senate Bill No. 166**

(BY SENATORS LAIRD, TUCKER, YOST, BARNES, PLYMALE,  
UNGER, MILLER, JENKINS, WILLS AND KLEMPA)

[PASSED MARCH 8, 2012; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB 166

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AN ACT to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating to making it a felony to disarm or attempt to disarm correctional officers.

*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; penalties; definitions.**

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

11 probation officer or parole officer, acting in his or her  
12 official capacity, is guilty of a felony and, upon conviction  
13 thereof, shall be imprisoned in a state correctional facility  
14 not less than one nor more than 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  
21 fined and confined. However, the provisions of this section  
22 do not apply to statements made by a spouse, parent, step-  
23 parent, grandparent, sibling, half sibling, child, stepchild or  
24 grandchild, whether related by blood or marriage, of the  
25 person under investigation. Statements made by the person  
26 under investigation may not be used as the basis for prosecu-  
27 tion under this subsection. For the purposes of this subsec-  
28 tion, "law-enforcement officer" does not include a watch-  
29 man, a member of the West Virginia State Police or college  
30 security personnel who is not a certified law-enforcement  
31 officer.

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

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

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

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

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

79 (i) Any person who intentionally flees or attempts to flee  
80 in a vehicle from any law-enforcement officer, probation  
81 officer or parole officer acting in his or her official capacity,  
82 after the officer has given a clear visual or audible signal  
83 directing the person to stop, and who causes death to any  
84 person during or resulting from his or her flight, is guilty of  
85 a felony and, upon conviction thereof, shall be punished by  
86 a definite term of imprisonment in a state correctional

87 facility which is not less than five nor more than fifteen  
88 years. A person imprisoned pursuant to the provisions of this  
89 subsection is not eligible for parole prior to having served a  
90 minimum of three years of his or her sentence or the mini-  
91 mum period required by the provisions of section thirteen,  
92 article twelve, chapter sixty-two of this code, whichever is  
93 greater.

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

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

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

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

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

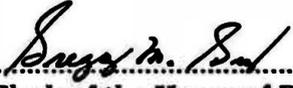
  
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Chairman Senate Committee

  
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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker of the House of Delegates

The within *is approved* this the *2nd*  
Day of *April*, 2012.

  
.....  
Governor

**PRESENTED TO THE GOVERNOR**

MAR 19 2012

Time 2:20 pm