

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 372**

4 (By Senators Laird, Beach, Miller, Prezioso, Unger, Stollings,
5 Plymale, Cann, Fitzsimmons, Jenkins and Williams)

6 _____
7 [Originating in the Committee on the Judiciary;
8 reported March 8, 2013.]
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11 A BILL to amend and reenact §61-5-17 of the Code of West Virginia,
12 1931, as amended, relating to creating a criminal offense for
13 interfering with or preventing a person from calling for
14 assistance of emergency service personnel; and establishing
15 penalties.

16 *Be it enacted by the Legislature of West Virginia:*

17 That §61-5-17 of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted to read as follows:

19 **ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.**

20 **§61-5-17. Obstructing officer; fleeing from officer; making false**
21 **statements to officer; interfering with emergency**
22 **communications; penalties; definitions.**

23 (a) ~~Any~~ A person who by threats, menaces, acts or otherwise
24 forcibly or illegally hinders or obstructs or attempts to hinder or
25 obstruct ~~any~~ a law-enforcement officer, probation officer or parole

1 officer acting in his or her official capacity is guilty of a
2 misdemeanor and, upon conviction thereof, shall be fined not less
3 than \$50 nor more than \$500 or confined in jail not more than one
4 year, or both fined and confined.

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

11 (c) ~~Any~~ A person who, with intent to impede or obstruct a
12 law-enforcement officer in the conduct of an investigation of a
13 felony offense, knowingly and willfully makes a materially false
14 statement, is guilty of a misdemeanor and, upon conviction thereof,
15 shall be fined not less than \$25 ~~and not~~ nor more than \$200, or
16 confined in jail for five days, or both fined and confined.
17 ~~However,~~ The provisions of this section do not apply to statements
18 made by a spouse, parent, stepparent, grandparent, sibling, half
19 sibling, child, stepchild or grandchild, whether related by blood
20 or marriage, of the person under investigation. Statements made by
21 the person under investigation may not be used as the basis for
22 prosecution under this subsection. For ~~the~~ purposes of this
23 subsection, "law-enforcement officer" does not include a watchman,
24 a member of the West Virginia State Police or college security
25 personnel who is not a certified law-enforcement officer.

26 (d) ~~Any~~ A person who intentionally flees or attempts to flee

1 by any means other than the use of a vehicle from ~~any~~ a
2 law-enforcement officer, probation officer or parole officer acting
3 in his or her official capacity who is attempting to make a lawful
4 arrest of the person, and who knows or reasonably believes that the
5 officer is attempting to arrest him or her, is guilty of a
6 misdemeanor and, upon conviction thereof, shall be fined not less
7 than \$50 nor more than \$500 or confined in jail not more than one
8 year, or both.

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

16 (f) ~~Any~~ A person who intentionally flees or attempts to flee
17 in a vehicle from ~~any~~ a law-enforcement officer, probation officer
18 or parole officer acting in his or her official capacity after the
19 officer has given a clear visual or audible signal directing the
20 person to stop, and who operates the vehicle in a manner showing a
21 reckless indifference to the safety of others, is guilty of a
22 felony and, upon conviction thereof, shall be fined not less than
23 \$1,000 nor more than \$2,000, and shall be imprisoned in a state
24 correctional facility not less than one nor more than five years.

25 (g) ~~Any~~ A person who intentionally flees or attempts to flee
26 in a vehicle from ~~any~~ a law-enforcement officer, probation officer

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

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

17 (i) ~~Any~~ A person who intentionally flees or attempts to flee
18 in a vehicle from ~~any~~ a law-enforcement officer, probation officer
19 or parole officer acting in his or her official capacity after the
20 officer has given a clear visual or audible signal directing the
21 person to stop, and who causes death to ~~any~~ a person during or
22 resulting from his or her flight, is guilty of a felony and, upon
23 conviction thereof, shall be ~~punished by a definite term of~~
24 ~~imprisonment~~ imprisoned in a state correctional facility ~~which is~~
25 for not less than five nor more than fifteen years. A person
26 imprisoned pursuant to the provisions of this subsection is not

1 eligible for parole prior to having served a minimum of three years
2 of his or her sentence or the minimum period required by the
3 provisions of section thirteen, article twelve, chapter sixty-two
4 of this code, whichever is greater.

5 (j) ~~Any~~ A person who intentionally flees or attempts to flee
6 in a vehicle from ~~any~~ a law-enforcement officer, probation officer
7 or parole officer acting in his or her official capacity after the
8 officer has given a clear visual or audible signal directing the
9 person to stop, and who is under the influence of alcohol,
10 controlled substances or drugs, ~~at the time,~~ is guilty of a felony
11 and, upon conviction thereof, shall be imprisoned in a state
12 correctional facility not less than three nor more than ten years.

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

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

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

1 (n) (1) No person, with the intent to purposefully deprive a
2 person of emergency services, may interfere with or prevent a
3 person from using or accessing a 911 emergency telephone system or
4 making a report to a law-enforcement officer, to an agency, to a
5 fire department or from requesting emergency medical assistance.

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

11 (3) For the purpose of this subsection, the term "emergency
12 communication" means any means of communication that allows the
13 transmission of warnings or other information pertaining to a
14 crime, fire, accident, power outage, disaster or risk of injury or
15 damage to a person or property including, but not limited to,
16 telephone lines, cellular telephone towers and equipment, radio
17 channels, railroad communication devices, electrical towers and
18 equipment and utility lines.

19 (4) A person who violates a provision of this subsection is
20 guilty of a misdemeanor and, upon conviction thereof, shall be
21 confined in jail for a period of not less than one day nor more
22 than one year and shall be fined not less than \$250 nor more than
23 \$2,000, or both confined and fined.

24 (5) A person who is convicted of a second offense under this
25 subsection is guilty of a misdemeanor and, upon conviction thereof,
26 shall be confined in jail for not less than three months nor more

1 than one year and fined not less than \$500 nor more than \$3,000, or
2 both confined and fined.

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

(NOTE: The purpose of this bill is to create a criminal offense for intentionally interfering with or preventing a person from calling for the assistance of emergency service personnel and to establish criminal penalties.

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