

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 90**

4 (By Senators Laird, Cookman and Fitzsimmons)

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6 [Originating in the Committee on the Judiciary;

7 reported February 6, 2014.]

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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 the
14 assistance of emergency service personnel; defining terms; and
15 establishing criminal 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

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

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

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

1 a member of the West Virginia State Police or college security
2 personnel who is not a certified law-enforcement officer.

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

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

19 (f) ~~Any~~ A person who intentionally flees or attempts to flee
20 in a vehicle from ~~any~~ a law-enforcement officer, probation officer
21 or parole officer acting in his or her official capacity after the
22 officer has given a clear visual or audible signal directing the
23 person to stop, and who operates the vehicle in a manner showing a
24 reckless indifference to the safety of others, is guilty of a

1 felony and, upon conviction thereof, shall be fined not less than
2 \$1,000 nor more than \$2,000 and shall be imprisoned in a state
3 correctional facility not less than one nor more than five years.

4 (g) ~~Any~~ A person who intentionally flees or attempts to flee
5 in a vehicle from ~~any~~ a law-enforcement officer, probation officer
6 or parole officer acting in his or her official capacity after the
7 officer has given a clear visual or audible signal directing the
8 person to stop, and who causes damage to the real or personal
9 property of ~~any~~ a person during or resulting from his or her
10 flight, is guilty of a misdemeanor and, upon conviction thereof,
11 shall be fined not less than \$1,000 nor more than \$3,000 and shall
12 be confined in ~~the county or regional~~ jail for not less than six
13 months nor more than one year.

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

22 (i) ~~Any~~ A person who intentionally flees or attempts to flee
23 in a vehicle from ~~any~~ a law-enforcement officer, probation officer
24 or parole officer acting in his or her official capacity after the

1 officer has given a clear visual or audible signal directing the
2 person to stop, and who causes death to ~~any~~ a person during or
3 resulting from his or her flight, is guilty of a felony and, upon
4 conviction thereof, shall be ~~punished by a definite term of~~
5 ~~imprisonment~~ imprisoned in a state correctional facility ~~which is~~
6 for not less than five nor more than fifteen years. A person
7 imprisoned pursuant to ~~the provisions of~~ this subsection is not
8 eligible for parole prior to having served a minimum of three years
9 of his or her sentence or the minimum period required by ~~the~~
10 ~~provisions of~~ section thirteen, article twelve, chapter sixty-two
11 of this code, whichever is greater.

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

20 (k) For purposes of this section, the term "vehicle" includes
21 any motor vehicle, motorcycle, motorboat, all-terrain vehicle or
22 snowmobile as those terms are defined in section one, article one,
23 chapter seventeen-a of this code, whether or not it is being
24 operated on a public highway at the time and whether or not it is

1 licensed by the state.

2 (1) For purposes of this section, the terms "flee", "fleeing"
3 and "flight" do not include ~~any~~ a person's reasonable attempt to
4 travel to a safe place, allowing the pursuing law-enforcement
5 officer to maintain appropriate surveillance, for the purpose of
6 complying with the officer's direction to stop.

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

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

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

20 (3) For the purpose of this subsection, the term "emergency
21 communication" means any means of communication that allows the
22 transmission of warnings or other information pertaining to a
23 crime, fire, accident, power outage, disaster or risk of injury or
24 damage to a person or property including, but not limited to,

1 telephone lines, cellular telephone towers and equipment, radio
2 channels, railroad communication devices, electrical towers and
3 equipment and utility lines.

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

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

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