

H. B. 2607

(By Delegates Sponaugle and Shott)

[Introduced February 4, 2015; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §61-5-17 of the Code of West Virginia, 1931, relating to the violation of interfering with emergency services communications and clarifying penalties under subdivision (n) of this section for the violation.

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; interfering with emergency communications; penalties; definitions.

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

1 both fined and confined.

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

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

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

22 (e) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement

1 officer, probation officer or parole officer acting in his or her official capacity after the officer has
2 given a clear visual or audible signal directing the person to stop is guilty of a misdemeanor and,
3 upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000 and shall be
4 confined in a ~~regional~~ jail not more than one year.

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

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

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

22 (i) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement

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

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

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

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

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

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

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

8 (3) For the purpose of this subsection, the term “emergency communication” means
9 communication to transmit warnings or other information pertaining to a crime, fire, accident, power
10 outage, disaster or risk of injury or damage to a person or property.

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

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

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

21 (7) In determining the number of prior convictions for purposes of imposing punishment
22 under this subsection, the court shall disregard all such prior convictions occurring more than ten

1 years prior to the offense in question.

NOTE: The purpose of this bill is to clarify penalties under subdivision (n) of this section for violations of interfering with emergency services communications.

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