

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 295**

SENATORS HAMILTON, BOSO, FACEMIRE, IHLENFELD,

JEFFRIES, MAYNARD, SMITH, SYPOLT, CLINE, TRUMP,

RUCKER, AND LINDSAY, *original sponsors*

[Passed March 9, 2019; in effect 90 days from  
passage]



1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §51-3-19; and to amend and reenact §61-5-7 of said code, all relating to  
3 granting courthouse security officers arrest powers under certain circumstances;  
4 authorizing certain West Virginia courthouse security officers to carry concealed firearms  
5 while off duty with court approval; setting forth firearm training and qualification  
6 requirements; requiring supervising authority to issue photo identification and certification  
7 cards; specifying policy content; stating legislative intent that the new code section be  
8 consistent with the federal Law-Enforcement Officers Safety Act; establishing an effective  
9 date of July 1, 2020; criminalizing the obstruction of a courthouse security officer,  
10 correctional officer, and certain Fire Marshal's office personnel while they are acting in  
11 their official capacities; criminalizing fleeing from a courthouse security officer, correctional  
12 officer, and certain Fire Marshal's office personnel; criminalizing the disarming or  
13 attempted disarming of courthouse security officers and certain Fire Marshal's office  
14 personnel; including the investigation of misdemeanor offenses as subject to prohibition  
15 against making false statements; criminalizing the making of materially false statements  
16 as to misdemeanor and felony investigations to the State Fire Marshal and certain Fire  
17 Marshal's office personnel; and setting criminal penalties.

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

## **CHAPTER 51. COURTS AND THEIR OFFICERS.**

### **ARTICLE 3. COURTS IN GENERAL.**

**§51-3-19. Courthouse security officers; arrest authority; concealed-carry authority;  
requirements for participation; authorization to carry firearms concealed consistent  
with federal law.**

1 (a) In furtherance of enhanced courthouse security for court personnel, litigants, and the  
2 general public, courthouse security officers charged with effecting courthouse security may arrest

3 any person committing a violation of the criminal laws of the State of West Virginia, the United  
4 States, or a violation of Rule 42 of the West Virginia Rules of Criminal Procedure occurring within  
5 a courthouse while the courthouse security officer is engaged in his or her official duties;

6 (b) For purposes of subsection (a) of this section, the arrest authority of courthouse  
7 security officers is consistent with that of a county deputy sheriff;

8 (c) In any judicial circuit where there is an order in effect authorizing courthouse security  
9 officers to carry a firearm, the circuit court may also authorize, consistent with the provisions of  
10 this section, qualifying courthouse security officers to carry a concealed firearm for self-defense  
11 purposes pursuant to 18 U.S.C. § 926B, upon the following criteria being met:

12 (1) The supervising authority of the courthouse security officer shall require courthouse  
13 security officers desiring to participate to regularly qualify in the use of firearms with standards  
14 therefor which are equal to or exceed those required of sheriff's deputies in the county in which  
15 the courthouse security officers are employed;

16 (2) The supervising authority of the courthouse security officers shall issue photographic  
17 identification and certification cards which identify the courthouse security officers as law-  
18 enforcement employees of the supervising entity pursuant to the provisions of §30-29-12 of this  
19 code;

20 (3) Any policy instituted pursuant to this section shall include provisions that:

21 (A) Preclude or remove a person from participation in the concealed firearm program who  
22 is subject to any disciplinary or legal action which could result in the loss of his or her authority to  
23 participate in the program;

24 (B) Preclude from participation persons prohibited by federal or state law from possessing  
25 or receiving a firearm; and

26 (C) Prohibit persons from carrying a firearm pursuant to this subsection while in an  
27 impaired state as defined in §17C-5-2 of this code; and

28 (4) A courthouse security officer who participates in a program authorized by this section  
29 is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and  
30 ammunition for use when not engaged in his or her official duties.

31 (d) It is the intent of the Legislature in enacting this section during the 2019 regular session  
32 of the Legislature that active courthouse security personnel meeting all the requirements of this  
33 section to also meet the requirements of the federal Law-Enforcement Officers Safety Act, 18  
34 U.S.C. § 926B.

35 (e) The provisions of this section shall become effective July 1, 2020.

## **CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

### **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.**

1 (a) A person who by threats, menaces, acts, or otherwise forcibly or illegally hinders or  
2 obstructs or attempts to hinder or obstruct a law-enforcement officer, probation officer, parole  
3 officer, courthouse security officer, correctional officer, the State Fire Marshal, or a full-time deputy  
4 or assistant fire marshal acting in his or her official capacity is guilty of a misdemeanor and, upon  
5 conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail not more  
6 than one year, or both fined and confined.

7 (b) A person who intentionally disarms or attempts to disarm a law-enforcement officer,  
8 correctional officer, probation officer, parole officer, courthouse security officer, the State Fire  
9 Marshal, or a full-time deputy or assistant fire marshal acting in his or her official capacity is guilty  
10 of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less  
11 than one nor more than five years.

12 (c) A person who, with intent to impede or obstruct a law-enforcement officer, the State  
13 Fire Marshal or a full-time deputy or assistant fire marshal in the conduct of an investigation of a  
14 misdemeanor or felony offense, knowingly and willfully makes a materially false statement is guilty

15 of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than  
16 \$200, or confined in jail for five days, or both fined and confined. The provisions of this section  
17 do not apply to statements made by a spouse, parent, stepparent, grandparent, sibling, half  
18 sibling, child, stepchild or grandchild, whether related by blood or marriage, of the person under  
19 investigation. Statements made by the person under investigation may not be used as the basis  
20 for prosecution under this subsection. For purposes of this subsection, "law-enforcement officer"  
21 does not include a watchman, a member of the West Virginia State Police or college security  
22 personnel who is not a certified law-enforcement officer.

23 (d) A person who intentionally flees or attempts to flee by any means other than the use  
24 of a vehicle from a law-enforcement officer, probation officer, parole officer, courthouse security  
25 officer, correctional officer, the State Fire Marshal, or a full-time deputy or assistant fire marshal  
26 acting in his or her official capacity who is attempting to make a lawful arrest of or to lawfully detain  
27 the person, and who knows or reasonably believes that the officer is attempting to arrest or  
28 lawfully detain him or her, is guilty of a misdemeanor and, upon conviction thereof, shall be fined  
29 not less than \$50 nor more than \$500 or confined in jail not more than one year, or both fined and  
30 confined.

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

36 (f) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement  
37 officer, probation officer, or parole officer acting in his or her official capacity after the officer has  
38 given a clear visual or audible signal directing the person to stop, and who operates the vehicle  
39 in a manner showing a reckless indifference to the safety of others, is guilty of a felony and, upon

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

42 (g) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement  
43 officer, probation officer, or parole officer acting in his or her official capacity after the officer has  
44 given a clear visual or audible signal directing the person to stop, and who causes damage to the  
45 real or personal property of a person during or resulting from his or her flight, is guilty of a  
46 misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than  
47 \$3,000 and shall be confined in jail for not less than six months nor more than one year.

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

53 (i) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement  
54 officer, probation officer, or parole officer acting in his or her official capacity after the officer has  
55 given a clear visual or audible signal directing the person to stop, and who causes death to a  
56 person during or resulting from his or her flight, is guilty of a felony and, upon conviction thereof,  
57 shall be imprisoned in a state correctional facility for not less than five nor more than 15 years. A  
58 person imprisoned pursuant to this subsection is not eligible for parole prior to having served a  
59 minimum of three years of his or her sentence or the minimum period required by §62-12-13 of  
60 this code, whichever is greater.

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

66 (k) For purposes of this section, the term “vehicle” includes any motor vehicle, motorcycle,  
67 motorboat, all-terrain vehicle, or snowmobile as those terms are defined in §17A-1-1 of this code,  
68 whether or not it is being operated on a public highway at the time and whether or not it is licensed  
69 by the state.

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

74 (m) The revisions to subsections (e), (f), (g), and (h) of this section enacted during the  
75 2010 regular legislative session shall be known as the Jerry Alan Jones Act.

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

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

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

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

89 (5) A person who is convicted of a second offense under this subsection is guilty of a  
90 misdemeanor and, upon conviction thereof, shall be confined in jail for not less than three months



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

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

97 (7) In determining the number of prior convictions for purposes of imposing punishment  
98 under this subsection, the court shall disregard all such prior convictions occurring more than 10  
99 years prior to the offense in question.



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

.....  
*Chairman, Senate Committee*

.....  
*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

.....  
*Clerk of the Senate*

.....  
*Clerk of the House of Delegates*

.....  
*President of the Senate*

.....  
*Speaker of the House of Delegates*

\_\_\_\_\_

The within ..... this the.....  
Day of ....., 2019.

.....  
*Governor*