

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Committee Substitute

for

Senate Bill 295

SENATORS HAMILTON, BOSO, FACEMIRE, IHLENFELD,
JEFFRIES, MAYNARD, SMITH, SYPOLT, CLINE, TRUMP,
RUCKER, AND LINDSAY, *original sponsors*

[Originating in the Committee on the Judiciary;

Reported on February 13, 2019]

1 A BILL to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating
2 generally to court security; criminalizing the obstruction of a court security officer and
3 certain Fire Marshal's office personnel while they are acting in their official capacities;
4 criminalizing fleeing from a court security officer and certain Fire Marshal's office
5 personnel; criminalizing the disarming or attempted disarming of court security officers
6 and certain Fire Marshal's office personnel; including the investigation of misdemeanor
7 offenses as subject to prohibition against making false statements; criminalizing the
8 making of materially false statements as to misdemeanor and felony investigations to the
9 state Fire Marshal and fire investigators; and setting criminal penalties.

Be it enacted by the Legislature of West Virginia:

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, ~~or~~ parole
3 officer, court security officer, the state Fire Marshal, or a full-time deputy or assistant fire marshal,
4 acting in his or her official capacity is guilty of a misdemeanor and, upon conviction thereof, shall
5 be fined not less than \$50 nor more than \$500 or confined in jail not more than one year, or both
6 fined and confined.

7 (b) A person who intentionally disarms or attempts to disarm a law-enforcement officer,
8 correctional officer, probation officer, ~~or~~ parole officer, court security officer, the state Fire Marshal,
9 or a full-time deputy or assistant fire marshal, acting in his or her official capacity, is guilty of a
10 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, ~~or~~ parole officer, court security
25 officer, the state Fire Marshal, or a full-time deputy or assistant fire marshal, acting in his or her
26 official capacity, who is attempting to make a lawful arrest of ~~him or her~~ the person, or reasonably
27 believes that the officer is attempting to arrest and who knows the person, is guilty of a
28 misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500
29 or confined in a regional jail not more than one year, or both fined and confined.

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

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

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

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

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

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

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

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

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

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

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

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