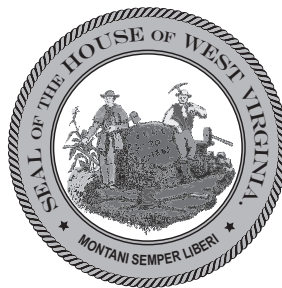


West Virginia Legislature

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March 10, 2025
TWENTY-SEVENTH DAY

Monday, March 10, 2025

TWENTY-SEVENTH DAY

[DELEGATE HANSHAW, MR. SPEAKER, IN THE CHAIR]

The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Friday, March 7, 2025, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Akers, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2351, Relating to compensation for panel attorneys,

And reports the same back with the recommendation that it do pass.

Delegate Akers, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2131, Relating to changing the process of election litigation,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 2131 - "A Bill to amend and reenact §3-1-45 of the Code of West Virginia, 1931, as amended, relating to legal standing of the West Virginia Legislature in court actions related to unauthorized changes to election laws and rules; and defining its right to intervene in such litigation,"

And,

Com. Sub. for H. B. 2164, To allow for public and private schools in West Virginia to employ security personnel,

And reports back a committee substitute therefor, as follows:

Com. Sub. for Com. Sub. for H. B. 2164 - "A Bill to amend and reenact §15-2D-3 and §61-7-11a of the Code of West Virginia, 1931, as amended; and by adding thereto two new sections, designated §18-5-52 and §18-5-53, relating to creating school safety officers; requiring the director of the Division of Protective Services to establish standards for school safety officers and

issue a certificate; providing definitions; authorizing local school boards, public charter schools, and private or religious schools to employ school safety officers; providing standards for a school safety officer to carry a firearm on school grounds; requiring a background check; specifying the detention powers of a school safety officer and limitations on detention powers; requiring data sharing with the Division of Protective Services; specifying payment for equipment; requiring insurance for schools employing a school safety officer; clarifying that the prohibitions on carry a firearm in a school zone do not apply to certified school safety officers; providing that all school safety officers are subject to the Law Enforcement Officers Safety Act ("LEOSA"); clarifying the liability and responsibility of school safety officers; providing for annual training in conjunction with the local county sheriffs' department; allowing county boards of education to contract with an independent contractor, known as a West Virginia guardian, who is a former state trooper, former deputy sheriff, former state fire marshal, former Department of Natural Resources police officer, former municipal police officer, or former federal law-enforcement officer to provide to provide public safety and/or security on school grounds to protect life and property; specifying the authority of independent contractors participating in the program and an apparel requirement; requiring the West Virginia guardian to apply for a permit from the county sheriff of the county in which the guardian will provide services; mandating the county sheriff to require an applicant to provide proof of meeting certain requirements; allowing county board to impose additional requirements; requiring permit application fee to be deposited into a guardian program fund; stating that meeting all of certain requirements does not guarantee a contract will be extended to the applicant; specifying instances in which an independent contractor is precluded from participation as a West Virginia guardian; providing certain liability insurance requirements; exempting West Virginia guardian contract from certain purchasing requirements; clarifying that county board participation is voluntary and subject to the availability of county funds; providing for exclusions from state benefit programs; and clarifying that an off duty law-enforcement officer is not prohibited from carrying a firearm on certain school grounds,"

With the recommendation that the committee substitutes each do pass.

Your committee on Government Organization has had under consideration:

Com. Sub. for H. B. 2043, Relating to use of dog and/or drones for tracking or locating mortally wounded deer, elk, turkey, wild boar, or bear,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Phillips, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 2165, Allowing disabled purple heart recipients park free at municipal metered parking spaces,

H. B. 2387, To repeal the class A1 Pistol stamp for hunting,

Com. Sub. For H. B. 2659, Adding a special permit for a non-profit entity to be a qualified permit holder in a private outdoor designated area.

S. B. 291, Extending time frame for pharmacies to register from annually to biennially.

Com. Sub. For S. B. 443, Authorizing Speech-Language Pathology and Audiology Board of Examiners to conduct criminal background checks for licensing.

And,

Com. Sub. For S. B. 462, Permitting Board of Occupational Therapy to require criminal history record checks.

And reports the same back with the recommendation that they each do pass.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 22 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §36-4-9c, relating to providing for enhanced damages for nonpayment of royalties due from oil, natural gas, or natural gas liquids production under the terms of a lease or other agreement"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 117 - "A Bill to amend and reenact §17C-15-26 of the Code of West Virginia, 1931, as amended; and to amend the code by adding two new sections, designated §30-3-21 and §30-14-18, relating to authorizing physicians to operate Class A vehicles as authorized emergency vehicles; authorizing the West Virginia Board of Medicine and Board of Osteopathic Medicine to designate Class A vehicles of licensed medical providers as authorized emergency vehicles; establishing Physician's Authorized Emergency Vehicle Programs; requiring West Virginia Board of Medicine and Board of Osteopathic Medicine to propose rules for legislative approval with content requirements; and authorizing use of audible signal and red flashing warning lights, administrative penalties, and fees"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 154 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §18-5-29, relating to prohibiting a public school from providing instruction related to sexual orientation or gender identity; defining terms; allowing discussion in specified circumstances; prohibiting a public school and the county board employees assigned to the school from knowingly giving false or misleading information to the parent, custodian, or guardian of a student regarding the student's gender identity or intention to transition to a gender that is different than the student's biological sex; requiring a person employed by the public school to report a student's request for an accommodation that is intended to affirm a change in the student's gender identity that is different from a student's biological sex to an administrator employed by the county board and assigned to the school; requiring the administrator to report the student's request to the student's parent, custodian, or guardian; creating a complaint and

appeals system for violations of this section; creating administrative sanctions for violation of this section; allowing for a civil action in certain instances of a violation of section; providing for penalties, court costs, and attorney fees; providing that the complaint, appeals, and administrative sanctions set forth in this section are the exclusive remedies for violations of this section; and requiring State Board of Education to promulgate rules"; which was referred to the Committee on Education then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 267 - "A Bill to amend and reenact §17E-1-12 of the Code of West Virginia, 1931, as amended, relating to extending the time for renewal and restoration of expired or downgraded commercial driver's licenses"; which was referred to the Committee on Energy and Public Works.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 299 - "A Bill to amend and reenact §30-1-26, §30-3-20, and §30-14-17 of the Code of West Virginia, 1931, as amended; and to amend the code by adding two new sections, designated §30-3E-20 and §30-7-15f, relating to prohibiting certain medical practices; requiring proposed legislative rule regarding telehealth practice by a telehealth practitioner to include a prohibition on prescribing or dispensing gender altering medication; defining terms; removing an exemption to prohibited practices; providing for an effective date; providing that violations of the articles are considered unprofessional conduct subject to discipline; providing for various forms of relief for violations of this article; providing for an exemption from the requirement for a certificate of merit; providing for the Attorney General to bring an enforcement action; permitting intervention in proceedings; applying the prohibited practices to allopathic physicians, osteopathic, physician assistants, and advanced practice registered nurses; providing for criminal penalties; and providing effective dates"; which was referred to the Committee on Health and Human Resources then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

S. B. 483 - "A Bill to amend and reenact §3-8-7 of the Code of West Virginia, 1931, as amended, relating to increasing the civil penalties for failure to file required campaign finance reports, or filing grossly incomplete or grossly inaccurate campaign finance reports, from \$10 per day to a maximum of \$500 for the first violation, and \$1,000 per report for each subsequent violation; requiring notice to be provided to any political committees violating the filing requirements prior to assessing any civil fines; giving the Secretary of State authority to grant additional time for compliance not to exceed an additional 14 days; authorizing the Secretary of State to negotiate and enter into settlement agreements for payment of the civil penalty, including but not limited to, entering into an installment payment plan; and requiring the Secretary of State to refer any civil penalties that remain outstanding for a period greater than 30 days to a debt collection agency or similar other responsible agent for collection"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 503 - "A Bill to amend and reenact §6-3-1 of the Code of West Virginia, 1931, as amended, relating to appointment of more than one chief deputy by the sheriff; limiting the engagement in certain political activities by chief deputies; providing for the removal of chief deputies who violate these restrictions; and removing the current restrictions on county conservators carrying firearms or other weapons by allowing these conservators to carry such weapons in compliance with West Virginia law"; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 552 - ""; which was referred to the Committee on Energy and Public Works.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 573 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding a new article, designated §1-8-1, relating to restrictions on powers of state agencies and political subdivisions; prohibiting state agencies and political subdivisions from restricting use, purchase, or sale of motor vehicles based on energy or power source; defining terms; and providing exceptions"; which was referred to the Committee on Energy and Public Works.

Bills Introduced

On motions for leave, bills were introduced and severally referred as follows:

By Delegate Fluharty:

H. B. 3270 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §4-2A-5a, relating to drug testing of legislators"; to the Committee on the Judiciary then Finance.

By Delegates Akers and Leavitt:

H. B. 3271 - "A Bill to amend and reenact §51-1-12 and §51-3-4 of the Code of West Virginia, 1931, as amended, relating to authorizing digital court records; providing duties of clerk of Supreme Court of Appeals or designated staff to include preserving digital and physical court records; requiring orders to be entered in a book or kept digitally by clerk of court; and removing requirement that order books be signed by judge or presiding officer"; to the Committee on the Judiciary.

By Delegates Akers and Leavitt:

H. B. 3272 - "A Bill to amend and reenact §55-3A-1 of the Code of West Virginia, 1931, as amended, relating to eviction proceedings; requiring hearing to be scheduled upon filing the petition; and providing that the hearing shall be scheduled five to 10 judicial days following filing of the petition"; to the Committee on the Judiciary.

By Delegates Akers and Leavitt:

H. B. 3273 - "A Bill to amend and reenact §51-9-10 of the Code of West Virginia, 1931, as amended, relating to senior judges and justices; and recognizing authority of Supreme Court of Appeals to recall senior judges and justices in specified circumstances"; to the Committee on the Judiciary.

By Delegates Akers and Leavitt:

H. B. 3274 - "A Bill to amend and reenact §51-7-1 of the Code of West Virginia, 1931, as amended, relating to reports of circuit court proceedings; and authorizing circuit courts to appoint court reporters or use electronic means approved by the Supreme Court of Appeals"; to the Committee on the Judiciary.

By Delegates Akers and Leavitt:

H. B. 3275 - "A Bill to amend and reenact §58-5-4 of the Code of West Virginia, 1931, as amended, relating to time for appeal; providing that the time for filing a notice of appeal, perfecting an appeal, and filing related documents with the Intermediate Court of Appeals and Supreme Court of Appeals shall be in accordance with rules promulgated by the Supreme Court of Appeals"; to the Committee on the Judiciary.

By Delegates Hott, Martin and Foggin:

H. B. 3276 - "A Bill to amend and reenact §24-1-1 of the Code of West Virginia, 1931, as amended, relating to setting a relevant time period and process for rate increases for water and sewerage utilities"; to the Committee on Energy and Public Works.

By Delegate Hite:

H. B. 3277 - "A Bill to amend and reenact §16-29A-3 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Hospital Finance Authority Act; and providing definitions"; to the Committee on Health and Human Resources.

By Delegates Cooper, Roop and Sheedy:

H. B. 3278 - "A Bill to amend and reenact §5-10-24 of the Code of West Virginia, 1931, as amended, relating to annuity options under the West Virginia Public Employees Retirement Act; and providing that, if a spouse beneficiary predeceases a retirant, the retirant shall receive the annuity in the same amount as if not nominating a spouse beneficiary"; to the Committee on Finance.

By Delegates Criss and Riley:

H. B. 3279 - "A Bill to amend and reenact §18B-2A-1 and §18B-2A-2 of the Code of West Virginia, 1931, as amended, relating to requiring one person of the West Virginia University Board of Governors and of the West Virginia State University Board of Governors to have a background in agriculture or in an agricultural field"; to the Committee on Education then Higher Education.

By Delegates Drennan, Moore, Holstein, Burkhammer, Dean, Bridges and Vance:

H. B. 3280 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §27-2A-2, relating to authorizing the Department of Human Services to transfer comprehensive community mental health centers and comprehensive intellectual disability facilities to regional mental health centers or regional intellectual disability facilities"; to the Committee on Health and Human Resources.

By Delegate Toney:

H. B. 3281 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding a new article, designated §61-7C-1, relating to the creation of a Persons with Disabilities Registry; and providing for a public records exemption"; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Fluharty, Young, Hornbuckle and Hamilton:

H. B. 3282 - "A Bill to amend and reenact §48-12-101 of the Code of West Virginia, 1931, as amended, by including expenses associated with the pregnancy and birth of the child as payable medical expenses for a non-custodial parent as part of child support award"; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Fluharty, Hornbuckle, Lewis and Hamilton:

H. B. 3283 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-67-1, §16-67-2, §16-67-3, §16-67-4, §16-67-5, §16-67-6, §16-67-7 and §16-67-8, relating to authorizing the installation of monitors in long-term care facilities; providing a short title; defining terms; establishing conditions for installation of monitors; requiring consent of other residents in non-private rooms; long-term care facility may provide forms; providing duties of long-term care facilities; prohibiting certain conduct; granting the Department of Health rulemaking authority; allowing violations of this article to be treated as a license violation of the long-term care facility; and establishing criminal penalties"; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Fluharty, Young, Hornbuckle, Lewis and Hamilton:

H. B. 3284 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto three new sections, designated §11-21-27, §18-2-46 and §18B-2A-9; relating to establishing the 'Stay in State Tax Credit' against personal income for higher education tuition of certain state residents; creating credit for student loan payments of all in-state community college, college, or university undergraduates and their in-state employers against personal income tax; establishing conditions and qualifications for the tax credit; providing methodology for calculating credit; providing for graduate and employer eligibility of payments against student loans for employees; defining terms; and providing for the board of education, State Board of Education, and governing boards of colleges' promotion of the program"; to the Committee on Education then Finance.

By Delegates Fluharty, Hornbuckle and Lewis:

H. B. 3285 - "A Bill to amend and reenact §18C-7-6 of the Code of West Virginia, 1931, as amended, relating to expanding the amount of PROMISE scholarship funds awarded to persons majoring in science, technology, engineering and mathematics fields"; to the Committee on Education then Finance.

By Delegates Fluharty, Hornbuckle and Lewis:

H. B. 3286 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-11-4c, relating to insurance unfair trade practices; prohibiting use of a person's credit history in certain insurance transactions"; to the Committee on Finance.

By Delegates Fluharty and Lewis:

H. B. 3287 - "A Bill to amend and reenact §55-7D-1 and §55-7D-3 of the Code of West Virginia, 1931, as amended; and by adding a new article, designated §11-13NN-1, §11-13NN-2, and §11-13NN-3; relating to Good Samaritan Food Donation Act; establishing a tax credit against corporation net income tax for retail food distributors that donate certain surplus food products to nonprofit organizations; providing for credit to apply to either personal income or corporate net

income tax liabilities; placing limitations and qualifications for the tax; directing the Tax Commissioner to promulgate rules and forms; and directing the Department of Human Services to distribute certain information regarding tax credit availability"; to the Committee on Finance.

By Delegates Eldridge, Dean, Sheedy, Vance, Holstein, Parsons, Miller, Green, Foggin and Kelly:

H. B. 3288 - "A Bill to amend and reenact §20-2-5h of the Code of West Virginia, 1931, as amended, relating to elk management area; and requiring that five percent of all permits issued for the hunting of elk shall be issued to West Virginia residents who are honorably discharged veterans of the armed forces of the United States of America"; to the Committee on Government Organization.

By Delegates Eldridge and Dean:

H. B. 3289 - "A Bill to amend and reenact §61-11-26a of the code of West Virginia 1931, as amended, relating to expungement of certain criminal convictions with certain programs; authorizing petition for expungement of certain criminal convictions upon compliance with and approved substance abuse treatment or recovery and counseling program for 90 days; graduation from approved job readiness adult training course, successful completion of drug court program, or any combination thereof"; to the Committee on the Judiciary.

By Delegate Rohrbach:

H. B. 3290 - "A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §16-9G-3, relating to creating the Tobacco Cessation Initiative Program Special Revenue Account; and directing a fixed portion of money to fund the account from the Legislature"; to the Committee on Finance.

By Delegates Ridenour, Martin, Mazzocchi, Steele, Jennings, Ward, Holstein, Kump, Butler, Maynor and Hillenbrand:

H. B. 3291 - "A Bill to amend and reenact §21-1B-5 of the Code of West Virginia, 1931, as amended, relating to prohibiting companies and organizations from knowingly hiring illegal aliens and establishing fines for violations"; to the Committee on the Judiciary.

By Delegate Heckert:

H. B. 3292 - "A Bill to amend and reenact §17C-12-1, of the Code of West Virginia, 1931, as amended; and to amend the code by adding a new section, designated §17C-1-71, relating to defining 'on-track equipment'; and clarifying provisions related to obedience to signal indicating approach of train"; to the Committee on Energy and Public Works.

By Delegate McCormick:

H. B. 3293 - "A Bill to amend and reenact §11-24-4 of the Code of West Virginia, 1931, as amended, to reduce the corporate net income tax"; to the Committee on Finance.

By Delegates Barnhart, Heckert, Holstein and J. Cannon:

H. B. 3294 - "A Bill amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31A-2C-1, §31A-2C-2, §31A-2C-3, §31A-2C-4, §31A-2C-5, §31A-2C-6, and §31A-2C-7, relating to enacting the Bank Protections for Eligible Adults from Financial Exploitation; providing findings, purpose, and intent to provide immunities to certain persons for government disclosure of information when financial exploitation of an eligible adult is suspected; providing definitions; permitting disclosure of eligible persons financial information to certain third parties and designated government agencies; authorizing depository institutions, broker-dealers, and investment advisors to delay, refuse, or prevent certain activities and transactions to prevent

financial exploitation of an eligible adult; and proscribing immunities for depository institutions, broker-dealers, and investment advisors"; to the Committee on Finance.

Special Calendar

Third Reading

Com. Sub. for S. B. 240, Updating crime of sexual extortion; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 44**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Fluharty, Mazzocchi and Shamblin.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 240) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for H. B. 2267, Authorizing Department of Revenue to Promulgate Legislative Rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 45**), and there were—yeas 77, nays 20, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Anders, Brooks, Burkhammer, Butler, Coop-Gonzalez, Dillon, Drennan, T. Howell, Jeffries, Jennings, Kimble, Martin, Miller, Parsons, Pinson, B. Smith, Toney, Vance, Ward and Worrell.

Absent and Not Voting: Fluharty, Mazzocchi and Shamblin.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2267) passed.

Delegate McGeehan moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 46**), and there were—yeas 78, nays 19, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Anders, Brooks, Burkhammer, Butler, Coop-Gonzalez, Dillon, Drennan, Ferrell, T. Howell, Kimble, Martin, Miller, Parsons, Pinson, B. Smith, Vance, Ward, White and Worrell.

Absent and Not Voting: Fluharty, Mazzocchi and Shamblin.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2267) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for H. B. 2710, Truth in Giving ; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 47**), and there were—yeas 70, nays 27, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Adkins, Anders, Bridges, Brooks, W. Clark, Clay, Coop-Gonzalez, Dean, Dillon, Garcia, Hamilton, Hansen, Holstein, Hornbuckle, Horst, T. Howell, Kump, Lewis, Martin, Masters, Pushkin, Ridenour, Steele, Vance, White, Williams and Young.

Absent and Not Voting: Fluharty, Mazzocchi and Shamblin.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2710) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for H. B. 2871, Relating to the crime of negligent homicide; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 48**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Fluharty, Mazzocchi and Shamblin.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2871) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Second Reading

Com. Sub. for S. B. 138, Enhancing penalties for fleeing officer; on second reading, coming up in regular order, was read a second time,

An amendment was recommended by the Committee on the Judiciary, and adopted, by striking everything after the enacting clause and inserting in lieu thereof the following:

“CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-2. Driving under influence of alcohol, controlled substances, or drugs; penalties.

(a) Definitions. —

(1) "Impaired state" means a person:

(A) Is under the influence of alcohol;

(B) Is under the influence of any controlled substance;

(C) Is under the influence of any other drug or inhalant substance;

(D) Is under the combined influence of alcohol and any controlled substance or any other drug; or

(E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight.

(2) "Bodily injury" means injury that causes substantial physical pain, illness, or any impairment of physical condition.

(3) "Controlled substance" has the meaning provided in §60A-1-101 of this code.

(4) "Serious bodily injury" means bodily injury that creates a substantial risk of death, that causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(5) "Test and lock program" means the Motor Vehicle Test and Lock Program, established in §17C-5A-3a and administered by the Division of Motor Vehicles.

(b) Any person who drives a vehicle in this state while he or she is in an impaired state, and such impaired state proximately causes the death of any person, including an embryo or fetus as defined in §61-2-30 of this code, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than three nor more than 15 years and shall be fined not less than \$1,000 nor more than \$3,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of 10 years or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That any death charged under this subsection must occur within one year of the offense: *Provided, however*, That if the person has previously been convicted under this section, the person shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code.

(c) Any person who drives a vehicle in this state while he or she is in an impaired state, and such impaired state proximately causes serious bodily injury to any person, including an embryo or fetus as defined in §61-2-30 of this code, other than himself or herself, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than 10 years and shall be fined not less than \$1,000 nor more than \$3,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of five years or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That if the person has previously been convicted under this section, the person shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life

or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code.

(d) Any person who drives a vehicle in this state while he or she is in an impaired state, and such impaired state proximately causes a bodily injury to any person other than himself or herself, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one day nor more than one year and shall be fined not less than \$200 nor more than \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of two years or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That if the person has previously been convicted under this section, the person shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code. Any jail term imposed pursuant to this subsection shall include actual confinement of not less than 24 hours: *Provided, however*, That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(e) Any person who drives a vehicle on any public highway or private road in this state: (1) while he or she is in an impaired state; or (2) while he or she is in an impaired state but has an alcohol concentration in his or her blood of less than fifteen hundredths of one percent, by weight, is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for up to six months and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of six months or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(f) Any person who drives a vehicle on any public highway or private road in this state while he or she has an alcohol concentration in his or her blood of fifteen hundredths of one percent or more, by weight, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than six months, which jail term is to include actual confinement of not less than 24 hours, and shall be fined not less than \$200 nor more than \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one year or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code. A person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(g) Any person who, being a habitual user of narcotic drugs or amphetamines, or any derivative thereof, drives a vehicle on any public highway or private road in this state is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one day nor more than six months, which jail term is to include actual confinement of not less than 24 hours, and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of six months. A person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(h) Any person who knowingly permits his or her vehicle to be driven on any public highway or private road in this state by any other person who is in an impaired state is guilty of a

misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of six months or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code.

(i) Any person who knowingly permits his or her vehicle to be driven on any public highway or private road in this state by any other person who is a habitual user of narcotic drugs or amphetamines, or any derivative thereof, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of six months.

(j) (1) Any person under the age of 21 years who drives a vehicle on any public highway or private road in this state while he or she has an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, for a first offense under this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$100, and have his or her license to operate a motor vehicle suspended by the Commissioner of the Division of Motor Vehicles for a period of 60 days or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code. For a second or subsequent offense under this subsection, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for 24 hours and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one year or until the person's 21st birthday, whichever period is longer, or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code. A person who is charged with a first offense under the provisions of this subsection may move for a continuance of the proceedings, from time to time, to allow the person to participate in the test and lock program as provided in §17C-5A-3a of this code. Upon successful completion of the program, the court shall dismiss the charge against the person and expunge the person's record as it relates to the alleged offense. In the event the person fails to successfully complete the program, the court shall proceed to an adjudication of the alleged offense. A motion for a continuance under this subsection may not be construed as an admission or be used as evidence.

(2) (A) Notwithstanding subdivision (1) of this subsection, a person shall have his or her license to operate a motor vehicle suspended or revoked for a minimum period of one year or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code, if the person:

(i) Has previously been convicted under this subsection and is subsequently convicted of an offense under another subsection of this section; or

(ii) Is convicted under this subsection and has previously been convicted of an offense under another subsection of this section.

(B) Nothing in this subdivision permits a shorter period of license revocation, license suspension, or participation in the test and lock program than is mandatory for the specific offense for which the person is convicted.

(3) A person arrested and charged with an offense under the provisions of this subsection or subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section may not also be charged with an offense under this subsection arising out of the same transaction or occurrence.

(k) Any person who drives a vehicle on any public highway or private road in this state while he or she is in an impaired state and has within the vehicle one or more other persons who are unemancipated minors who have not yet reached their 16th birthday is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than 12 months, and shall be fined not less than \$200 nor more than \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one year or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That such jail term shall include actual confinement of not less than 48 hours: *Provided, however*, That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(l) A person convicted of an offense under this section, who has previously been convicted of any offense under this section on one occasion, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than six months nor more than one year, may be fined not less than \$1,000 nor more than \$3,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for 10 years or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That if the second conviction is for an offense as described in subsections (b), (c), or (d) of this section and the subsection creating the offense requires a period of incarceration, period of license revocation, or fine that is greater than what is required for a conviction under this subsection, the greater period of incarceration, period of revocation, or fine shall be imposed: *Provided, however*, That this section does not apply to a second conviction that is subject to a period of license revocation under subsection (j) of this section.

(m) A person convicted of an offense under this section, who has previously been convicted of any offense under this section on two or more occasions, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than five years, shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code, and the court may, in its discretion, impose a fine of not less than \$3,000 nor more than \$5,000: *Provided*, That if the third or subsequent conviction is for an offense as described in subsections (b), (c), or (d) of this section and the subsection creating the offense requires a period of incarceration, period of license revocation, or fine that is greater than what is required for a conviction under this subsection, the greater period of incarceration, period of revocation, and fine shall be imposed: *Provided, however*, That this section does not apply to a third or subsequent conviction that is subject to a period of license revocation under subsection (j) of this section.

(n) For purposes of subsections (l) and (m) of this section relating to second, third, and subsequent offenses, the following events shall be regarded as offenses and convictions under this section:

(1) Any conviction under the provisions of subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section, or under a prior enactment of this section, for an offense which occurred within the 10-year period immediately preceding the date of arrest in the current proceeding;

(2) Any conviction under a municipal ordinance of this state or any other state or a statute of the United States or of any other state of an offense which has the same elements as an offense described in subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section, which offense occurred within the 10-year period immediately preceding the date of arrest in the current proceeding; ~~and~~

(3) Any period of conditional probation imposed pursuant to §17C-5-2b of this code for violation of subsection (e) of this section, which violation occurred within the 10-year period immediately preceding the date of arrest in the current proceeding; and

(4) Any conviction under the provisions of §61-5-17(j) of this code or under a prior enactment of that subsection, for an offense which occurred within the 15-year period immediately preceding the date of arrest in the current proceeding.

(o) A person may be charged in a warrant, indictment, or information for a second or subsequent offense, as described in subsection (j), (l), or (m) of this section, if the person has been previously arrested for, or charged with, a violation of this section which is alleged to have occurred within the applicable time period for prior offenses, notwithstanding the fact that there has not been a final adjudication of the charges for the alleged previous offense. In that case, the warrant or indictment or information must set forth the date, location, and particulars of the previous offense or offenses. No person may be convicted of a second or subsequent offense under this section unless the conviction for the previous offense has become final, or the person has previously had a period of conditional probation imposed pursuant to §17C-5-2b of this code.

(p) The fact that any person charged with a violation of subsection (b), (c), (d), (e), (f), or (g) of this section, or any person permitted to drive as described under subsection (h) or (i) of this section, is or has been legally entitled to use alcohol, a controlled substance, or a drug does not constitute a defense against any charge of violating subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section.

(q) The sentences provided in this section upon conviction for a violation of this article are mandatory and are not subject to suspension or probation: *Provided*, That the court may apply the provisions of §62-11A-1 *et seq.* of this code to a person sentenced or committed to a term of one year or less for a first offense under this section: *Provided, however*, That the court may impose a term of conditional probation pursuant to §17C-5-2b of this code to persons adjudicated thereunder. An order for home detention by the court pursuant to the provisions of §62-11B-1 *et seq.* of this code may be used as an alternative sentence to any period of incarceration required by this section for a first or subsequent offense: *Provided further*, That for any period of home incarceration ordered for a person convicted of a second offense under this section, electronic monitoring shall be required for no fewer than five days of the total period of home confinement ordered and the offender may not leave home for those five days notwithstanding the provisions of §62-11B-5 of this code: *And provided further*, That for any period of home incarceration ordered for a person convicted of a third or subsequent violation of this section, electronic monitoring shall be included for no fewer than 10 days of the total period of home confinement ordered and the offender may not leave home for those 10 days notwithstanding §62-11B-5 of this code.

(r) A person whose license to operate a motor vehicle has been revoked or suspended by the Commissioner of the Division of Motor Vehicles pursuant to this section must complete a comprehensive safety and treatment program as set forth in §17C-5A-3 of this code before his or her license to operate a motor vehicle can be reinstated and his or her driving privileges restored.

(s) For any offense for which an alternative revocation period is permitted conditioned upon participation in the test and lock program, an alternative sentence may not be imposed without the consent of the driver.

(t) Upon entering the order of conviction for an offense under this section, or the imposition of conditional probation as provided in §17C-5-2b of this code, the clerk of the court shall immediately transmit the order to the Commissioner of the Division of Motor Vehicles.

(u) The amendments made to this section during the 2020 regular session of the Legislature shall become effective on 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.

(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, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, or a full-time deputy or assistant fire marshal 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 both fined and confined.

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

(c) A person who, with intent to impede or obstruct a law-enforcement officer, the State Fire Marshal, or a full-time deputy or assistant fire marshal in the conduct of an investigation of a misdemeanor or felony offense, knowingly and willfully makes a materially false statement is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$200, or confined in jail for five days, or both fined and confined. The provisions of this section do not apply to statements made by a spouse, parent, stepparent, grandparent, sibling, half-sibling, child, stepchild, or grandchild, whether related by blood or marriage, of the person under investigation. Statements made by the person under investigation may not be used as the basis for prosecution under this subsection. For purposes of this subsection, "law-enforcement officer" does not include a watchman, a member of the West Virginia State Police, or college security personnel who is not a certified law-enforcement officer. A criminal charge under this subsection relating to the investigation of a misdemeanor offense may not be used to seek or support a secured bond or pre-trial incarceration.

(d) A person who intentionally flees or attempts to flee by any means other than the use of a vehicle from a law-enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, or a full-time deputy or assistant fire marshal acting in his or her official capacity who is attempting to make a lawful arrest of or to lawfully detain the person, and who knows or reasonably believes that the officer is attempting to arrest or lawfully detain him or her, 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 both fined and confined and confined in jail for 10 days. A person convicted of a second offense violation of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$250 nor more than \$1,000 and confined in jail for 30 days. A person who is convicted of a third or subsequent offense in violation of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$2,000 and confined in jail not less than 60 days nor more than one year.~~

(e) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer, or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000 and shall be confined in jail not more than one year. A person who is convicted of a second offense of violation of this subsection is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$2,000 or shall be confined in a state correctional facility for not less than one year nor more than three years, or both fined and confined. A person who is convicted of a third or subsequent offense of violation of this subsection is guilty of a felony and, upon conviction thereof, shall be fined not less than \$2,000, nor more than \$5,000 and shall be confined in a state correctional facility not less than two nor more than five years, or both fined and confined.

(f) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer, or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who operates the vehicle in a manner showing a reckless indifference to the safety of others, is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$2,000 and shall be ~~imprisoned~~ confined in a state correctional facility not less than one nor more than five years. A person who is convicted of a second offense of violation of this subsection is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$2,000 or shall be confined in a state correctional facility for not less than two nor more than 10 years, or both fined and confined. A person who is convicted of a third or subsequent offense of violation of this subsection is guilty of a felony and, upon conviction thereof, shall be fined not less than \$2,000 nor more than \$5,000 and shall be confined in a state correctional facility not less than three nor more than 15 years, or both fined and confined.

(g) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer, or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who causes damage to the real or personal property of a person during or resulting from his or her flight, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$3,000 and shall be confined in jail for not less than six months nor more than one year. A person who is convicted of a second offense of violation of this subsection is guilty of a felony and, upon conviction thereof, shall be fined not less than \$3,000 nor more than \$5,000 or shall be confined in a state correctional facility for not less than one year nor more than three years, or both fined and confined. A person who is convicted of a third or subsequent offense of violation of this subsection is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$8,000 and shall be confined in a state correctional facility not less than two nor more than five years, or both fined and confined.

(h) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer, or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who causes bodily injury to

a person during or resulting from his or her flight, is guilty of a felony and, upon conviction thereof, shall be ~~imprisoned~~ confined in a state correctional facility not less than three nor more than 10 years. A person who is convicted of a second offense of violation of this subsection is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not less than five years nor more than 10 years. A person who is convicted of a third or subsequent offense of violation of this subsection is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility not less than five nor more than 15 years.

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

(j) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer, or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who is under the influence of alcohol, controlled substances, or drugs, is guilty of a felony and, upon conviction thereof, shall be ~~imprisoned~~ confined in a state correctional facility not less than three nor more than 10 years. A person who is convicted of a second offense of violation of this subsection is guilty of a felony and shall be confined in a state correctional facility for not less than five years nor more than 15 years. A person who is convicted of a third or subsequent offense of violation of this subsection is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility not less than 10 nor more than 20 years. A conviction for a violation of this subsection may be used as a predicate offense for driving under the influence, second offense driving under the influence, or third offense driving under the influence, and it shall be treated as a driving under the influence conviction for licensure purposes by the Division of Motor Vehicles.

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

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

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

(n) (1) ~~No~~ A person, with the intent to purposefully deprive another person of emergency services, may not interfere with or prevent another person from making an emergency communication, which a reasonable person would consider necessary under the circumstances, to law-enforcement, fire, or emergency medical services personnel.

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

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

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

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

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

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

(o) A person is guilty of filing a false complaint against a law-enforcement officer when, knowing the information reported is false or baseless, he or she:

(1) Initiates a false complaint of improper action of a law-enforcement officer relating to an incident or other circumstance; or

(2) Reports, by word or action, to any official or quasi-official agency, or organization having the function of dealing with conduct of law-enforcement officers which did not occur, does not in fact exist; or

(3) Reports to a law-enforcement officer or agency the alleged occurrence of any offense or incident which did not in fact occur.

Any person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail not more than six months, or both fined and confined.

(p) In determining the number of prior convictions for purposes of imposing punishment under this section, the court shall disregard all such prior convictions occurring more than 15 years prior to the offense in question.

ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES. §61-11-18. PUNISHMENT FOR SECOND OR THIRD OFFENSE OF FELONY. (A) FOR PURPOSES OF THIS SECTION, "QUALIFYING OFFENSE" MEANS ANY OFFENSE OR AN ATTEMPT OR CONSPIRACY TO COMMIT ANY OF THE OFFENSES IN THE FOLLOWING PROVISIONS OF THIS CODE:

- (1) §60A-4-401(a)(i) and §60A-4-401(a)(ii);
- (2) §60A-4-406;
- (3) §60A-4-409(b)(1) and §60A-4-409 (b)(2);
- (4) §60A-4-411;
- (5) §60A-4-414;
- (6) §60A-4-415;
- (7) §60A-4-416(a);
- (8) §61-2-1;
- (9) §61-2-4;
- (10) §61-2-7;
- (11) §61-2-9(a);
- (12) §61-2-9a(d) and §61-2-9a(e);
- (13) §61-2-9b;
- (14) §61-2-9c;
- (15) §61-2-9d;
- (16) §61-2-10;
- (17) §61-2-10b(b) and §61-2-10b(c);
- (18) Felony provisions of §61-2-10b(d);
- (19) §61-2-12;
- (20) Felony provisions of §61-2-13;
- (21) §61-2-14;
- (22) §61-2-14a(a) and §61-2-14a(d);
- (23) §61-2-14c;

- (24) §61-2-14d(a) and §61-2-14d(b);
- (25) §61-2-14f;
- (26) §61-2-14h(a), §61-2-14h(b), and §61-2-14h(c);
- (27) §61-2-16a(a) and §61-2-16a(b);
- (28) Felony provisions of §61-2-16a(c);
- (29) §61-2-28(d);
- (30) §61-2-29(d) and §61-2-29(e);
- (31) §61-2-29a;
- (32) §61-3-1;
- (33) §61-3-2;
- (34) §61-3-3;
- (35) §61-3-4;
- (36) §61-3-5;
- (37) §61-3-6;
- (38) §61-3-7;
- (39) §61-3-11;
- (40) Felony violation of 61-3-12;
- (41) §61-3-13(a);
- (42) Felony violation of §61-3-18;
- (43) Felony violation of §61-3-19;
- (44) Felony violation of §61-3-20;
- (45) Felony violation of §61-3-20a;
- (46) Felony violation of §61-3-21;
- (47) §61-3-22;
- (48) Felony violation of §61-3-24;
- (49) Felony violation of §61-3-24a;

- (50) §61-3-27;
- (51) §61-3-54;
- (52) §61-3C-14b;
- (53) §61-3E-5;
- (54) Felony violation of §61-5-10;
- (55) ~~§61-5-17(b), §61-5-17(f), §61-5-17(h), and §61-5-17(i);~~ Felony violations of §61-5-17;
- (56) §61-5-27;
- (57) §61-6-24;
- (58) Felony provisions of §61-7-7;
- (59) §61-7-12;
- (60) §61-7-15;
- (61) §61-7-15a;
- (62) §61-8-12;
- (63) §61-8-19(b);
- (64) §61-8A-2;
- (65) §61-8A-4;
- (66) §61-8A-5;
- (67) §61-8B-3;
- (68) §61-8B-4;
- (69) §61-8B-5;
- (70) §61-8B-7;
- (71) §61-8B-10;
- (72) §61-8B-11b;
- (73) §61-8C-2;
- (74) §61-8C-3;
- (75) §61-8C-3a;

- (76) §61-8D-2;
- (77) §61-8D-2a;
- (78) §61-8D-3;
- (79) §61-8D-3a;
- (80) §61-8D-4;
- (81) §61-8D-4a;
- (82) §61-8D-5;
- (83) §61-8D-6;
- (84) §61-10-31;
- (85) §61-11-8;
- (86) §61-11-8a;
- (87) §61-14-2; and
- (88) §17C-5-2(b), driving under the influence causing death.

(b) Except as provided by subsection (c) of this section, when any person is convicted of a qualifying offense and is subject to imprisonment in a state correctional facility for the qualifying offender and it is determined, as provided in §61-11-19 of this code, that the person had been previously convicted in the United States of a crime punishable by imprisonment in a state or federal correctional facility, the court shall, if the sentence to be imposed is for a definite term of years, add five years to the time for which the person is or would be otherwise sentenced. Whenever in that case the court imposes an indeterminate sentence, the minimum term shall be twice the term of years otherwise provided for under the sentence.

(c) Notwithstanding any provision of this code to the contrary, when any person is convicted of first degree murder or second degree murder or a violation of §61-8B-3 of this code and it is determined, as provided in §61-11-19 of this code, that the person had been previously convicted in this state of first degree murder, second degree murder, or a violation of §61-8B-3 of this code, or has been so convicted under any law of the United States or any other state for an offense which has the same or substantially similar elements as any offense described in this subsection, the person shall be punished by imprisonment in a state correctional facility for life and is not eligible for parole.

(d) When it is determined, as provided in §61-11-19 of this code, that the person has been twice previously convicted in the United States of a crime punishable by imprisonment in a state or federal correctional facility which has the same or substantially similar elements as a qualifying offense, the person shall be sentenced to imprisonment in a state correctional facility for life: *Provided*, That prior convictions arising from the same transaction or series of transactions shall be considered a single offense for purposes of this section: *Provided, however*, That the most recent previous qualifying offense which would otherwise constitute a qualifying offense for purposes of this subsection may not be considered if more than 20 years have elapsed between:

(1) The release of the person from his or her term of imprisonment or period of supervision

resulting from the most recent qualifying offense or the expiration of a period of supervised release resulting from the offense; and (2) the conduct underlying the current charge.”

Com. Sub. for H. B. 2008, at the request of Delegate McGeehan, and by unanimous consent, the bill was advanced to third reading with a general right to amend.

Com. Sub. for H. B. 2009, at the request of Delegate McGeehan, and by unanimous consent, the bill was advanced to third reading with a general right to amend.

Com. Sub. for H. B. 2190, Including Potomac State College in the definition of community and technical college education program for participation in the “Learn and Earn Program”; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading,

Com. Sub. for H. B. 2382, Camping ban on certain public property. ; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading,

Com. Sub. for H. B. 2411, To provide and change graduation requirements and change duties relating to academic content standards; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading,

And,

Com. Sub. for H. B. 2634, To double the criminal penalty for anyone found guilty of sexual assault on a minor; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading,

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for S. B. 358, Authorizing Department of Transportation to promulgate legislative rules,

Com. Sub. for H. B. 2233, Authorizing the Department of Environmental Protection to promulgate legislative rules,

Com. Sub. for H. B. 2347, Relating generally to the creation of mental hygiene regions by the Supreme Court of Appeals,

H. B. 2402, Relating to providing access to medical records; providing access to a minor’s medical record,

Com. Sub. for H. B. 2473, Increasing and maintaining the bracketed tax rates on the privilege of establishing or operating a health maintenance organization,

Com. Sub. for H. B. 2501, Relating to exemptions of property in bankruptcy proceedings,

Com. Sub. for H. B. 2711, Relating to the repeal of the common law rule against perpetuities by extending it to 1,000 years for all trusts,

H. B. 2719, Campaign finance and reporting,

Com. Sub. for H. B. 2761, Relating generally to magistrate courts,

H. B. 2774, Coach Protection Act,

H. B. 2781, Relating to the meaning of residence for the Purpose of Bail,

H. B. 2867, Relating to Small Estates,

And,

H. B. 3030, Administration of the West Virginia Water Pollution Control Act.

Leaves of Absence

At the request of Delegate McGeehan, and by unanimous consent, leaves of absence for the day were granted Delegates Fluharty, Mazzochi, and Shamblin.

Miscellaneous Business

Pursuant to House Rule 94b, forms were filed with the Clerk's Office to be added as a cosponsor of the following:

H. B. 2181: Delegate Hillenbrand;

H. B. 2356: Delegate Flanigan;

H. B. 2873: Delegate Kimble;

H. B. 2881: Delegate Funkhouser;

H. B. 3090: Delegate Hall;

H. B. 3222: Delegate Kump;

H. J. R. 35: Delegate Kump;

And,

H. J. R. 36: Delegate Kump.

At 12:15 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, March 11, 2025.

SPECIAL CALENDAR

Tuesday, March 11, 2025

28th Day

11:00 A.M.

THIRD READING

- | | |
|----------------------------|--|
| Com. Sub. for S. B. 138 - | Enhancing penalties for fleeing officer |
| Com. Sub. for H. B. 2008 - | Executive Branch Reorganization [Right to Amend] |
| H. B. 2009 - | Relating to the merging and reorganizing of the executive branch [Right to Amend] |
| Com. Sub. for H. B. 2190 - | Including Potomac State College in the definition of community and technical college education program for participation in the "Learn and Earn Program" |
| Com. Sub. for H. B. 2382 - | Camping ban on certain public property. |
| Com. Sub. for H. B. 2411 - | To provide and change graduation requirements and change duties relating to academic content standards |
| Com. Sub. for H. B. 2634 - | To double the criminal penalty for anyone found guilty of sexual assault on a minor |

SECOND READING

- | | |
|----------------------------|--|
| Com. Sub. for S. B. 358 - | Authorizing Department of Transportation to promulgate legislative rules |
| Com. Sub. for H. B. 2233 - | Authorizing the Department of Environmental Protection to promulgate legislative rules |
| Com. Sub. for H. B. 2347 - | Relating generally to the creation of mental hygiene regions by the Supreme Court of Appeals |
| H. B. 2402 - | Relating to providing access to medical records; providing access to a minor's medical record |
| Com. Sub. for H. B. 2473 - | Increasing and maintaining the bracketed tax rates on the privilege of establishing or operating a health maintenance organization |
| Com. Sub. for H. B. 2501 - | Relating to exemptions of property in bankruptcy proceedings |
| Com. Sub. for H. B. 2711 - | Relating to the repeal of the common law rule against perpetuities |

	by extending it to 1,000 years for all trusts
H. B. 2719 -	Campaign finance and reporting
Com. Sub. for H. B. 2761 -	Relating generally to magistrate courts
H. B. 2774 -	Coach Protection Act
H. B. 2781 -	Relating to the meaning of residence for the Purpose of Bail
H. B. 2867 -	Relating to Small Estates
H. B. 3030 -	Administration of the West Virginia Water Pollution Control Act

FIRST READING

S. B. 291 -	Extending time frame for pharmacies to register from annually to biennially
Com. Sub. for S. B. 443 -	Authorizing Speech-Language Pathology and Audiology Board of Examiners to conduct criminal background checks for licensing
Com. Sub. for S. B. 462 -	Permitting Board of Occupational Therapy to require criminal history record checks
H. B. 2043 -	Relating to use of dog and/or drones for tracking or locating mortally wounded deer, elk, turkey, wild boar or bear
Com. Sub. for H. B. 2131 -	Relating to changing the process of election litigation
Com. Sub. for H. B. 2164 -	To allow for public and private schools in West Virginia to employ security personnel.
H. B. 2165 -	Allowing disabled purple heart recipients park free at municipal metered parking spaces
H. B. 2351 -	Relating to compensation for panel attorneys
H. B. 2387 -	To repeal the class A1 Pistol stamp for hunting
H. B. 2659 -	Adding a special permit for a non-profit entity to be a qualified permit holder in a private outdoor designated area

HOUSE CALENDAR

Tuesday, March 11, 2025

28th Day

11:00 A.M.

THIRD READING

H. B. 2060 - Creating tax exemption for agricultural cooperative associations

SECOND READING

Com. Sub. for H. B. 2006 - Defining Men and Women

Com. Sub. for H. B. 2054 - Relating to liability of vendors in private farmers markets

Com. Sub. for H. B. 2400 - Prohibiting the delivery of unsolicited absentee ballot applications to any person who has not specifically requested one from the county clerk

H. B. 2683 - To prohibit rank choice voting

WEST VIRGINIA HOUSE OF DELEGATES

TUESDAY, MARCH 11, 2025

HOUSE CONVENES AT 11:00 A.M.

COMMITTEE ON FINANCE

9:00 A.M. – FINANCE COMMITTEE ROOM 460M

SUBCOMMITTEE ON BANKING AND INSURANCE

1:00 P.M. – FINANCE COMMITTEE ROOM 460M

SUBCOMMITTEE ON REVENUE AND INVESTMENTS

3:00 P.M. – FINANCE COMMITTEE ROOM 460M

COMMITTEE ON JUDICIARY

9:00 A.M. – JUDICIARY COMMITTEE ROOM 410M

SUBCOMMITTEE ON COURTS

9:30 A.M. – JUDICIARY COMMITTEE ROOM 410M

SUBCOMMITTEE ON LEGAL SERVICES

9:45 A.M. – JUDICIARY COMMITTEE ROOM 410M

SUBCOMMITTEE ON HOMELAND SECURITY

10:00 A.M. – JUDICIARY COMMITTEE ROOM 410M

COMMITTEE GOVERNMENT ORGANIZATION

1:00 P.M. – GOVERNMENT ORGANIZATION COMMITTEE ROOM 215E

SUBCOMMITTEE ON LOCAL GOVERNMENT

2:00 P.M. – GOVERNMENT ORGANIZATION COMMITTEE ROOM 215E

COMMITTEE ON HEALTH AND HUMAN RESOURCES

3:30 P.M. – HEALTH COMMITTEE ROOM 215E

SUBCOMMITTEE ON PUBLIC EDUCATION

1:00 P.M. – EDUCATION COMMITTEE ROOM 432M

SUBCOMMITTEE ON EDUCATIONAL CHOICE

1:40 P.M. – EDUCATION COMMITTEE ROOM 432M

SUBCOMMITTEE ON HIGHER EDUCATION

2:20 P.M. – EDUCATION COMMITTEE ROOM 432M

**COMMITTEE ON ENERGY AND PUBLIC WORKS
3:00 P.M. – JUDICIARY COMMITTEE ROOM 410M**

**SUBCOMMITTEE ENVIRONMENT, INFRASTRUCTURE AND TECHNOLOGY
1:00 P.M. – McMANUS ROOM 252 (ROADS/BRIDGE NAMING)**

**SUBCOMMITTEE ON ENERGY AND MANUFACTURING
4:00 P.M. – JUDICIARY COMMITTEE ROOM 410M**

HOUSE OF DELEGATES
JEFFREY PACK, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470