WEST VIRGINIA CODE CHAPTER 61 ARTICLE 5

WV Legislature

§61-5-1. Perjury and subornation of perjury defined.

(a) Any person who is under an oath or affirmation which has been lawfully administered and who willfully testifies falsely regarding a material matter in a trial of any person, corporation or other legal entity for a felony, or before any grand jury which is considering a felony indictment, shall be guilty of the felony offense of perjury.

(b) Any person who induces or procures another person to testify falsely regarding a material matter in a trial of any person, corporation or other legal entity for a felony, or before any grand jury which is considering a felony indictment, shall be guilty of the felony offense of subornation of perjury.

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§61-5-2. False swearing defined.

To wilfully swear falsely, under oath or affirmation lawfully administered, in a trial of the witness or any other person for a felony, concerning a matter or thing not material, and on any occasion other than a trial for a felony, concerning any matter or thing material or not material, or to procure another person to do so, is false swearing and is a misdemeanor.

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§61-5-3. Penalties for perjury, subordination of perjury, and false swearing.

A person convicted of perjury or subordination of perjury shall be confined in the penitentiary not less than one nor more than ten years, and a person convicted of false swearing shall be fined not more than $1,000, and, in the discretion of the court, confined in jail not more than one year. And in either case the person convicted shall be adjudged forever incapable of holding any office of honor, trust or profit in this state, or of serving as a juror.

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§61-5-4. Bribery or attempted bribery; penalty.

If any person shall bribe, by directly or indirectly giving to or bestowing upon, or shall attempt to bribe by directly or indirectly giving to or bestowing upon, any executive, legislative, judicial, or ministerial officer of this state, or any member of the Legislature, after his election or appointment and either before or after he shall have been qualified or shall have taken his seat, any gift, gratuity, money, testimonial or other valuable thing, or shall make promise thereof, in order to influence him in the performance of any of his official, public duties, or with intent to influence his act, vote, opinion, decision or judgment on any matter, question, cause or proceeding, or to induce or procure him to vote or withhold his vote on any question or proceeding which is then or may thereafter be pending, or may by law come or be brought before him in his official capacity, he shall be guilty of a felony, and, upon conviction, shall be imprisoned in the penitentiary not less than one nor more than ten years, and shall, moreover, be forever disqualified from holding any office or position of honor, trust or profit in this state.

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§61-5-5. Demanding or receiving bribes; penalty.

Any executive, legislative, judicial or ministerial officer, or member of the Legislature, who shall demand, receive or accept any gift, gratuity, money, testimonial or other valuable thing, or shall exact any promise to make such gift or to pay to him money, testimonial or other valuable thing, or to do any act beneficial to such officer or member of the Legislature, from any person, company or corporation, under an agreement or understanding that his vote, opinion, judgment or decision shall be given or withheld in any particular manner upon a particular side of any question, cause or proceeding, which is, or may be by law brought before him in his official capacity, or that in such capacity he shall make any particular nomination or appointment, or for any vote or influence he may give or withhold as such officer or member of the Legislature, or that such officer will fail to perform or improperly perform any of his official, public duties, shall be guilty of a felony and, upon conviction thereof, shall be confined in the penitentiary not less than one nor more than ten years; and in addition thereto such officer or member of the Legislature shall forfeit the office then held by him and shall be forever disqualified from holding any office or position of honor, trust or profit in this state.

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§61-5-6. Receiving bribe by officer in delay of service of process; penalty.

If any officer authorized to serve legal process receive any money or other thing of value for omitting or delaying to perform any duty pertaining to his office, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than six months and be fined not exceeding $100.

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§61-5-7. Bribery of commissioner of court, Auditor, justice of the peace, arbitrator, umpire, juror, or other county official, either elected or appointed; penalty.

Any person who gives or offers, directly or through any other person or persons, or promises, directly or indirectly, to give any money or other thing of value to a commissioner appointed by a court, Auditor, justice of the peace, arbitrator, umpire, juror (although not impaneled), or other county official, either elected or appointed, with intent to bias his opinion or influence his decision in relation to any matter in which he is acting or is to act; and any such commissioner, Auditor, justice of the peace, arbitrator, umpire, juror, or other county official, either elected or appointed, who corruptly takes or receives such money or other thing of value, or who agrees to take such money or other thing of value to bias or influence his opinion or action or both, shall be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than one nor more than ten years, and fined in addition thereto not exceeding $5,000.

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§61-5-8. Aiding escape and other offenses relating to adults and juveniles in custody or confinement; penalties.

(a) Where any adult or juvenile is lawfully detained in custody or confinement in any jail, state correctional facility, juvenile facility, juvenile detention center, or federal correctional facility, if any other person delivers anything into the place of custody or confinement of the adult or juvenile with the intent to aid or facilitate the adult's or juvenile's escape or attempted escape from the facility, or if the other person forcibly rescues or attempts to rescue an adult or a juvenile from the facility, the other person is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility not less than three nor more than 15 years.

(b) Where any adult or juvenile is lawfully detained in custody or confinement in any jail, a state correctional facility, a juvenile facility or juvenile detention center, or federal correctional facility, if any other person delivers any money or other thing of value, any written or printed matter, any article of merchandise, food or clothing, any medicine, utensil or instrument of any kind to the adult or juvenile without the express authority and permission of the supervising officer and with knowledge that the adult or juvenile is lawfully detained, the other person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $50 nor more than $500 and confined in jail not less than three nor more than 12 months: *Provided*, That the provisions of this section do not prohibit an attorney or his or her employees from supplying any written or printed material to an adult or juvenile which pertains to that attorney's representation of the adult or juvenile.

(c) If any person transports, or causes to be transported, any alcoholic liquor, nonintoxicating beer, poison, implement of escape, dangerous material, weapon, telecommunication device, or any controlled substance as defined by chapter 60A of this code onto the grounds of any jail, state correctional facility, juvenile facility, juvenile detention center, or federal correctional facility within this state and is unauthorized by law to do so, or is unauthorized by the persons supervising the facility, the person is guilty of a felony and, upon conviction thereof, shall be fined not less than $1,000 nor more than $5,000 or confined in a state correctional facility not less than two years nor more than 10 years, or both.

(d) If any person delivers, or causes to be delivered, any alcoholic liquor, nonintoxicating beer, poison, implement of escape, dangerous material, weapon, telecommunication device, or any controlled substance as defined by chapter 60A of this code to an adult or juvenile in custody or confinement in any jail, state correctional facility, juvenile facility, juvenile detention center, or federal correctional facility within this state and is unauthorized by law to do so, or is unauthorized by the persons supervising the facility, the person is guilty of a felony and, upon conviction thereof, shall be fined not less $1,000 nor more than $5,000, or confined in a state correctional facility not less than two nor more than 10 years, or both.

(e) Whoever purchases, accepts as a gift, or secures by barter, trade, or in any other manner any article or articles manufactured at or belonging to any jail, state correctional facility,

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juvenile facility, juvenile detention center, or federal correctional facility from any adult or juvenile detained in the facility is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $50 nor more than $500 and confined in jail not less than three nor more than 12 months: *Provided*, That the provisions of this subsection do not apply to articles specially manufactured in any facility under the authorization of the persons supervising the facility and which are offered for sale within or outside of the facility.

(f) Whoever persuades, induces, or entices or attempts to persuade, induce, or entice any person who is in custody or confined in any jail, state correctional facility, juvenile facility, juvenile detention center, or federal correctional facility to escape from the facility or to engage or aid in any insubordination to the persons supervising the facility is guilty of a felony and, upon conviction thereof, shall be fined not less than $1,000 nor more than $5,000 or confined in a state correctional facility not less than two nor more than 10 years, or both.

(g) (1) An inmate of a jail, state correctional facility, juvenile facility, juvenile detention center, or federal correctional facility having in his or her possession any poison, implement of escape, dangerous material, weapon, telecommunications device or any controlled substance as defined by Chapter 60A of this code is guilty of a felony and, upon conviction thereof, shall be fined not less than $1,000 nor more than $5,000 or confined in a state correctional facility not less than two years nor more than 10 years, or both.

(2) An inmate of a jail, state correctional facility, juvenile facility, juvenile detention center, or federal correctional facility having in his or her possession any alcoholic liquor, nonintoxicating beer, money or other thing of value, any written or printed matter, any article of merchandise, food or clothing, any medicine, utensil or instrument of any kind without the express authority and permission of the supervising officer is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $50 nor more than $500 and confined in jail not more than 12 months.

(h) As used in this section:

(1) "Dangerous material" means any incendiary material or device, highly flammable or caustic liquid, explosive, bullet, or other material readily capable of causing death or serious bodily injury.

(2) "Delivers" means to transfer an item to an adult or juvenile who is detained in custody or confinement in any jail, correctional facility, juvenile facility, juvenile detention center, federal correctional facility or a building appurtenant to those places. The term includes bringing the item into a jail, correctional facility, juvenile facility, juvenile detention center, or a building appurtenant to those places. The term includes putting an item in a place where it may be obtained by an inmate.

(3) "Inmate" means an adult or juvenile who is detained in custody or confinement in any jail, correctional facility, juvenile facility, juvenile detention center, or federal correctional facility, regardless of whether the individual is temporarily absent due to medical treatment,

transportation, court appearance, or other reason for a temporary absence.

(4) "Implement of escape" means a tool, implement, device, equipment, or other item which an inmate is not authorized to possess capable of facilitating, aiding, or concealing an escape or attempted escape by an inmate.

(5) "Telecommunication device" means any type of instrument, device, machine, or equipment which is capable of transmitting or receiving telephonic, electronic, digital, cellular, satellite, internet, or radio communications or any part of an instrument, device, machine, or equipment which is capable of facilitating the transmission or reception of telephonic, electronic, digital, cellular, satellite, internet, or radio communications regardless of whether the part itself is able to transmit. The term includes, but is not limited to, cellular phones, digital phones, satellite phones, tablet computers, computers, smart devices, or other modem equipment devices.

(6) "Weapon" means an implement readily capable of lethal use and includes any firearm, knife, dagger, razor, other cutting or stabbing implement, or club. The term includes any item which has been modified or adapted so that it can be used as a firearm, knife, dagger, razor, other cutting, or stabbing implement, or club. For purposes of this definition, the term "firearm" includes an unloaded firearm or the unassembled components of a firearm.

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§61-5-9. Permitting escape; refusal of custody of prisoner; penalties.

If a jailer or other officer, or private correctional officer aid or voluntarily suffer a prisoner convicted or charged with felony to escape from his custody, he shall be deemed guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than one nor more than five years. If any such jailer or other officer, or private correctional officer negligently, but not voluntarily, suffer a person convicted of or charged with felony, or voluntarily or negligently suffer a person convicted of or charged with an offense not a felony, to escape from his custody, or willfully refuse to receive into his custody any person lawfully committed thereto, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not less than six months, or be fined not exceeding $1,000, or both such fine and confinement.

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§61-5-10. Persons in custody of institutions or officers.

Whoever escapes or attempts to escape by any means from the custody of a county sheriff, the director of the Regional Jail Authority, an authorized representative of said persons, a law-enforcement officer, probation officer, employee of the Division of Corrections, court bailiff, or from any institution, facility, or any alternative sentence confinement, by which he or she is lawfully confined, if the custody or confinement is by virtue of a charge or conviction for a felony, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility for not more than five years; and if the custody or confinement is by virtue of a charge or conviction for a misdemeanor, is guilty of a misdemeanor and, upon conviction thereof, he or she shall be confined in a county or regional jail for not more than one year.

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§61-5-11. Escapes and aiding in escapes; terms of confinement in addition to previous sentence.

The terms of confinement specified in section eleven, article four, chapter twenty-five of this code or in sections eight, nine and ten of this article shall be in addition to the period or periods of confinement to which any person convicted under this section may be subject to and shall commence at the expiration of any such former sentence.

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§61-5-12. Escapes from, and other offenses relating to, state benevolent and correctional institution, or private prison or mental health facilities; penalties.

Except where otherwise provided, whoever abducts any person who is an inmate or patient of any state benevolent or correctional institution, private prison or mental health facility is guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary for not more than five years. Whoever persuades, induces or entices, or attempts to persuade, induce or entice, any person who is an inmate or patient of any such institution, private prison or facility to escape therefrom, or whoever conceals or harbors any such person, knowing him or her to have run away from any such institution, private prison or facility, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $100 nor more than $1,000, and in addition thereto, in the discretion of the court, may be imprisoned in the county jail not more than six months.

Any fugitive from any state benevolent or correctional institution, private prison or mental health facility, may, on the order of the superintendent or other officer of such institution or facility, be arrested and returned to such institution or facility, or to any officer or agent thereof, by any sheriff, police officer or other person, and may also be arrested and returned by any officer or agent of such institution, private prison or facility.

Whoever trespasses, idles, lounges or loiters upon the grounds of any other state benevolent or correctional institution, private prison or mental health facility or communicates, or attempts to communicate, by signals, signs, writings or otherwise with any inmate or patient of such institution, private prison or facility, or conveys or assists in any way in establishing communication between an inmate or patient of such institution, private prison or facility and any person or persons outside thereof, except as authorized by the rules or regulations in force by the authority governing the same, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $20 nor more than $500, or imprisoned not more than thirty days in the county jail, or both, in the discretion of the court or magistrate. Whoever, with intent to defraud, purchases, accepts as a gift, or secures by barter or trade, or in any other manner, any article of clothing from an inmate or patient of any state benevolent or correctional institution, private prison or mental health facility issued to him or her, by any officer of such institution or facility, or by any private correctional officer of such private prison for his or her use, or, with such intent, secures any other article or articles belonging to any inmate or patient of such institution, private prison or facility or to such institution, private prison or facility from an inmate or patient thereof, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined a sum not less than double the value of such articles, except that in no case shall the fine be less than $100. Magistrates shall have jurisdiction of all misdemeanors included in this paragraph, concurrently with the circuit court.

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§61-5-12a. Escape from custody of the commissioner of corrections.

Any person who escapes from the custody of the commissioner of corrections, regardless of where such person is confined or where such escape occurs, is guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not more than five years. A term of imprisonment imposed pursuant to the provisions of this section shall be imposed as a consecutive sentence and shall not be served concurrently with any imprisonment, confinement or detention imposed under any prior sentence being served or otherwise being discharged at the time such person commits an offense under the provisions of this section. A person charged with an offense under the provisions of this section shall not be released from the custody of the commissioner of corrections while the prosecution of the alleged offense is pending: Provided, That time served by such person after any other prior sentence has been served or otherwise discharged shall be applied to any sentence which may ultimately be imposed for an offense under this section. Venue for the prosecution of a violation of this section shall be in the county in which the escape occurs.

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§61-5-12b. Escape from custody of the Director of Juvenile Services.

(a) Any person, under the age of 18 years of age, who escapes or attempts to escape from the custody of the Director of Juvenile Services, regardless of where that person is confined or where the escape occurs, is guilty of a delinquent act and subject to the jurisdiction of the circuit court of the county in which the escape occurred, pursuant to §49-4-701 of this code: Provided, That upon agreement of all parties, the prosecution of the escape may be transferred to the circuit court from which the juvenile was originally committed.

(b) Any person, over the age of 18 years of age or any juvenile who has been transferred to the adult jurisdiction of the committing court, who escapes or attempts to escape from the custody of the Director of Juvenile Services, regardless of where that person is confined or where the escape or attempted escape occurs, is guilty of escape and, if the person is detained or confined for an offense which is a felony or would have been a felony if committed by an adult is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not more than five years. Any person, over the age of 18 years of age or any juvenile who has been transferred to the adult jurisdiction of the committing court, who is detained for an offense which is a misdemeanor or would have been a misdemeanor if committed by an adult is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a regional jail for not more than one year.

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§61-5-13. Refusal of officer to make, or delay in making, arrest; penalty.

If any officer wilfully and corruptly refuse to execute any lawful process, requiring him to apprehend or confine a person convicted of or charged with an offense, or shall wilfully and corruptly omit or delay to execute such process, whereby such person shall escape and go at large, such officer shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than six months, and be fined not exceeding $500.

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§61-5-14. Refusal of person to aid officer; penalty.

If any person shall, on being required by any sheriff or other officer, refuse or neglect to assist him in the execution of his office in a criminal case, or in the preservation of the peace, or the apprehending or securing of any person for a breach of the peace, or in any case of escape or rescue, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than six months and be fined not exceeding $100.

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§61-5-15. Refusal of person to execute order of arrest by justice; penalty.

If any person, being required by a justice, on view of a breach of the peace or other offense, to bring before him the offender, shall refuse or neglect to obey the justice, he shall be guilty of a misdemeanor, and, upon conviction, shall be punished as provided in the preceding section; and if the justice declare himself to be such, or if he be known to the offender, ignorance of his office shall not be pleaded as an excuse.

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§61-5-16. Refusal of officer to execute act or process of Legislature or order of Governor; penalty.

Any officer of this state whose duty it is to execute or enforce any act of the Legislature, or any legal process or proceeding arising thereunder, or any lawful order or proclamation of the Governor of the state, and who shall wilfully neglect or refuse to execute or enforce the same, shall, for every such offense, be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $50 nor more than $500, and may, in the discretion of the court, be imprisoned not exceeding one year.

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§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 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 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.

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(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 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

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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 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 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 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 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

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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) 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.

(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;

(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.

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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.

WV Legislature

§61-5-17a. Obstructing a law-enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical service personnel causing death; penalty.

(a) Notwithstanding any provision of this code to the contrary, any person who knowingly, willfully, and forcibly obstructs or hinders a law-enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical service personnel lawfully acting in his or her official capacity and thereby proximately causes the death of a law-enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical service personnel so acting, is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for a term of 15 years to life.

(b) For purposes of this section, "forcibly" means actions which involve the use of physical force.

WV Legislature

§61-5-18. Officer not liable for act done under statute or executive order afterward declared unconstitutional.

No officer in the lawful exercise or discharge of his official duty under any act of the Legislature, or any order or proclamation of the Governor of this state, shall be held personally responsible therefor in any action, suit, prosecution or proceeding, civil or criminal, by reason of such act, order or proclamation being afterwards adjudged by any court of this state to be unconstitutional. Nor shall his official bond be liable in any civil proceeding therefor.

WV Legislature

§61-5-19. Compounding offenses and misprision; penalties.

If any person, knowing of the commission of an offense, take any money, or reward, or an engagement therefor, upon an agreement or undertaking, expressed or implied, to compound or conceal such offense, or not to prosecute therefor, or not to give evidence thereof, he shall, if such offense be a felony, be guilty of a misdemeanor, and, upon conviction, be confined in jail not more than one year and fined not exceeding $500; and if such offense be not a felony, unless it be punishable merely by a forfeiture to him he may be confined in jail not more than six months, and shall be fined not exceeding $100.

WV Legislature

§61-5-20. Exacting excessive fees; penalty.

If any officer, for performing an official duty for which a fee or compensation is allowed or provided by law, knowingly demand and receive a greater fee or compensation than is so allowed or provided, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding $50.

WV Legislature

§61-5-21. Issuing fraudulent fee bills; penalty.

If any person authorized by law to charge fees for services performed by him and to issue fee bills therefor, fraudulently issue a fee bill for a service not performed by him or for more than he is entitled to, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding $500; and, in addition thereto, he shall forfeit his office and be forever incapable of holding any office of honor, trust or profit in this state.

WV Legislature

§61-5-22. Alteration, concealment or destruction of public record by officer; penalty.

If any clerk of a court, or other public officer, fraudulently make a false entry, or erase, alter or destroy any record in his keeping and belonging to his office, or shall wilfully secrete any such record from any person having the right to inspect the same, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than one year and be fined not exceeding $1,000; and, in addition thereto, he shall forfeit his office and be forever incapable of holding any office of honor, trust or profit in this state.

WV Legislature

§61-5-23. Larceny, concealment or destruction of public record by person not officer; penalty.

If any person, other than an officer in lawful charge thereof, steal, fraudulently secrete or destroy, a public record or any part thereof, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than one year and be fined not exceeding $1,000.

WV Legislature

§61-5-24. Corrupt summoning of jurors to find biased verdict; penalty.

A sheriff or other officer who, corruptly, or through favor or ill will, shall summon a juror, with intent that such juror shall find a verdict for or against any party to an action, or shall be biased in his conduct as such juror, shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not exceeding six months and fined not exceeding $500, and shall forfeit his office and be forever incapable of holding any office of honor, trust or profit in this state.

WV Legislature

§61-5-25. Procuring the summoning of biased juror by party other than officer; penalty.

If any person shall procure or attempt to procure a juror to be summoned, with intent that such juror shall find a verdict for or against either party to an action, or shall be biased in his conduct as such juror, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding $500.

WV Legislature

§61-5-25a. Discrimination against employee summoned for jury duty; penalty.

It is unlawful for any person to terminate or threaten to terminate from employment, or decrease the regular compensation of employment of an employee for time the employee was not actually away from his employment because an employee received, or was served with a summons for jury duty, or was absent from work to respond to a summons for jury duty or to serve on any jury in any court of this state, the United States or any state of the United States.

Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than $100 nor more than $1,000, or imprisoned in the county jail not more than sixty days, or both fined and imprisoned.

WV Legislature

§61-5-26. Contempt of court; what constitutes contempt; jury trial; presence of defendant.

The courts and the judges thereof may issue attachment for contempt and punish them summarily only in the following cases: (a) Misbehavior in the presence of the court, or so near thereto as to obstruct or interrupt the administration of justice; (b) violence or threats of violence to a judge or officer of the court, or to a juror, witness, or party going to, attending or returning from the court, for or in respect of any act or proceeding had, or to be had, in such court; (c) misbehavior of an officer of the court, in his official character; (d) disobedience to or resistance of any officer of the court, juror, witness, or other person, to any lawful process, judgment, decree or order of the said court. No court shall, without a jury, for any such contempt as is mentioned in subdivision (a) of this section, impose a fine exceeding $50, or imprison more than ten days. But in any such case the court may impanel a jury (without an indictment or any formal pleading) to ascertain the fine or imprisonment proper to be inflicted, and may give judgment according to the verdict. No court shall impose a fine for contempt, unless the defendant be present in court, or shall have been served with a rule of the court to show cause, on some certain day, and shall have failed to appear and show cause.

WV Legislature

§61-5-27. Intimidation of and retaliation against public officers and employees, jurors, and witnesses; fraudulent official proceedings and legal processes against public officials and employees; making public threats directed at inciting lawless action penalties.

(a) Definitions. — As used in this section:

"Fraudulent" means not legally issued or sanctioned under the laws of this state or of the United States, including forged, false, and materially misstated;

"Legal process" means an action, appeal, document instrument, or other writing issued, filed, or recorded to pursue a claim against person or property, exercise jurisdiction, enforce a judgment, fine a person, put a lien on property, authorize a search and seizure, arrest a person, incarcerate a person, or direct a person to appear, perform, or refrain from performing a specified act. "Legal process" includes, but is not limited to, a complaint, decree, demand, indictment, injunction, judgment, lien, motion, notice, order, petition, pleading, sentence, subpoena, summons, warrant, or writ;

"Official proceeding" means a proceeding involving a legal process or other process of a tribunal of this state or of the United States;

"Person" means an individual, group, association, corporation, or any other entity;

"Public official or employee" means an elected or appointed official or employee of a state or federal court, commission, department, agency, political subdivision, or any governmental instrumentality;

"Recorder" means a clerk or other employee in charge of recording instruments in a court, commission, or other tribunal of this state or of the United States; and

"Tribunal" means a court or other judicial or quasi-judicial entity, or an administrative, legislative, or executive body, or that of a political subdivision, created or authorized under the constitution or laws of this state or of the United States.

(b) Intimidation; harassment. — It is unlawful for a person to use intimidation, physical force, harassment, or a fraudulent legal process or official proceeding, or to threaten or to attempt to do so, with the intent to:

(1) Impede or obstruct a public official or employee from performing his or her official duties;

(2) Impede or obstruct a juror or witness from performing his or her official duties in an official proceeding;

(3) Influence, delay, or prevent the testimony of any person in an official proceeding; or

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(4) Cause or induce a person to: (A) Withhold testimony, or withhold a record, document or other object from an official proceeding; (B) Alter, destroy, mutilate, or conceal a record, document, or other object impairing its integrity or availability for use in an official proceeding; (C) Evade an official proceeding summoning a person to appear as a witness or produce a record, document, or other object for an official proceeding; or (D) Be absent from an official proceeding to which such person has been summoned.

(c) Retaliation. — It is unlawful for a person to cause injury or loss to person or property, or to threaten or to attempt to do so, with the intent to:

(1) Retaliate against a public official or employee for the performance or nonperformance of an official duty;

(2) Retaliate against a juror or witness for performing his or her official duties in an official proceeding; or

(3) Retaliate against any other person for attending, testifying, or participating in an official proceeding, or for the production of any record, document, or other object produced by a person in an official proceeding.

(d) Penalty. — A person convicted of an offense under subsections (b) or (c) of this section is guilty of a felony and shall be confined in a state correctional facility not less than one nor more than 10 years, fined not more than $2,000, or both fined and confined.

(e) Civil cause of action. — A person who violates this section is liable in a civil action to any person harmed by the violation for injury or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting a civil action commenced under this subsection, which is not the exclusive remedy of a person who suffers injury or loss to person or property as a result of a violation of this section.

(f) Civil sanctions. — In addition to the criminal and civil penalties set forth in this section, any fraudulent official proceeding or legal process brought in a tribunal of this state in violation of this section shall be dismissed by the tribunal and the person may be ordered to reimburse the aggrieved person for reasonable attorney's fees, court costs, and other expenses incurred in defending or dismissing such action.

(1) Refusal to record. — A recorder may refuse to record a clearly fraudulent lien or other legal process against a public official or employee or his or her property. The recorder does not have a duty to inspect or investigate whether a lien or other legal process is fraudulent, nor is the recorder liable for refusing to record a lien or other legal process that the recorder believes is in violation of this section; and

(2) If a fraudulent lien or other legal process against a public official or employee or his or her property is recorded then:

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(A) Request to release lien. — The public official or employee may send a written request by certified mail to the person who filed the fraudulent lien or legal process requesting the person to release or dismiss the lien or legal process. If such lien or legal process is not properly released or dismissed within 21 days, then it shall be inferred that the person intended to harass the public official or employee in violation of subsection (b) of this section and shall be subject to the criminal penalties in subsection (d) of this section and any other remedies provided in this section; or

(B) Notice of fraudulent lien. — A government attorney on behalf of the public official or employee may record a notice of fraudulent lien or legal process with the recorder who accepted the lien or legal process for filing. Such notice shall invalidate the fraudulent lien or legal process and cause it to be removed from the records. No filing fee shall be charged for the filing of the notice.

(f) A person's lack of belief in the jurisdiction or authority of this state or of the United States is no defense to prosecution of a civil or criminal action under this section.

(g)(1) Nothing in this section prohibits or in any way limits the lawful acts of legitimate public officials or employees;

(2) Nothing in this section prohibits or in any way limits a person's lawful and legitimate right to freely assemble, express opinions, or designate group affiliation; or

(3) Nothing in this section prohibits or in any way limits a person's lawful and legitimate access to a tribunal of this state or prevents a person from instituting or responding to a lawful action.

WV Legislature

§61-5-27a. Fraudulent official proceedings; causing a public employee or official to file a fraudulent legal process; impersonation of a public official, employee or tribunal; penalties.

(a) Definitions. -- For the purpose of this section, the following terms have the meaning ascribed to them in section twenty-seven of this article: “Fraudulent”, “legal process”, “official proceeding”, “person”, “public official or employee”, “recorder”, and “tribunal”.

(b) Fraudulent official proceedings. -- It is unlawful for a person to knowingly engage in a fraudulent official proceeding or legal process.

(c) Fraudulent filings. -- It is unlawful for a person to knowingly cause a public official or employee to file, record or deliver a fraudulent claim of indebtedness, common law lien or other lien, financial statement, complaint, summons, judgment, warrant or other legal process, including those issued as the result of a fraudulent official proceeding.

(d) Fraudulent service. -- It is unlawful for a person to knowingly serve a public official or employee with a fraudulent claim of indebtedness, common law lien or other lien, financial statement, complaint, summons, judgment, warrant or other legal process, including those issued as the result of a fraudulent official proceeding.

(e) Impersonation. -- It is unlawful for a person to knowingly impersonate or purport to exercise any function of a public official, employee, tribunal or official proceeding without legal authority to do so and with the intent to induce a person to submit to or rely on the fraudulent authority of the person.

(f) First offense. -- Any person who violates a provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a county or regional jail for not more than one year or fined not more than $1,000, or both.

(g) Second offense. -- Any person convicted of a second or subsequent offense under this section is guilty of a felony and, shall be confined in the penitentiary not less than one nor more than ten years or fined not more than $2,000, or both.

(h) Civil cause of action. -- A person who violates this section is liable in a civil action to any person harmed by the violation for injury or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs and other expenses incurred as a result of prosecuting the civil action commenced under this subsection, which is not the exclusive remedy of a person who suffers injury or loss to person or property as a result of a violation of this section.

(i) Civil sanctions. -- In addition to the criminal and civil penalties set forth in this section, a fraudulent official proceeding or legal process brought in a tribunal in violation of this section shall be dismissed by the tribunal and the person may be ordered to reimburse the aggravated person for reasonable attorney's fees, court costs and other expenses incurred in

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defending or dismissing such action.

(1) Refusal to record. -- A recorder may refuse to record a clearly fraudulent lien or other legal process against a person or his or her property. The recorder does not have a duty to inspect or investigate whether a lien or other legal process is fraudulent nor is the recorder liable for refusing to record a lien or other legal process that the recorder believes is in violation of this section.

(2) If a fraudulent lien or other legal process against a person or his or her property is recorded then:

(A) Request to release lien. -- A person may send a written request by certified mail to the person who filed the fraudulent lien or legal process, requesting the person to release or dismiss the lien or legal process. If such lien or legal process is not properly released or dismissed within twenty-one days, then the person shall be presumed to have intended to have committed a violation of this section and shall be subject to the penalties provided for in this section; or

(B) Petition to circuit court. -- A person may petition the circuit court of the county where the fraudulent lien or legal process was recorded for an order that may be granted ex parte directing the person who filed the lien or legal process to appear before the court and show cause why the lien or legal process should not be released or dismissed, deemed fraudulent and the person penalized as provided for in this section.

(i) The petition shall set forth a concise statement of the facts and the grounds upon which relief is requested.

(ii) No filing fee shall be charged for the filing of such petitions.

(iii) The order to show cause shall be served upon the person who filed the lien or legal process according to rule 4 of the rules of civil procedure and the date of the hearing set within twenty-one days of the order.

(iv) The order to show cause shall clearly state that if the person who filed the lien or legal process fails to appear at the time and place noticed in the order, then the lien or legal process shall be released or dismissed, deemed fraudulent and the person shall be subject to the penalties provided for in this section.

(v) If a hearing takes place or if, on its own motion, the circuit court determines that the lien or legal process is fraudulent, then the circuit court shall release or dismiss it and subject the person to the penalties provided for in this section.

(vi) If the circuit court determines that the lien or legal process is valid, then the circuit court shall issue an order stating such and may award reasonable attorney's fees, court costs and other expenses to the prevailing party.

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(j) A person's lack of belief in the jurisdiction or authority of this state or of the United States is no defense to prosecution of a civil or criminal action under this section.

(k)(1) Nothing in this section prohibits or in any way limits the lawful acts of a legitimate public official or employee.

(2) Nothing in this section prohibits or in any way limits a person's lawful and legitimate right to freely assemble, express opinions or designate group affiliation.

(3) Nothing in this section prohibits or in any way limits a person's lawful and legitimate access to a tribunal of this state, or prevents a person from instituting or responding to a lawful action.

WV Legislature

§61-5-28. Failure to perform official duties; penalty.

Any person holding any office or appointment in this state, who shall wilfully fail or refuse to perform any duty required of him by law, shall be guilty of a misdemeanor, and, upon conviction thereof, shall, if no other punishment be prescribed by law therefor, be fined not exceeding $100.

WV Legislature

§61-5-29. Failure to meet an obligation to pay support to a minor; penalties.

(1) A person who: (a) Repeatedly and willfully fails to pay his or her court-ordered support which he or she can reasonably provide and which he or she knows he or she has a duty to provide to a minor; and (b) is subject to court order to pay any amount for the support of a minor child and is delinquent in meeting the full obligation established by the order and has been delinquent for a period of at least six months' duration is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $1,000, or confined in jail for not more than one year, or both fined and confined.

(2) A person who repeatedly and willfully fails to pay his or her court-ordered support which he or she can reasonably provide and which he or she knows he or she has a duty to provide to a minor by virtue of a court or administrative order and the failure results in twelve months without payment of support that remains unpaid is guilty of a felony and, upon conviction thereof, shall be fined not less than $100 nor more than $1,000, or imprisoned for not less than one year nor more than three years, or both fined and imprisoned.

WV Legislature

§61-5-30. Causing death or injury to public safety animals; criminal penalties; right of self-defense; exception; and restitution.

(a) As used in this section:

"Public safety animal" means a dog and any other animal specifically trained to assist public safety officers or persons working under the direction of, or in cooperation with, public safety officers in the performance of their official duties;

"Public safety officer" means a law-enforcement officer, fire prevention or investigation officer, correctional officer, or emergency services officer;

"Physical injury" means substantial physical pain or temporary impairment of the animal's ability to physically function as a public service animal; and

"Serious physical injury" means bodily injury that causes serious or prolonged physical injury or permanent impairment of the animal's ability to function as a public service animal.

(b) Any person who willfully causes physical injury to a public safety animal under the control of a public safety officer acting in his or her official capacity, and the person committing the act knows or has reason to know that the public safety animal is acting in its official capacity is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $200 nor more than $1,000 or confined in jail for not more than one year, or both fined and confined.

(c) Notwithstanding the provisions of subsection (b) of this section, any person who willfully causes serious physical injury to a public safety animal under the control of a public safety officer acting in his or her official capacity, and the person committing the act knows or has reason to know that the public safety animal is acting in its official capacity is guilty of a felony and, upon conviction thereof, shall be fined not less than $1,000 nor more than $3,000 or imprisoned in a state correctional facility for an indeterminate term of not less than one year nor more than five years, or both fined and imprisoned.

(d) Notwithstanding the provisions of subsection (b) or (c) of this section, any person who willfully causes the death of a public safety animal under the control of a public safety officer acting in his or her official capacity, and the person committing the act knows or has reason to know that the public safety animal is acting in its official capacity is guilty of a felony and, upon conviction thereof, shall be fined not less than $2,000 nor more than $5,000 or imprisoned in a state correctional facility for an indeterminate term of not less than two years nor more than 10 years, or both fined and imprisoned.

(e) The right of self-defense may be exercised by a person charged with a criminal violation of this section.

(f) The provisions of this section do not apply to a person who euthanizes an injured, ill, or infirm public safety animal as part of his or her official duties.

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(g) The provisions of §61-11A-4 of this code relating to court-ordered restitution are applicable to persons convicted of a violation of this section.

WV Legislature

§61-5-31. Bystanders shall stand 30 feet back from first responders engaged in the lawful performance of their duties.

(a) As used in this section, the term:

"First responder" includes a law-enforcement officer as defined in §30-29-1 of this code, a probation officer as described in §62-12-6 of this code, or a firefighter or emergency responder as defined in §5H-1-2 of this code.

(b) It is unlawful for a person, after receiving a verbal warning to not approach from a person he or she knows or reasonably should know is a first responder, who is engaged in the lawful performance of a legal duty, to knowingly and willfully violate such warning and approach or remain within 30 feet of the first responder acting in a way to:

(1) Impede or interfere with the first responder's ability to perform such duty; or

(2) Threaten or menace the first responder with physical harm.

(c) A person who violates this subsection 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.

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