WEST VIRGINIA CODE: §61-6-12

§61-6-12. Mobs and lynchings; penalties; liability of county or city.

Any collection of individuals, five or more in number, assembled for the unlawful purpose of offering violence to the person or property of anyone supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional or regulative powers over any person or persons by violence, and without lawful authority, shall be regarded and designated as a "mob" or "riotous assemblage."

The term "serious injury," for the purposes of this section, shall include any injury to property which shall cause damage to the owner thereof, or any injury to the person which shall temporarily or permanently disable the person injured from earning a livelihood.

The putting to death of any person within this state by a mob or riotous assemblage shall be murder, and every person participating in such mob or riotous assemblage by which a person is put to death shall be guilty of murder, and, upon conviction thereof, shall be punished as the law provides in other cases of murder.

Any person or persons who shall compose a mob or riotous assemblage, with the intent to inflict damage or injury to the person or property of any individual charged with crimes, or, under the pretense of exercising correctional powers over such person or persons by violence, and without lawful authority, shall be subject to a fine of not less than $100 nor more than $1,000, and may be imprisoned, in the discretion of the court, in the county jail not less than thirty days nor more than twelve months for each and every offense. Any person or persons who shall compose a mob or riotous assemblage, and who shall inflict damage or injury to the person or property of any individual charged with crimes, shall be guilty of a felony and, upon conviction, shall be confined in the penitentiary not less than one nor more than ten years for each and every offense.

Any person or persons composing a mob or riotous assemblage under the provisions of this section, who shall, by violence, inflict serious injury to the property or to the person of any other person upon the pretense of exercising correctional or regulative powers over such person or persons, and without authority of the law, shall be deemed guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not exceeding five years; and any person suffering serious injury to his person or his property by a mob, shall have an action against the county or city in which such serious injury is inflicted, for such damages as he may sustain, to an amount not to exceed $5,000.

The county in which such person charged with a crime has been taken from a state, county or municipal officer, and lynched and put to death, shall be subject to a forfeiture of $5,000, which may be recovered by appropriate action therefor, in the name of the personal representative of the person put to death, for the use of his dependent family or estate. Such action may be brought in any state court. If such forfeiture is not paid upon recovery of

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judgment therefor, the court rendering such judgment shall have power to enforce the payment thereof, and may compel the levy and collection of a tax therefor, or otherwise compel the payment thereof by mandamus or other appropriate process, and every officer of such county, and every other person who disobeys or fails to comply with any lawful order of the court, shall be liable to punishment according to law as for contempt and to any other penalties provided by law therefor.

The fact that any person so put to death shall have been taken from any state, county or municipal officer in one county, by a mob or riotous assemblage of five or more persons, and transported out of such county before such killing shall have taken place, and the fact that such killing occurred out of the county from which such person may have been taken from such state, county or municipal officer, shall not relieve such county from which he was taken from the liability provided by this section. And if the person so taken from such officer or officers shall be transported from and put to death and lynched in another county outside of the county wherein he was taken from such officer or officers, no county through which such person may have been transported, or in which such person has been lynched and put to death, shall be liable to damages hereunder, unless it is clearly shown that the officers or citizens in such county or counties participated in, aided, abetted or encouraged such unlawful putting to death.

Every state, county or municipal officer having the duty or power of preservation or conservation of the peace at the time and place of any such putting to death, or the committing of serious injury to the person or to the property as prescribed in this section, who, having reasonable cause to believe that the same is to be done, or is attempted to be done, and neglects or omits to prevent the same, and every such officer from whose custody such person may be taken by such mob or riotous assemblage, and put to death by the same, or whose property or person suffers serious injury at the hands of such mob or riotous assemblage, shall be guilty of negligence in the discharge of his official duty, and the county or city which shall have been sued and compelled to pay damages as herein provided may recover same from such negligent officer by appropriate action upon his official bond.

In any prosecution for any of the offenses defined herein, and any action for the forfeiture imposed as herein provided, every person who has participated in the lynching or in the putting to death of, or in the infliction of great bodily violence or serious injury to the person or the property of any person, without authority of the law, and every person who entertains or has expressed any opinion in favor of lynching or in the justification or excuse thereof, or whose character, conduct, or opinions have been or are such as, in the judgment of the court, may tend to disqualify him for an impartial and unprejudiced trial of the cause, shall be disqualified to serve as a juror, and in any such action or prosecution, any attorney interested in the case shall be entitled to make full inquiry thereof and to produce evidence thereon; and every person who refuses to answer any inquiry touching his qualifications on the ground that he may thereby incriminate himself shall be disqualified as aforesaid.

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