WEST VIRGINIA CODE CHAPTER 61 ARTICLE 6

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§61-6-1. Suppression of riots and unlawful assemblages.

All members of the West Virginia State Police, the Division of Protective Services, all sheriffs within their respective counties and all mayors within their respective jurisdiction, may suppress riots, routs and unlawful assemblages. It shall be the duty of each of them to go among, or as near as may be with safety, to persons riotously, tumultuously, or unlawfully assembled, and in the name of the law command them to disperse; and if they shall not thereupon immediately and peaceably disperse, such member of the West Virginia State Police, or of the Division of Protective Services, sheriff or mayor giving the command, and any other present, shall command the assistance of all persons present, and of all or any part of other law-enforcement personnel available to him or her, as need be, in arresting and securing those so assembled. If any person present, on being required to give his or her assistance, depart, or fail to obey, he or she shall be deemed a rioter.

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§61-6-1a. Control of riots and unlawful assemblages.

Members of the West Virginia State Police, the Division of Protective Services, sheriffs and mayors, and those acting under their order, may, when engaged in suppressing a riot, rout or unlawful assemblage, cordon off any area or areas threatened by such riot, rout or unlawful assemblage, and may take all actions which are necessary and reasonable under the emergency to restore law and order, and such actions may be, but are not limited to, the following:

(a) Prohibit the sale, offering for sale, dispensing, furnishing, or transportation of firearms or other dangerous weapons, ammunition, dynamite, or other dangerous explosives in, to or from such areas.

(b) Prohibit the sale, offering for sale, dispensing, furnishing, or consumption of alcoholic beverages or nonintoxicating beer in a public place in such areas, and prohibit the transportation of alcoholic beverages or nonintoxicating beer in, to, or from such areas.

(c) Impose curfews, as required, to control movement of persons in, to, and from such areas.

(d) Enter a private dwelling or other building or other private place in such areas when in fresh pursuit of a rioter, when in search of a sniper who has fired upon a person from such a dwelling or other building or place or when in search of firearms, other dangerous weapons, ammunition, dynamite, or other dangerous explosives when there is reason to believe that such items are stored in the said dwelling, building, or place and that they will be removed therefrom before a search warrant could be obtained.

No person shall willfully fail to obey a lawful order of any mayor, sheriff, deputy sheriff, municipal police officer, member of the West Virginia State Police, or the Division of Protective Services, or other officer, given pursuant to this section.

Any person who violates an order given pursuant to the authority of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $500, or imprisoned in the county jail not more than six months, or both fined and imprisoned.

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§61-6-1b. Disorderly conduct; penalty.

(a) Any person who, in a public place, any office or office building of the State of West Virginia, or in the State Capitol complex, or on any other property owned, leased, occupied or controlled by the State of West Virginia, a mobile home park, a public parking area, a common area of an apartment building or dormitory, or a common area of a privately owned commercial shopping center, mall or other group of commercial retail establishments, disturbs the peace of others by violent, profane, indecent or boisterous conduct or language or by the making of unreasonably loud noise that is intended to cause annoyance or alarm to another person, and who persists in such conduct after being requested to desist by a law-enforcement officer acting in his or her lawful capacity, is guilty of disorderly conduct, a misdemeanor and, upon conviction thereof, may be confined in jail for twenty-four hours or fined not more than $100: Provided, That nothing in this subsection should be construed as a deterrence to the lawful and orderly public right to demonstrate in support or protest of public policy issues.

(b) For purposes of this section:

(1) “Mobile home park” means a privately owned residential housing area or subdivision wherein the dwelling units are comprised mainly of mobile homes and wherein the occupants of such dwelling units share common elements for purposes of ingress and egress, parking, recreation and other like residential purposes.

(2) “Mobile home” means a moveable or portable unit, designed and constructed to be towed on its own chassis (comprised of frame and wheels) and designed to be connected to utilities for year-round occupancy. The term includes: (A) Units containing parts that may be folded, collapsed or telescoped when being towed and that may be expanded to provide additional cubic capacity; and (B) units composed of two or more separately towable components designed to be joined into one integral unit capable of being separated again into the components for repeated towing.

(3) “Public parking area” means an area, whether publicly or privately owned or maintained, open to the use of the public for parking motor vehicles.

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§61-6-2. Commitment and recognizance of rioters.

If any person be arrested for a riot, rout or unlawful assemblage, he shall be taken without unreasonable delay before a justice of the county in which the arrest is made who shall commit him to jail, unless he shall enter into a recognizance, with sufficient security, to appear before the court having jurisdiction of the offense, at its next term, to answer therefor, and in the meantime to be of good behavior and to keep the peace.

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§61-6-3. Failure of member of West Virginia State Police officer, officer of the Division of Protective Services, mayor, or sheriff to exercise powers at riots and unlawful assemblages; penalty.

If any member of the West Virginia State Police, the Division of Protective Services, sheriff, or mayor have notice of a riotous, tumultuous, or unlawful assemblage in his or her respective jurisdiction as provided in section one of this article, and fail to proceed immediately to the place of such assemblage, or as near as he or she may safely go, or fail to exercise his or her authority for suppressing it and arresting the offenders, he or she shall be fined not to exceed $100.

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§61-6-4. Summoning of persons to aid in suppressing riots and unlawful assemblages.

If any person engaged in such assemblage, being commanded, as hereinbefore provided, to disperse or to peaceably leave the scene of such assemblage, fail to do so without delay, any such member of the West Virginia State Police, the Division of Protective Services, sheriff or mayor may require the aid of a sufficient number of persons, in arms or otherwise, and proceed, in such manner as he or she may deem expedient, to disperse and suppress such assemblage, and arrest and secure those engaged in it.

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§61-6-5. Death of person in suppression of riots and unlawful assemblages.

If, by any means taken under the authority of this article to disperse any such assemblage or arrest those engaged in it, any person present, as spectator or otherwise, be killed or wounded, and neither malice, nor premeditation be present, any member of the West Virginia State Police, the Division of Protective Services, sheriff, or mayor exercising such authority, and everyone acting under his or her order, shall be held guiltless.

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§61-6-6. Destruction of building by rioters; penalty therefor and for rioting without such injury.

If any person engaged in a riot, rout or unlawful assemblage, pull down or destroy, in whole or in part, any dwelling house, courthouse, jail, prison, asylum, hospital, school or college building, or any public building of any character, or assist therein, he 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 though no such building be injured, every rioter, and every person unlawfully or tumultuously assembled, shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than one year and fined not exceeding $500.

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§61-6-7. Conspiracy to inflict injury to persons or property; infliction of injury or death in pursuance thereof; penalties.

If two or more persons under the name of “Red Men,” “Regulators,” “Vigilance Committee,” or any other name or without a name, combine or conspire together for the purpose of inflicting any punishment or bodily injury upon any other person or persons, or for the purpose of destroying, injuring, defacing, or taking and carrying away any property, real or personal, not their own, every such person, whether he has done any act in pursuance of such combination or conspiracy or not, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than $50 nor more than $500, and may, in the discretion of the court, be confined in jail not less than one nor more than twelve months.

If any person, in pursuance of such combination or conspiracy, shall inflict any punishment or bodily injury upon another person, or shall destroy, injure, deface, or take and carry away, any property, real or personal, not his own, he 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 if the death of any person shall result from the commission of such offense, every person engaged in the commission thereof shall be guilty of murder of the first degree, and, upon conviction thereof, punished as in other cases of murder of the first degree. If, upon the trial of an indictment hereunder, it be proved that two or more persons, the defendant being one, were present, aiding and abetting in the commission of the offense charged therein, it shall be presumed that such offense was committed in pursuance of such combination or conspiracy, in the absence of satisfactory proof to the contrary. And all persons who were present, aiding and abetting, at the commission of any offense mentioned herein, shall be deemed conspirators within the meaning hereof.

Persons offending against any of the provisions of this section may be indicted therefor, either jointly or separately.

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§61-6-8. Release or rescue of person in custody charged or convicted under §61-6-7; penalty.

If any person, by force, or other unlawful means, shall release or rescue, or attempt to release or rescue, a person in prison or other custody, charged with, or convicted of an offense under the provisions of the preceding section of this article, he shall be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than one nor more than ten years.

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§61-6-9. Intimidation of witness for state in conspiracy prosecutions; penalties.

If any person shall, by threats, menaces, or otherwise, intimidate, or attempt to intimidate, a witness for the state in any prosecution under the provisions of sections seven and eight of this article, for the purpose of preventing the attendance of such witness at the trial of such case, or shall in any way or manner prevent, or attempt to prevent, the attendance of any such witness at such trial, he shall be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than one nor more than ten years, or he may, in the discretion of the court, be confined in jail not less than three nor more than twelve months, and fined not less than $100 nor more than $5,000.

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§61-6-10. Reward for arrest in conspiracy cases; employment of special policemen and detectives.

The Governor is hereby authorized, whenever in his opinion it is proper to do so, to offer rewards, and employ special policemen and detectives, and to employ any and all means in his power, including the employment of any portion of the military forces of the state, to secure the apprehension of any and all persons belonging to any such unlawful combination or who shall be charged with the commission of any offense mentioned in the seventh, eighth and ninth sections of this article.

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§61-6-11.

Repealed.

Acts, 1996 Reg. Sess., Ch. 91.

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§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 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

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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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§61-6-13. Disturbance of religious worship; penalty.

(a) If any person willfully interrupts, obstructs, or substantially disturbs any assembly of people meeting for religious worship, he or she is guilty of a misdemeanor and, upon conviction, shall be confined in jail not more than one year and fined not less than $250 nor more than $1,000 for each violation.

(b) Nothing in this section shall be construed to prohibit peaceful picketing, protest, or other expressive conduct protected by the First Amendment that does not willfully interrupt, obstruct, or substantially disturb any assembly of persons meeting for religious worship.

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§61-6-14. Disturbance of schools, societies, and other assemblies; penalty.

If any person wilfully interrupt, molest or disturb any free school, Sunday school, or other school, a school exhibition, or any literary society, or any other society or meeting formed or convened for intellectual, social or moral improvement, or for improvement in music, either vocal or instrumental, or for any moral or social amusement, or any other society organized or carried on under or in pursuance of the laws of this state, or any fourth of July celebration, Christmas tree, or church festival, or any other festival, or any society, lawfully carried on, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than $10 nor more than $50, and, at the discretion of the court, be confined in jail not more than thirty days in addition to such fine.

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§61-6-14a. Loitering on school property; penalty; exceptions.

No person, not a student in regular attendance, shall loiter in or about any school, school building or school grounds in violation of any posted rules or regulations governing the use of any such school without written permission from the principal.

Any person who shall violate the provisions of this section shall be guilty of a misdemeanor, and, upon conviction for the first offense thereof, shall be fined not more than $100, or imprisoned in the county jail not more than thirty days, or both such fine and imprisonment. Upon a second or subsequent conviction, any such person shall be fined not more than $500, or imprisoned in the county jail not more than one year, or both such fine and imprisonment.

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§61-6-15.

Repealed.

Acts, 1996 Reg. Sess., Ch. 89.

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§61-6-16.

Repealed.

Acts, 2010 Reg. Sess., Ch. 34.

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§61-6-17. False reports concerning bombs or other explosive devices; penalties.

(a) Any person who imparts or conveys or causes to be imparted or conveyed any false information, knowing or having reasonable cause to believe the information to be false, concerning the presence of any bomb or other explosive device in, at, on, near, under or against any dwelling house, structure, improvement, building, bridge, motor vehicle, vessel, boat, railroad car, airplane or other place or concerning an attempt or alleged attempt being made or to be made to so place or explode any bomb or other explosive device is guilty of a felony and, upon conviction thereof, shall be fined not less than $100 nor more than $2,000 or confined in a state correctional facility for not less than one year nor more than three years, or both.

(b) If any person violates any provision of this section and the violation directly causes economic harm as defined in subsection (d) of this section, in addition to any other penalty, the circuit court may order the offender to pay the victim or victims restitution, in accordance with the provisions of article eleven-a of this chapter, for economic loss caused by the violation in an amount not to exceed the economic harm suffered. Nothing in this section may be construed to limit the circuit court's authority to order restitution pursuant to other provisions of this code.

(c) Notwithstanding any provision of this section to the contrary, any person violating the provisions of subsection (a) of this section whose violation of the subsection results in another suffering serious bodily injury is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not less than one year nor more than five years or fined not more than $10,000, or both. Each injury resulting from a violation of subsection (a) of this section constitutes a separate offense.

(d) As used in this section, "economic harm" means all direct, incidental and consequential pecuniary harm suffered by a victim as a result of criminal conduct. Economic harm includes, but is not limited to, the following:

(1) All wages, salaries or other compensation lost as a result of the criminal conduct;

(2) The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;

(3) The cost of all wages, salaries or other compensation paid to employees for time those employees spent in reacting to the results of the criminal conduct; or

(4) The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct.

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§61-6-18. Camping upon governmental grounds or lawns; penalties; public nuisance.

If any person shall go upon the ground or lawn surrounding or adjacent to (1) the state Capitol building or any state office building which is a part of the state Capitol complex, or (2) a county courthouse, or (3) any municipal office building where the principal business of the municipality is conducted, which ground or lawn is owned by or leased to the State of West Virginia, the county, or such municipality, as the case may be, and place, erect or construct or attempt to place, erect or construct for himself or others shelter accommodations thereon or use any such erected shelter accommodations, without the written permission first had and obtained of the Governor, the county court, or the governing body of the municipality, as the case may be, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than $25 nor more than $100, or by imprisonment in jail for not more than thirty days, or in the discretion of the court, by both such fine and imprisonment, and any such shelter accommodations are hereby constituted a public nuisance which may be abated at the expense of any such person. Each day upon which any violation of the provisions of this section continues shall constitute a separate offense.

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§61-6-19. Willful disruption of governmental processes; offenses occurring at State Capitol Complex; penalties.

(a) If any person willfully interrupts or molests the orderly and peaceful process of any department, division, agency, or branch of state government or of its political subdivisions, he or she is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100, or confined in jail not more than six months, or both fined and confined: *Provided*, That any assembly in a peaceable, lawful, and orderly manner for a redress of grievances is not a violation of this section.

(b) (1) It is unlawful for any person to bring upon the State Capitol Complex any deadly weapon as defined in §61-7-2 of this code: *Provided*, That a person who may lawfully possess a firearm may keep a firearm in his or her motor vehicle upon the State Capitol Complex if the vehicle is locked and the weapon is out of normal view: *Provided, however*, That a person may not carry upon the State Capitol Complex, a cannister of pepper spray as defined in §61-7-2 of this code that exceeds one ounce. It is unlawful for any person to willfully deface any trees, wall, floor, stairs, ceiling, column, statue, monument, structure, surface, artwork, or adornment in the State Capitol Complex. It is unlawful for any person or persons to willfully block or otherwise willfully obstruct any public access, stair, or elevator in the State Capitol Complex after being asked by a law-enforcement officer acting in his or her official capacity to desist: *Provided further,* That in order to preserve the constitutional right of the people to assemble, it is not willful blocking or willful obstruction for persons gathered in a group or crowd if the persons move to the side or part to allow other persons to pass by the group or crowd to gain ingress or egress: *And provided further*, That this subsection does not apply to a law-enforcement officer acting in his or her official capacity.

(2) Any person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100, or confined in jail not more than six months, or both fined and confined.

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§61-6-20. Falsely reporting an emergency incident; making threats of a crime of violence.

(a) For purposes of this section:

(1) “Crime of violence" means any criminal offense, whether classified as a felony or misdemeanor under the laws of this state, that requires as an element the use, attempted use, or threatened use of physical force against another person.

(2) “Threat” means any communication that a reasonable person, in view of the totality of the circumstances, including the context, the medium of transmission, and the relationship between the communicator and the recipient, would interpret as a serious expression of intent to commit a crime of violence against another person and that would cause the recipient to be placed in reasonable apprehension of such harm.

(3) "Severe public alarm or inconvenience" means the following:

(A) The evacuation or closure of a building, place of assembly, facility of public transportation, or other public space;

(B) The substantial disruption of public services, including but not limited to emergency response, law enforcement activities, or transportation;

(C) Widespread fear or panic among members of the public, as evidenced by multiple reports to authorities or observable public reaction; or

(D) Any other significant interference with the ordinary activities of the public that a reasonable person would consider serious, considering the nature, context, and foreseeable consequences of the threat.

(b) A person is guilty of reporting a false emergency incident when knowing the information reported, conveyed, or circulated is false or baseless, he or she:

(1) Initiates or circulates a false report or warning of impending occurrence of a fire, explosion, crime, catastrophe, accident, illness, or other emergency under circumstances in which it is likely that severe public alarm or inconvenience will result or that firefighting apparatus, ambulance apparatus, one or more rescue vehicles or other emergency apparatus might be summoned;

(2) Reports, by word or action, to any official or quasi-official agency or organization having the function of dealing with emergencies involving danger to life or property, an alleged occurrence or impending occurrence of a fire, explosion, crime, catastrophe, accident, illness, or other emergency in which it is likely that severe public alarm or inconvenience will result or that firefighting apparatus, ambulance apparatus, one or more rescue vehicles or other emergency apparatus might be summoned, which did not occur, does not in fact exist;

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(3) Reports to a law-enforcement officer or agency the alleged occurrence of any offense or incident which did not in fact occur, or an allegedly impending occurrence of an offense or incident which is not in fact about to occur, or false information relating to an actual offense or incident or to the alleged implication of some person; or

(4) Without just cause, calls or summons by telephone, fire alarm system, or otherwise, any firefighting apparatus, ambulance apparatus, rescue vehicles, or other emergency vehicles.

(c) Any person who violates the provisions of subsection (b) of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $500 or confined in jail not more than six months, or both fined and confined.

(d) Notwithstanding the provisions of subsection (b) of this section, any person convicted of a second or subsequent violation of subsection (b) of this section or, of a violation of subsection (b) of this section which results in bodily injury to another person is guilty of a felony and, upon conviction thereof, shall be fined not less than $5,000 nor more than $10,000, or imprisoned in a state correctional facility for a term of not less than one year nor more than five years, or both fined and imprisoned.

(e) A person is guilty of communicating a threat to commit a crime of violence when he or she intentionally communicates a threat to commit any crime of violence against another person or persons and

(1) Causes severe public alarm or inconvenience; or

(2) Recklessly disregards the risk of causing such severe public alarm or inconvenience.

(f) Any person who violates subsection (e) of this section is guilty of a felony and, upon conviction, shall be fined not less than $2,500 nor more than $10,000, or confined in a state correctional facility for not less than one year nor more than 10 years, or both fined and confined.

(g) Notwithstanding any other provision of this code to the contrary, any person who is charged with an offense under subsection (e) and who is on pre-trial release or convicted of an offense pursuant to subsection (e) and has had his or her sentence suspended, been granted probation, been released on parole, been incarcerated pursuant to §62-11B-4 of this code, been granted work release pursuant to §62-11A-1 of this code, been granted a conditional release pursuant to §27-6A-5 of this code, or been granted any other type of release from confinement may be prohibited by a court from establishing a residence, or accepting employment, within 1,000 feet of the location of the place where the violence was threatened to occur throughout the duration of the period that the person is on pre-trial release, supervised post-conviction release, or conditional release: *Provided*, That a person who is on pre-trial release or is on post-conviction or conditional supervised release due to an alleged, or actual, violation of subsection (e) of this section, shall not establish a residence, or accept employment, within 1,000 feet of the residence of any threatened

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person, when the threat is directed at an identifiable individual or individuals, throughout the duration of the period that the person is on pre-trial release, supervised post-conviction release, or conditional release.

(h) Any offense alleged to have been committed pursuant to subsection (e) of this section may be determined to have occurred at the place at which the communication originated or the place at which the communication was received or intended to be received.

(i) It is not a defense against any prosecution pursuant to this section that the defendant did not have the ability to complete the threatened violence.

(j) The offenses set forth in this section are in addition to and separate and distinct from any other offenses set forth in this code.

(k) Prior to the sentencing of a person who has been convicted of a violation of this section, the court may enter an order directing any law enforcement agency or emergency service provider involved in the emergency response that wishes to be reimbursed for the costs incurred by the agency or provider during the emergency response, to file with the court within a specified time an itemized statement of those costs. The court may then order the offender to reimburse the agency for all or a portion of those costs.

(l) This section does not apply to any person conducting an authorized emergency drill.

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§61-6-21. Prohibiting violations of an individual's civil rights; penalties.

(a) All persons within the boundaries of the State of West Virginia have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation or sex.

(b) If any person does by force or threat of force, willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with, or oppress or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of the State of West Virginia or by the Constitution or laws of the United States, because of such other person's race, color, religion, ancestry, national origin, political affiliation or sex, he or she shall be guilty of a felony, and, upon conviction, shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

(c) If any person conspires with another person or persons to willfully injure, oppress, threaten, or intimidate or interfere with any citizen because of such other person's race, color, religion, ancestry, national origin, political affiliation or sex in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of the State of West Virginia or by the Constitution or laws of the United States, and in willfull furtherance thereof to assemble with one or more persons for the purpose of teaching any technique or means capable of causing property damage, bodily injury or death when such person or persons intend to employ such techniques or means to violate this section, each such person shall be guilty of a felony, and, upon conviction, shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

(d) The fact that a person committed a felony or misdemeanor, or attempted to commit a felony, because of the victim's race, color, religion, ancestry, national origin, political affiliation or sex, shall be considered a circumstance in aggravation of any crime in imposing sentence.

(e) Nothing contained in this section makes unlawful the teaching of any technique in self-defense.

(f) Nothing in this section shall be construed so as to make it unlawful nor to prohibit nor, in any manner, to impede or to interfere with any person in conducting labor union or labor union organizing activities.

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§61-6-22. Wearing masks, hoods or face coverings.

(a) Except as otherwise provided in this section, no person, whether in a motor vehicle or otherwise, while wearing any mask, hood or device whereby any portion of the face is so covered as to conceal the identity of the wearer, may:

(1) Come into or appear upon any walk, alley, street, road, highway or other thoroughfare dedicated to public use;

(2) Come into or appear in any trading area, concourse, waiting room, lobby or foyer open to, used by or frequented by the general public;

(3) Come into or appear upon or within any of the grounds or buildings owned, leased, maintained or operated by the state or any political subdivision thereof;

(4) Ask, request, or demand entrance or admission to the premises, enclosure, dwelling or place of business of any other person within this state; or

(5) Attend or participate in any meeting upon private property of another unless written permission for such meeting has first been obtained from the owner or occupant thereof.

(b) The provisions of this section do not apply to any person:

(1) Under sixteen years of age;

(2) Wearing a traditional holiday costume;

(3) Engaged in a trade or employment where a mask, hood or device is worn for the purpose of ensuring the physical safety of the wearer;

(4) Using a mask, hood or device in theatrical productions, including use in mardi gras celebrations or similar masquerade balls;

(5) Wearing a mask, hood or device prescribed for civil defense drills, exercises or emergencies; or

(6) Wearing a mask, hood or device for the sole purpose of protection from the elements or while participating in a winter sport.

(c) Any person who violates any provision of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $500 or imprisoned in the county jail not more than one year, or both fined and imprisoned.

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§61-6-23. Shooting range; limitations on nuisance actions; noise ordinances.

(a) As used in this section:

(1) "Person" means an individual, proprietorship, partnership, corporation, club or other legal entity; and

(2) "Shooting range" means an area, whether indoor or outdoor, designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or any other similar shooting.

(b) Except as provided in this section, a person may not maintain a nuisance action for noise against a shooting range located in the vicinity of that person's property if the shooting range was established as of the date of the person acquiring the property. If there is a substantial change in use of the shooting range or there is a period of shooting inactivity at a shooting range for a period exceeding one year after the person acquires the property, then the person may maintain a nuisance action if the action is brought within two years from the beginning of the substantial change in use of the shooting range, or the resumption of shooting activity: Provided, That if a municipal or county ordinance regulating noise exists, subsection (e) of this section controls.

(c) A person who owned property in the vicinity of a shooting range that was established after the person acquired the property may maintain a nuisance action for noise against that shooting range only if the action is brought within two years after the establishment of the shooting range or two years after a substantial change in use of the shooting range or from the time shooting activity is resumed: Provided, That if a municipal or county ordinance regulating noise exists, subsection (e) of this section controls.

(d) Actions authorized by the provisions of this section are not applicable to any indoor shooting range, the owner or operator of which holds all necessary and required licenses and the shooting range being in compliance with all applicable state, county and municipal laws, rules or ordinances regulating the design and operation of such facilities.

(e) (1) No municipal or county ordinance regulating noise may subject a shooting range to noise control standards more stringent than those standards in effect at the time construction or operation of the shooting range began, whichever occurred earlier in time. The operation or use of a shooting range may not be enjoined based on noise, nor may any person be subject to an action for nuisance or criminal prosecution in any matter relating to noise resulting from the operation of a shooting range, if the shooting range is operating in compliance with all ordinances relating to noise in effect at the time the construction or operation of the shooting range began, whichever occurred earlier in time.

(2) No shooting range operating or approved for operation within this state which has been condemned through an eminent domain proceeding, and which relocates to another site within the same political subdivision within two years of the final condemnation order, may

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be subject to any noise control standard more stringent than that in effect at the time construction or operation of the shooting range which was condemned began, whichever occurred earlier in time.

(f) It is the intent of the Legislature in enacting the amendments to this section during the 2017 regular session of the Legislature that the amendments be applied retroactively.

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§61-6-24. Threats of terrorist acts, conveying false information concerning terrorist acts and committing terrorist hoaxes prohibited; penalties.

(a) As used in this section:

(1) "Economic harm" means all direct, incidental and consequential pecuniary harm suffered by a victim as a result of criminal conduct. Economic harm includes, but is not limited to, the following:

(A) All wages, salaries or other compensation lost as a result of the criminal conduct;

(B) The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;

(C) The cost of all wages, salaries or other compensation paid to employees for time those employees spent in reacting to the results of the criminal conduct; or

(D) The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct.

(2) "Hoax substance or device" means any substance or device that is shaped, sized, colored, marked, imprinted, numbered, labeled, packaged, distributed, priced or delivered so as to cause a reasonable person to believe that the substance or device is of a nature which is capable of causing serious bodily injury or damage to property or the environment.

(3) "Terrorist act" means an act that is:

(A) Likely to result in serious bodily injury or damage to property or the environment; and

(B) Intended to:

(i) Intimidate or coerce the civilian population;

(ii) Influence the policy of a branch or level of government by intimidation or coercion;

(iii) Affect the conduct of a branch or level of government by intimidation or coercion; or

(iv) Retaliate against a branch or level of government for a policy or conduct of the government.

(b) Any person who knowingly and willfully threatens to commit a terrorist act, with or without the intent to commit the act, is guilty of a felony and, upon conviction thereof, shall be fined not less than $5,000 nor more than $25,000 or confined in a state correctional facility for not less than one year nor more than three years, or both.

(c) Any person who knowingly and willfully conveys false information knowing the information to be false concerning an attempt or alleged attempt being made or to be made

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of a terrorist act is guilty of a felony and, upon conviction thereof, shall be fined not less than $5,000 nor more than $25,000 or confined in a state correctional facility for not less than one year nor more than three years, or both.

(d) Any person who uses a hoax substance or device with the specific intent to commit a terrorist act is guilty of a felony and, upon conviction thereof, shall be fined not less than $10,000 nor more than $50,000 or confined in a state correctional facility for not less than one year nor more than five years, or both.

(e) The court shall order any person convicted of an offense under this section to pay the victim restitution in an amount not to exceed the total amount of any economic harm suffered.

(f) The court shall order any person convicted of an offense under this section to reimburse the state or any subdivision of the state for any expenses incurred by the state or the subdivision incident to its response to a violation of this section.

(g) The conviction of any person under the provisions of this section does not preclude or otherwise limit any civil proceedings arising from the same act.

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§61-6-25. Falsely reporting child abuse.

(a) Any person who knowingly and intentionally reports or causes to be reported to a law-enforcement officer, child protective service worker, or judicial officer that another has committed child sexual abuse, child abuse, or neglect as those terms are defined in §49-1-201 of this code who when doing so knows or has reason to know the accusation is false and who does it with the intent to influence a child custody decision shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than $1,000, sentenced to not more than sixty hours of court-approved community service, or both.

(b) In addition to any other sanctions imposed by the provisions of this section, any person convicted of a violation of this section shall be required to attend and complete a court-approved parenting class.

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