WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2010

SECOND ENROLLMENT

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4604

(By Delegates Armstead, Miley, Iaquinta, Walters, Fragale, Skaff, Cann and Lane)

Amended and Again Passed March 20, 2010, as a result of the objections of the Governor

In Effect Ninety Days From Passage
AN ACT to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating to increasing the criminal penalties for crimes against law enforcement, probation and parole officers; establishing crime for disarming or attempting to disarm probation and parole officers; establishing new crime for reckless fleeing from law-enforcement officers and parole and probation officers; increasing penalties for fleeing or attempting to flee in a vehicle causing property damage; increasing penalties for fleeing or attempting to flee in a vehicle causing injury; increasing penalties for fleeing or attempting to flee in a vehicle causing death; and designating this act as the “Jerry Alan Jones Act.”
That §61-5-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.

§61-5-17. Obstructing officer; fleeing from officer; making false statements to officer; penalties; definitions.

1 (a) Any person who by threats, menaces, acts or otherwise, forcibly or illegally hinders or obstructs, or attempts to hinder or obstruct, any law-enforcement officer, probation officer or parole officer 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) Any person who intentionally disarms or attempts to disarm any law-enforcement officer, probation officer or parole officer, acting in his or her official capacity, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one nor more than five years.

(c) Any person who, with intent to impede or obstruct a law-enforcement officer in the conduct of an investigation of a 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 and not more than $200, or confined in jail for five days, or both fined or confined. However, 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 the 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.

(d) Any person who intentionally flees or attempts to flee by any means other than the use of a vehicle from any law-enforcement officer, probation officer or parole officer acting in his or her official capacity who is attempting to make a lawful arrest of the person, and who knows or reasonably believes that the officer is attempting to arrest him or her, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $50 nor more than $500 or confined in jail not more than one year, or both.

(e) Any person who intentionally flees or attempts to flee in a vehicle from any 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 a regional jail not more than one year.

(f) Any person who intentionally flees or attempts to flee in a vehicle from any law-enforcement officer, probation officer or parole officer acting in his or her official capacity, after the officer has given a clear visual or audible signal directing the person to stop, and who operates the vehicle in a manner showing a reckless indifference to the safety of others, is guilty of a felony and, upon conviction thereof, shall be fined not less than $1,000 nor more than $2,000, and shall be imprisoned in a state correctional facility not less than one nor more than five years.

(g) Any person who intentionally flees or attempts to flee in a vehicle from any 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 any 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 the county or regional jail for not less than six months nor more than one year.

(h) Any person who intentionally flees or attempts to flee in a vehicle from any law-enforcement officer, probation officer or parole officer acting in his or her official capacity, after the officer has given a clear visual or audible signal directing the person to stop, and who causes bodily injury to any person during or resulting from his or her flight, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than three nor more than ten years.

(i) Any person who intentionally flees or attempts to flee in a vehicle from any 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 any person during or resulting from his or her flight, is guilty of a felony and, upon conviction thereof, shall be punished by a definite term of imprisonment in a state correctional facility which is not less than five nor more than fifteen years. A person imprisoned pursuant to the provisions of 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 the provisions of section thirteen, article twelve, chapter sixty-two of this code, whichever is greater.
(j) Any person who intentionally flees or attempts to flee in a vehicle from any 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 at the time, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than three nor more than ten years.

(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 section one, article one, chapter seventeen-a 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 any 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 article enacted during the Regular Session of the 2010 Regular Legislative Session shall be known as the “Jerry Alan Jones Act.”
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 15th day of April, 2010.

Governor
PRESENTED TO THE GOVERNOR

MAR 31, 2010

Time 3:55 p.m.