

HB 4604 (veto)

2010 MAR 22 AM 8:59

WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
SECOND REGULAR SESSION, 2010



**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 4604**

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



Passed March 13, 2010

In Effect Ninety Days From Passage

# ENROLLED

COMMITTEE SUBSTITUTE

FOR

## H. B. 4604

(BY DELEGATES ARMSTEAD, MILEY, IAQUINTA,  
WALTERS, FRAGALE, SKAFF, CANN AND LANE)

[Passed March 13, 2010; 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; 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.”

*Be it enacted by the Legislature of West Virginia:*

That §61-5-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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OFFICE OF THE CLERK  
SECRETARY OF STATE

**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,  
2 forcibly or illegally hinders or obstructs, or attempts to hinder  
3 or obstruct, any law-enforcement officer, probation officer or  
4 parole officer acting in his or her official capacity is guilty of  
5 a misdemeanor and, upon conviction thereof, shall be fined  
6 not less than \$50 nor more than \$500 or confined in jail not  
7 more than one year, or both fined and confined.

8 (b) Any person who intentionally disarms or attempts to  
9 disarm any law-enforcement officer, probation officer or  
10 parole officer, acting in his or her official capacity, is guilty  
11 of a felony and, upon conviction thereof, shall be imprisoned  
12 in a state correctional facility not less than one nor more than  
13 five years.

14 (c) Any person who, with intent to impede or obstruct a  
15 law-enforcement officer in the conduct of an investigation of  
16 a felony offense, knowingly and willfully makes a materially  
17 false statement, is guilty of a misdemeanor and, upon  
18 conviction thereof, shall be fined not less than \$25 and not  
19 more than \$200, or confined in jail for five days, or both fined  
20 or confined. However, the provisions of this section do not  
21 apply to statements made by a spouse, parent, stepparent,  
22 grandparent, sibling, half-sibling, child, stepchild or grandchild,  
23 whether related by blood or marriage, of the person under  
24 investigation. Statements made by the person under  
25 investigation may not be used as the basis for prosecution  
26 under this subsection. For the purposes of this subsection,  
27 "law-enforcement officer" does not include a watchman, a  
28 member of the West Virginia State Police or college security  
29 personnel who is not a certified law-enforcement officer.

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

39 (e) Any person who intentionally flees or attempts to flee  
40 in a vehicle from any law-enforcement officer, probation  
41 officer or parole officer acting in his or her official capacity,  
42 after the officer has given a clear visual or audible signal  
43 directing the person to stop, is guilty of a misdemeanor and,  
44 upon conviction thereof, shall be fined not less than \$500 nor  
45 more than \$1,000 and shall be imprisoned in confined in a  
46 regional jail nor more than one year, or both.

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

57 (g) Any person who intentionally flees or attempts to flee  
58 in a vehicle from any law-enforcement officer, probation  
59 officer or parole officer acting in his or her official capacity,  
60 after the officer has given a clear visual or audible signal  
61 directing the person to stop, and who causes damage to the  
62 real or personal property of any person during or resulting

63 from his or her flight, is guilty of a misdemeanor and, upon  
64 conviction thereof, shall be fined not less than \$1,000 nor  
65 more than \$3,000 and shall be confined in the county or  
66 regional jail for not less than six months nor more than one  
67 year.

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

77 (i) Any person who intentionally flees or attempts to flee  
78 in a vehicle from any law-enforcement officer, probation  
79 officer or parole officer acting in his or her official capacity,  
80 after the officer has given a clear visual or audible signal  
81 directing the person to stop, and who causes death to any  
82 person during or resulting from his or her flight, is guilty of  
83 a felony and, upon conviction thereof, shall be punished by  
84 a definite term of imprisonment in a state correctional facility  
85 which is not less than five nor more than fifteen years. A  
86 person imprisoned pursuant to the provisions of this  
87 subsection is not eligible for parole prior to having served a  
88 minimum of three years of his or her sentence or the  
89 minimum period required by the provisions of section  
90 thirteen, article twelve, chapter sixty-two of this code,  
91 whichever is greater.

92 (j) Any person who intentionally flees or attempts to flee  
93 in a vehicle from any law-enforcement officer, probation  
94 officer or parole officer acting in his or her official capacity,  
95 after the officer has given a clear visual or audible signal  
96 directing the person to stop, and who is under the influence

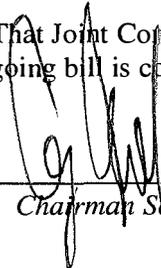
97 of alcohol, controlled substances or drugs at the time, is  
98 guilty of a felony and, upon conviction thereof, shall be  
99 imprisoned in a state correctional facility not less than three  
100 nor more than ten years.

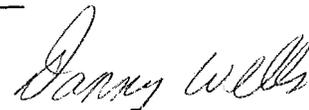
101 (k) For purposes of this section, the term “vehicle”  
102 includes any motor vehicle, motorcycle, motorboat, all-  
103 terrain vehicle or snowmobile, as those terms are defined in  
104 section one, article one, chapter seventeen-a of this code,  
105 whether or not it is being operated on a public highway at the  
106 time and whether or not it is licensed by the state.

107 (l) For purposes of this section, the terms “flee,”  
108 “fleeing” and “flight” do not include any person’s reasonable  
109 attempt to travel to a safe place, allowing the pursuing law-  
110 enforcement officer to maintain appropriate surveillance, for  
111 the purpose of complying with the officer’s direction to stop.

112 (m) The revisions to subsections (e), (f), (g) and (h) of  
113 this article enacted during the Regular Session of the 2010  
114 Regular Legislative Session shall be known as the “Jerry  
115 Alan Jones Act.”

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

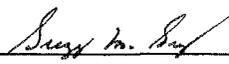
  
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Chairman Senate Committee

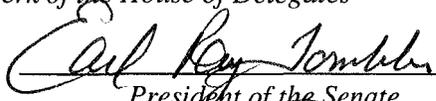
  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

  
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Clerk of the Senate

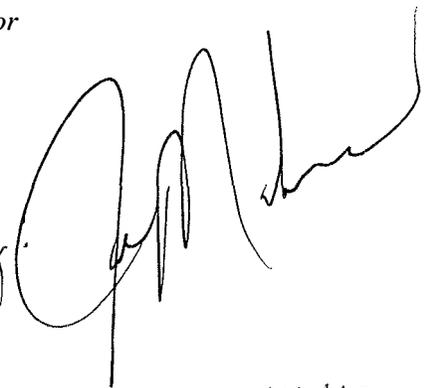
  
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Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
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Speaker of the House of Delegates

The within is disapproved this the 19<sup>th</sup>  
day of March, 2010.

Governor

Disapproved by: 

3/19/10

PRESENTED TO THE  
GOVERNOR

MAR 19 2010

Time 6:00 pm