WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2014

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 90

(SENATORS LAIRD, COOKMAN AND FITZSIMMONS,
ORIGINAL SPONSORS)

[PASSED MARCH 5, 2014; 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 creating a criminal offense for interfering with or preventing a person from calling for the assistance of emergency service personnel; defining terms; and establishing criminal penalties.

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:

ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.

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

1 (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 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) A person who intentionally disarms or attempts to disarm a law-enforcement officer, correctional 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) A 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 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.

(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 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) 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 $50 nor more
than $1,000 and shall be confined in a regional jail not more
than one year.

(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
imprisoned in a state correctional facility not less than one
nor more than five years.

(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.
(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 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 imprisoned in a state correctional facility not less than three nor more than ten 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 imprisoned in a state correctional facility for not less than five nor more than fifteen years. A person imprisoned 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 section thirteen, article twelve, chapter sixty-two 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 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.

(1) For purposes of this section, the terms “flee”, “fleeing” and “flight” do not include a 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 regular session of the 2010 regular legislative session shall be known as the Jerry Alan Jones Act.

(n) (1) No person, with the intent to purposefully deprive another person of emergency services, may 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 service 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
(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 and fined not less than $500 nor more than $3,000, or both.

(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 and fined not less than $500 nor more than $4,000, or both.

(7) In determining the number of prior convictions for purposes of imposing punishment under this subsection, the court shall disregard all such prior convictions occurring more than ten years prior to the offense in question.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

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 18th

Day of ................... March ........................., 2014.

Governor