

SB138

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Enrolled Committee Substitute for Senate Bill 138

BY SENATORS HAMILTON AND BARTLETT

[Passed March 14, 2025; in effect 90 days from passage (June 12, 2025)]

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1 AN ACT to amend and reenact §17C-5-2, §61-5-17, and §61-11-18 of the Code of West Virginia,
2 1931, as amended, relating to creating offenses for second and third or subsequent
3 offenses of fleeing from an officer; establishing criminal penalties for the new offenses;
4 extending the period for which prior convictions may be used; specifying that the new
5 offenses are qualifying offenses for recidivist sentencing enhancement purposes;
6 clarifying that a conviction for fleeing in a vehicle while under the influence of alcohol,
7 controlled substance, or drugs is treated as a driving under the influence offense for
8 criminal enhancement purposes; clarifying that a conviction for fleeing in vehicle while
9 under the influence of alcohol, controlled substances, or drugs is treated as a driving under
10 the influence for licensure purposes; and creating criminal penalties.

Be it enacted by the Legislature of West Virginia:

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-2. Driving under influence of alcohol, controlled substances, or drugs; penalties.

1 (a) *Definitions.* —
2 (1) "Impaired state" means a person:
3 (A) Is under the influence of alcohol;
4 (B) Is under the influence of any controlled substance;
5 (C) Is under the influence of any other drug or inhalant substance;
6 (D) Is under the combined influence of alcohol and any controlled substance or any other
7 drug; or
8 (E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or
9 more, by weight.
10 (2) "Bodily injury" means injury that causes substantial physical pain, illness, or any
11 impairment of physical condition.

(3) "Controlled substance" has the meaning provided in §60A-1-101 of this code.

(4) "Serious bodily injury" means bodily injury that creates a substantial risk of death, that causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(5) "Test and lock program" means the Motor Vehicle Test and Lock Program, established in §17C-5A-3a and administered by the Division of Motor Vehicles.

(b) Any person who drives a vehicle in this state while he or she is in an impaired state, and such impaired state proximately causes the death of any person, including an embryo or fetus as defined in §61-2-30 of this code, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than three nor more than 15 years and shall be fined not less than \$1,000 nor more than \$3,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of 10 years or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That any death charged under this subsection must occur within one year of the offense: *Provided, however*, That if the person has previously been convicted under this section, the person shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code.

(c) Any person who drives a vehicle in this state while he or she is in an impaired state, and such impaired state proximately causes serious bodily injury to any person, including an embryo or fetus as defined in §61-2-30 of this code, other than himself or herself, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than 10 years and shall be fined not less than \$1,000 nor more than \$3,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of five years or for a period of time conditioned on

38 participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided,*
39 That if the person has previously been convicted under this section, the person shall have his or
40 her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor
41 Vehicles for life or for a period of time conditioned on participation in the test and lock program in
42 accordance with §17C-5A-3a of this code.

43 (d) Any person who drives a vehicle in this state while he or she is in an impaired state,
44 and such impaired state proximately causes a bodily injury to any person other than himself or
45 herself, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not
46 less than one day nor more than one year and shall be fined not less than \$200 nor more than
47 \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner
48 of the Division of Motor Vehicles for a period of two years or for a period of time conditioned on
49 participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided,*
50 That if the person has previously been convicted under this section, the person shall have his or
51 her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor
52 Vehicles for life or for a period of time conditioned on participation in the test and lock program in
53 accordance with §17C-5A-3a of this code. Any jail term imposed pursuant to this subsection shall
54 include actual confinement of not less than 24 hours: *Provided, however,* That a person
55 sentenced pursuant to this subsection shall receive credit for any period of actual confinement he
56 or she served upon arrest for the subject offense.

57 (e) Any person who drives a vehicle on any public highway or private road in this state:
58 (1) While he or she is in an impaired state; or (2) while he or she is in an impaired state but has
59 an alcohol concentration in his or her blood of less than fifteen hundredths of one percent, by
60 weight, is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for up to
61 six months and shall be fined not less than \$100 nor more than \$500, and shall have his or her
62 license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles
63 for a period of six months or for a period of time conditioned on participation in the test and lock

64 program in accordance with §17C-5A-3a of this code: *Provided*, That a person sentenced
65 pursuant to this subsection shall receive credit for any period of actual confinement he or she
66 served upon arrest for the subject offense.

67 (f) Any person who drives a vehicle on any public highway or private road in this state
68 while he or she has an alcohol concentration in his or her blood of fifteen hundredths of one
69 percent or more, by weight, is guilty of a misdemeanor and, upon conviction thereof, shall be
70 confined in jail for not less than two days nor more than six months, which jail term is to include
71 actual confinement of not less than 24 hours, and shall be fined not less than \$200 nor more than
72 \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner
73 of the Division of Motor Vehicles for a period of one year or for a period of time conditioned on
74 participation in the test and lock program in accordance with §17C-5A-3a of this code. A person
75 sentenced pursuant to this subsection shall receive credit for any period of actual confinement he
76 or she served upon arrest for the subject offense.

77 (g) Any person who, being a habitual user of narcotic drugs or amphetamines, or any
78 derivative thereof, drives a vehicle on any public highway or private road in this state is guilty of
79 a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one day
80 nor more than six months, which jail term is to include actual confinement of not less than 24
81 hours, and shall be fined not less than \$100 nor more than \$500, and shall have his or her license
82 to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a
83 period of six months. A person sentenced pursuant to this subsection shall receive credit for any
84 period of actual confinement he or she served upon arrest for the subject offense.

85 (h) Any person who knowingly permits his or her vehicle to be driven on any public highway
86 or private road in this state by any other person who is in an impaired state is guilty of a
87 misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months
88 and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to
89 operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a

90 period of six months or for a period of time conditioned on participation in the test and lock
91 program in accordance with §17C-5A-3a of this code.

92 (i) Any person who knowingly permits his or her vehicle to be driven on any public highway
93 or private road in this state by any other person who is a habitual user of narcotic drugs or
94 amphetamines, or any derivative thereof, is guilty of a misdemeanor and, upon conviction thereof,
95 shall be confined in jail for not more than six months and shall be fined not less than \$100 nor
96 more than \$500, and shall have his or her license to operate a motor vehicle revoked by the
97 Commissioner of the Division of Motor Vehicles for a period of six months.

98 (j) (1) Any person under the age of 21 years who drives a vehicle on any public highway
99 or private road in this state while he or she has an alcohol concentration in his or her blood of two
100 hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by
101 weight, for a first offense under this subsection is guilty of a misdemeanor and, upon conviction
102 thereof, shall be fined not less than \$25 nor more than \$100, and have his or her license to operate
103 a motor vehicle suspended by the Commissioner of the Division of Motor Vehicles for a period of
104 60 days or for a period of time conditioned on participation in the test and lock program in
105 accordance with §17C-5A-3a of this code. For a second or subsequent offense under this
106 subsection, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined
107 in jail for 24 hours and shall be fined not less than \$100 nor more than \$500, and shall have his
108 or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor
109 Vehicles for a period of one year or until the person's 21st birthday, whichever period is longer,
110 or for a period of time conditioned on participation in the test and lock program in accordance with
111 §17C-5A-3a of this code. A person who is charged with a first offense under the provisions of this
112 subsection may move for a continuance of the proceedings, from time to time, to allow the person
113 to participate in the test and lock program as provided in §17C-5A-3a of this code. Upon
114 successful completion of the program, the court shall dismiss the charge against the person and
115 expunge the person's record as it relates to the alleged offense. In the event the person fails to

116 successfully complete the program, the court shall proceed to an adjudication of the alleged
117 offense. A motion for a continuance under this subsection may not be construed as an admission
118 or be used as evidence.

119 (2) (A) Notwithstanding subdivision (1) of this subsection, a person shall have his or her
120 license to operate a motor vehicle suspended or revoked for a minimum period of one year or for
121 a period of time conditioned on participation in the test and lock program in accordance with §17C-
122 5A-3a of this code, if the person:

123 (i) Has previously been convicted under this subsection and is subsequently convicted of
124 an offense under another subsection of this section; or

125 (ii) Is convicted under this subsection and has previously been convicted of an offense
126 under another subsection of this section.

127 (B) Nothing in this subdivision permits a shorter period of license revocation, license
128 suspension, or participation in the test and lock program than is mandatory for the specific offense
129 for which the person is convicted.

130 (3) A person arrested and charged with an offense under the provisions of this subsection
131 or subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section may not also be charged with an
132 offense under this subsection arising out of the same transaction or occurrence.

133 (k) Any person who drives a vehicle on any public highway or private road in this state
134 while he or she is in an impaired state and has within the vehicle one or more other persons who
135 are unemancipated minors who have not yet reached their 16th birthday is guilty of a
136 misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor
137 more than 12 months, and shall be fined not less than \$200 nor more than \$1,000, and shall have
138 his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor
139 Vehicles for a period of one year or for a period of time conditioned on participation in the test and
140 lock program in accordance with §17C-5A-3a of this code: *Provided*, That such jail term shall
141 include actual confinement of not less than 48 hours: *Provided, however*, That a person

142 sentenced pursuant to this subsection shall receive credit for any period of actual confinement he
143 or she served upon arrest for the subject offense.

144 (l) A person convicted of an offense under this section, who has previously been convicted
145 of any offense under this section on one occasion, is guilty of a misdemeanor and, upon conviction
146 thereof, shall be confined in jail for not less than six months nor more than one year, may be fined
147 not less than \$1,000 nor more than \$3,000, and shall have his or her license to operate a motor
148 vehicle revoked by the Commissioner of the Division of Motor Vehicles for 10 years or for a period
149 of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a
150 of this code: *Provided*, That if the second conviction is for an offense as described in subsection
151 (b), (c), or (d) of this section and the subsection creating the offense requires a period of
152 incarceration, period of license revocation, or fine that is greater than what is required for a
153 conviction under this subsection, the greater period of incarceration, period of revocation, or fine
154 shall be imposed: *Provided, however*, That this section does not apply to a second conviction that
155 is subject to a period of license revocation under subsection (j) of this section.

156 (m) A person convicted of an offense under this section, who has previously been
157 convicted of any offense under this section on two or more occasions, is guilty of a felony and,
158 upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two
159 nor more than five years, shall have his or her license to operate a motor vehicle revoked by the
160 Commissioner of the Division of Motor Vehicles for life or for a period of time conditioned on
161 participation in the test and lock program in accordance with §17C-5A-3a of this code, and the
162 court may, in its discretion, impose a fine of not less than \$3,000 nor more than \$5,000: *Provided*,
163 That if the third or subsequent conviction is for an offense as described in subsection (b), (c), or
164 (d) of this section and the subsection creating the offense requires a period of incarceration, period
165 of license revocation, or fine that is greater than what is required for a conviction under this
166 subsection, the greater period of incarceration, period of revocation, and fine shall be imposed:

167 *Provided, however,* That this section does not apply to a third or subsequent conviction that is
168 subject to a period of license revocation under subsection (j) of this section.

169 (n) For purposes of subsections (l) and (m) of this section relating to second, third, and
170 subsequent offenses, the following events shall be regarded as offenses and convictions under
171 this section:

172 (1) Any conviction under the provisions of subsection (b), (c), (d), (e), (f), (g), (h), or (i) of
173 this section, or under a prior enactment of this section, for an offense which occurred within the
174 10-year period immediately preceding the date of arrest in the current proceeding;

175 (2) Any conviction under a municipal ordinance of this state or any other state or a statute
176 of the United States or of any other state of an offense which has the same elements as an offense
177 described in subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section, which offense occurred
178 within the 10-year period immediately preceding the date of arrest in the current proceeding;

179 (3) Any period of conditional probation imposed pursuant to §17C-5-2b of this code for
180 violation of subsection (e) of this section, which violation occurred within the 10-year period
181 immediately preceding the date of arrest in the current proceeding; and

182 (4) Any conviction under the provisions of §61-5-17(j) of this code or under a prior
183 enactment of that subsection, for an offense which occurred within the 15-year period immediately
184 preceding the date of arrest in the current proceeding.

185 (o) A person may be charged in a warrant, indictment, or information for a second or
186 subsequent offense, as described in subsection (j), (l), or (m) of this section, if the person has
187 been previously arrested for, or charged with, a violation of this section which is alleged to have
188 occurred within the applicable time period for prior offenses, notwithstanding the fact that there
189 has not been a final adjudication of the charges for the alleged previous offense. In that case, the
190 warrant or indictment or information must set forth the date, location, and particulars of the
191 previous offense or offenses. No person may be convicted of a second or subsequent offense

under this section unless the conviction for the previous offense has become final, or the person has previously had a period of conditional probation imposed pursuant to §17C-5-2b of this code.

(p) The fact that any person charged with a violation of subsection (b), (c), (d), (e), (f), or (g) of this section, or any person permitted to drive as described under subsection (h) or (i) of this section, is or has been legally entitled to use alcohol, a controlled substance, or a drug does not constitute a defense against any charge of violating subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section.

(q) The sentences provided in this section upon conviction for a violation of this article are mandatory and are not subject to suspension or probation: *Provided*, That the court may apply the provisions of §62-11A-1 *et seq.* of this code to a person sentenced or committed to a term of one year or less for a first offense under this section: *Provided, however*, That the court may impose a term of conditional probation pursuant to §17C-5-2b of this code to persons adjudicated thereunder. An order for home detention by the court pursuant to the provisions of §62-11B-1 *et seq.* of this code may be used as an alternative sentence to any period of incarceration required by this section for a first or subsequent offense: *Provided further*, That for any period of home incarceration ordered for a person convicted of a second offense under this section, electronic monitoring shall be required for no fewer than five days of the total period of home confinement ordered and the offender may not leave home for those five days notwithstanding the provisions of §62-11B-5 of this code: *And provided further*, That for any period of home incarceration ordered for a person convicted of a third or subsequent violation of this section, electronic monitoring shall be included for no fewer than 10 days of the total period of home confinement ordered and the offender may not leave home for those 10 days notwithstanding §62-11B-5 of this code.

(r) A person whose license to operate a motor vehicle has been revoked or suspended by the Commissioner of the Division of Motor Vehicles pursuant to this section must complete a comprehensive safety and treatment program as set forth in §17C-5A-3 of this code before his or her license to operate a motor vehicle can be reinstated and his or her driving privileges restored.

218 (s) For any offense for which an alternative revocation period is permitted conditioned
219 upon participation in the test and lock program, an alternative sentence may not be imposed
220 without the consent of the driver.

221 (t) Upon entering the order of conviction for an offense under this section, or the imposition
222 of conditional probation as provided in §17C-5-2b of this code, the clerk of the court shall
223 immediately transmit the order to the Commissioner of the Division of Motor Vehicles.

224 (u) The amendments made to this section during the 2020 regular session of the
225 Legislature shall become effective on July 1, 2020.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

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
2 obstructs or attempts to hinder or obstruct a law-enforcement officer, probation officer, parole
3 officer, courthouse security officer, correctional officer, the State Fire Marshal, or a full-time deputy
4 or assistant fire marshal acting in his or her official capacity is guilty of a misdemeanor and, upon
5 conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail not more
6 than one year, or both fined and confined.

7 (b) A person who intentionally disarms or attempts to disarm a law-enforcement officer,
8 correctional officer, probation officer, parole officer, courthouse security officer, the State Fire
9 Marshal, or a full-time deputy or assistant fire marshal acting in his or her official capacity is guilty
10 of a felony and, upon conviction thereof, shall be confined in a state correctional facility not less
11 than one nor more than five years.

12 (c) A person who, with intent to impede or obstruct a law-enforcement officer, the State
13 Fire Marshal, or a full-time deputy or assistant fire marshal in the conduct of an investigation of a

14 misdemeanor or felony offense, knowingly and willfully makes a materially false statement is guilty
15 of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than
16 \$200, or confined in jail for five days, or both fined and confined. The provisions of this section do
17 not apply to statements made by a spouse, parent, stepparent, grandparent, sibling, half-sibling,
18 child, stepchild, or grandchild, whether related by blood or marriage, of the person under
19 investigation. Statements made by the person under investigation may not be used as the basis
20 for prosecution under this subsection. For purposes of this subsection, "law-enforcement officer"
21 does not include a watchman, a member of the West Virginia State Police, or college security
22 personnel who is not a certified law-enforcement officer. A criminal charge under this subsection
23 relating to the investigation of a misdemeanor offense may not be used to seek or support a
24 secured bond or pre-trial incarceration.

25 (d) A person who intentionally flees or attempts to flee by any means other than the use
26 of a vehicle from a law-enforcement officer, probation officer, parole officer, courthouse security
27 officer, correctional officer, the State Fire Marshal, or a full-time deputy or assistant fire marshal
28 acting in his or her official capacity who is attempting to make a lawful arrest of or to lawfully detain
29 the person, and who knows or reasonably believes that the officer is attempting to arrest or
30 lawfully detain him or her, is guilty of a misdemeanor and, upon conviction thereof, shall be fined
31 not less than \$50 nor more than \$500 and confined in jail for 10 days. A person convicted of a
32 second offense violation of this subsection is guilty of a misdemeanor and, upon conviction
33 thereof, shall be fined not less than \$250 nor more than \$1,000 and confined in jail for 30 days.
34 A person who is convicted of a third or subsequent offense in violation of this subsection is guilty
35 of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than
36 \$2,000 and confined in jail not less than 60 days nor more than one year.

37 (e) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement
38 officer, probation officer, or parole officer acting in his or her official capacity after the officer has
39 given a clear visual or audible signal directing the person to stop is guilty of a misdemeanor and,

40 upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000 and shall be
41 confined in jail not more than one year. A person who is convicted of a second offense of violation
42 of this subsection is guilty of a felony and, upon conviction thereof, shall be fined not less than
43 \$1,000 nor more than \$2,000 or shall be confined in a state correctional facility for not less than
44 one year nor more than three years, or both fined and confined. A person who is convicted of a
45 third or subsequent offense of violation of this subsection is guilty of a felony and, upon conviction
46 thereof, shall be fined not less than \$2,000, nor more than \$5,000 and shall be confined in a state
47 correctional facility not less than two nor more than five years, or both fined and confined.

48 (f) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement
49 officer, probation officer, or parole officer acting in his or her official capacity after the officer has
50 given a clear visual or audible signal directing the person to stop, and who operates the vehicle
51 in a manner showing a reckless indifference to the safety of others, is guilty of a felony and, upon
52 conviction thereof, shall be fined not less than \$1,000 nor more than \$2,000 and shall be confined
53 in a state correctional facility not less than one nor more than five years. A person who is convicted
54 of a second offense of violation of this subsection is guilty of a felony and, upon conviction thereof,
55 shall be fined not less than \$1,000 nor more than \$2,000 or shall be confined in a state correctional
56 facility for not less than two nor more than 10 years, or both fined and confined. A person who is
57 convicted of a third or subsequent offense of violation of this subsection is guilty of a felony and,
58 upon conviction thereof, shall be fined not less than \$2,000 nor more than \$5,000 and shall be
59 confined in a state correctional facility not less than three nor more than 15 years, or both fined
60 and confined.

61 (g) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement
62 officer, probation officer, or parole officer acting in his or her official capacity after the officer has
63 given a clear visual or audible signal directing the person to stop, and who causes damage to the
64 real or personal property of a person during or resulting from his or her flight, is guilty of a
65 misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than

66 \$3,000 and shall be confined in jail for not less than six months nor more than one year. A person
67 who is convicted of a second offense of violation of this subsection is guilty of a felony and, upon
68 conviction thereof, shall be fined not less than \$3,000 nor more than \$5,000 or shall be confined
69 in a state correctional facility for not less than one year nor more than three years, or both fined
70 and confined. A person who is convicted of a third or subsequent offense of violation of this
71 subsection is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000
72 nor more than \$8,000 and shall be confined in a state correctional facility not less than two nor
73 more than five years, or both fined and confined.

74 (h) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement
75 officer, probation officer, or parole officer acting in his or her official capacity after the officer has
76 given a clear visual or audible signal directing the person to stop, and who causes bodily injury to
77 a person during or resulting from his or her flight, is guilty of a felony and, upon conviction thereof,
78 shall be confined in a state correctional facility not less than three nor more than 10 years. A
79 person who is convicted of a second offense of violation of this subsection is guilty of a felony
80 and, upon conviction thereof, shall be confined in a state correctional facility for not less than five
81 years nor more than 10 years. A person who is convicted of a third or subsequent offense of
82 violation of this subsection is guilty of a felony and, upon conviction thereof, shall be confined in
83 a state correctional facility not less than five nor more than 15 years.

84 (i) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement
85 officer, probation officer, or parole officer acting in his or her official capacity after the officer has
86 given a clear visual or audible signal directing the person to stop, and who causes death to a
87 person during or resulting from his or her flight, is guilty of a felony and, upon conviction thereof,
88 shall be confined in a state correctional facility for not less than five nor more than 15 years. A
89 person who is convicted of a second offense of violation of this subsection is guilty of a felony
90 and, upon conviction thereof, shall be confined in a state correctional facility for not less than 15
91 years nor more than life. A person who is convicted of a third or subsequent offense of violation

of this subsection is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for life. A person confined 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 §62-12-13 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 confined in a state correctional facility not less than three nor more than 10 years. A person who is convicted of a second offense of violation of this subsection is guilty of a felony and shall be confined in a state correctional facility for not less than five years nor more than 15 years. A person who is convicted of a third or subsequent offense of violation of this subsection is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility not less than 10 nor more than 20 years. A conviction for a violation of this subsection may be used as a predicate offense for driving under the influence, second offense driving under the influence, or third offense driving under the influence, and it shall be treated as a driving under the influence conviction for licensure purposes by the Division of Motor Vehicles.

(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 §17A-1-1 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 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.

117 (m) The revisions to subsections (e), (f), (g), and (h) of this section enacted during the
118 2010 regular legislative session shall be known as the Jerry Alan Jones Act.

119 (n) (1) A person, with the intent to purposefully deprive another person of emergency
120 services, may not interfere with or prevent another person from making an emergency
121 communication, which a reasonable person would consider necessary under the circumstances,
122 to law-enforcement, fire, or emergency medical services personnel.

123 (2) For the purpose of this subsection, the term "interfere with or prevent" includes, but is
124 not limited to, seizing, concealing, obstructing access to, or disabling or disconnecting a
125 telephone, telephone line, or equipment or other communication device.

126 (3) For the purpose of this subsection, the term "emergency communication" means
127 communication to transmit warnings or other information pertaining to a crime, fire, accident,
128 power outage, disaster, or risk of injury or damage to a person or property.

129 (4) A person who violates this subsection is guilty of a misdemeanor and, upon conviction
130 thereof, shall be confined in jail for a period of not less than one day nor more than one year, or
131 shall be fined not less than \$250 nor more than \$2,000, or both fined and confined.

132 (5) A person who is convicted of a second offense under this subsection is guilty of a
133 misdemeanor and, upon conviction thereof, shall be confined in jail for not less than three months
134 nor more than one year, or fined not less than \$500 nor more than \$3,000, or both fined and
135 confined.

136 (6) A person who is convicted of a third or subsequent offense under this subsection is
137 guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not less than six
138 months nor more than one year or fined not less than \$500 nor more than \$4,000, or both fined
139 and confined.

140 (o) A person is guilty of filing a false complaint against a law-enforcement officer when,
141 knowing the information reported is false or baseless, he or she:

(1) Initiates a false complaint of improper action of a law-enforcement officer relating to an incident or other circumstance;

(2) Reports, by word or action, to any official or quasi-official agency, or organization having the function of dealing with conduct of law-enforcement officers which did not occur, does not in fact exist; or

(3) Reports to a law-enforcement officer or agency the alleged occurrence of any offense or incident which did not in fact occur.

Any person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail not more than six months, or both fined and confined.

(p) In determining the number of prior convictions for purposes of imposing punishment under this section, the court shall disregard all such prior convictions occurring more than 15 years prior to the offense in question.

ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES.

§61-11-18. Punishment for second or third offense of felony.

(a) For purposes of this section, "qualifying offense" means any offense or an attempt or conspiracy to commit any of the offenses in the following provisions of this code:

(1) §60A-4-401(a)(i) and §60A-4-401(a)(ii);

(2) §60A-4-406;

(3) §60A-4-409(b)(1) and §60A-4-409 (b)(2);

(4) §60A-4-411;

(5) §60A-4-414;

(6) §60A-4-415;

(7) §60A-4-416(a);

(8) §61-2-1;

(9) §61-2-4;

- 12 (10) §61-2-7;
- 13 (11) §61-2-9(a);
- 14 (12) §61-2-9a(d) and §61-2-9a(e);
- 15 (13) §61-2-9b;
- 16 (14) §61-2-9c;
- 17 (15) §61-2-9d;
- 18 (16) §61-2-10;
- 19 (17) §61-2-10b(b) and §61-2-10b(c);
- 20 (18) Felony provisions of §61-2-10b(d);
- 21 (19) §61-2-12;
- 22 (20) Felony provisions of §61-2-13;
- 23 (21) §61-2-14;
- 24 (22) §61-2-14a(a) and §61-2-14a(d);
- 25 (23) §61-2-14c;
- 26 (24) §61-2-14d(a) and §61-2-14d(b);
- 27 (25) §61-2-14f;
- 28 (26) §61-2-14h(a), §61-2-14h(b), and §61-2-14h(c);
- 29 (27) §61-2-16a(a) and §61-2-16a(b);
- 30 (28) Felony provisions of §61-2-16a(c);
- 31 (29) §61-2-28(d);
- 32 (30) §61-2-29(d) and §61-2-29(e);
- 33 (31) §61-2-29a;
- 34 (32) §61-3-1;
- 35 (33) §61-3-2;
- 36 (34) §61-3-3;
- 37 (35) §61-3-4;

- 38 (36) §61-3-5;
- 39 (37) §61-3-6;
- 40 (38) §61-3-7;
- 41 (39) §61-3-11;
- 42 (40) Felony violation of 61-3-12;
- 43 (41) §61-3-13(a);
- 44 (42) Felony violation of §61-3-18;
- 45 (43) Felony violation of §61-3-19;
- 46 (44) Felony violation of §61-3-20;
- 47 (45) Felony violation of §61-3-20a;
- 48 (46) Felony violation of §61-3-21;
- 49 (47) §61-3-22;
- 50 (48) Felony violation of §61-3-24;
- 51 (49) Felony violation of §61-3-24a;
- 52 (50) §61-3-27;
- 53 (51) §61-3-54;
- 54 (52) §61-3C-14b;
- 55 (53) §61-3E-5;
- 56 (54) Felony violation of §61-5-10;
- 57 (55) Felony violations of §61-5-17;
- 58 (56) §61-5-27;
- 59 (57) §61-6-24;
- 60 (58) Felony provisions of §61-7-7;
- 61 (59) §61-7-12;
- 62 (60) §61-7-15;
- 63 (61) §61-7-15a;

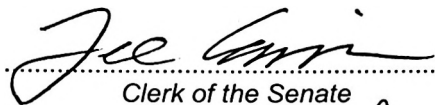
64 (62) §61-8-12;
65 (63) §61-8-19(b);
66 (64) §61-8A-2;
67 (65) §61-8A-4;
68 (66) §61-8A-5;
69 (67) §61-8B-3;
70 (68) §61-8B-4;
71 (69) §61-8B-5;
72 (70) §61-8B-7;
73 (71) §61-8B-10;
74 (72) §61-8B-11b;
75 (73) §61-8C-2;
76 (74) §61-8C-3;
77 (75) §61-8C-3a;
78 (76) §61-8D-2;
79 (77) §61-8D-2a;
80 (78) §61-8D-3;
81 (79) §61-8D-3a;
82 (80) §61-8D-4;
83 (81) §61-8D-4a;
84 (82) §61-8D-5;
85 (83) §61-8D-6;
86 (84) §61-10-31;
87 (85) §61-11-8;
88 (86) §61-11-8a;
89 (87) §61-14-2; and
90 (88) §17C-5-2(b), driving under the influence causing death.

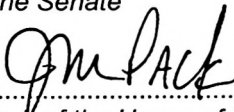
(b) Except as provided by subsection (c) of this section, when any person is convicted of a qualifying offense and is subject to imprisonment in a state correctional facility for the qualifying offender and it is determined, as provided in §61-11-19 of this code, that the person had been previously convicted in the United States of a crime punishable by imprisonment in a state or federal correctional facility, the court shall, if the sentence to be imposed is for a definite term of years, add five years to the time for which the person is or would be otherwise sentenced. Whenever in that case the court imposes an indeterminate sentence, the minimum term shall be twice the term of years otherwise provided for under the sentence.

(c) Notwithstanding any provision of this code to the contrary, when any person is convicted of first degree murder or second degree murder or a violation of §61-8B-3 of this code and it is determined, as provided in §61-11-19 of this code, that the person had been previously convicted in this state of first degree murder, second degree murder, or a violation of §61-8B-3 of this code, or has been so convicted under any law of the United States or any other state for an offense which has the same or substantially similar elements as any offense described in this subsection, the person shall be punished by imprisonment in a state correctional facility for life and is not eligible for parole.

(d) When it is determined, as provided in §61-11-19 of this code, that the person has been twice previously convicted in the United States of a crime punishable by imprisonment in a state or federal correctional facility which has the same or substantially similar elements as a qualifying offense, the person shall be sentenced to imprisonment in a state correctional facility for life: *Provided*, That prior convictions arising from the same transaction or series of transactions shall be considered a single offense for purposes of this section: *Provided, however*, That the most recent previous qualifying offense which would otherwise constitute a qualifying offense for purposes of this subsection may not be considered if more than 20 years have elapsed between: (1) The release of the person from his or her term of imprisonment or period of supervision resulting from the most recent qualifying offense or the expiration of a period of supervised release resulting from the offense; and (2) the conduct underlying the current charge.

The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.

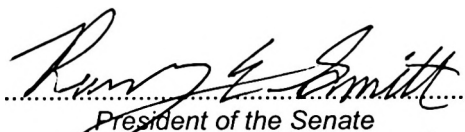

Clerk of the Senate

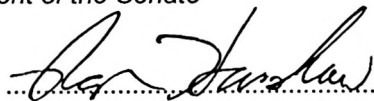

Clerk of the House of Delegates

FILED
2025 MAR 24 P 5:13
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Originated in the Senate.

In effect 90 days from passage.


President of the Senate


Speaker of the House of Delegates

The within is approved this the 24th
Day of March, 2025.


Governor

18.01.2019

PRESENTED TO THE GOVERNOR

MAR 18 2025

Time 2:48 pm