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HOUSE BILL NO. 1105

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend and reenact § 18.2-51.1 of the Code of Virginia, relating to malicious bodily injury to probation and parole officers.

Patron—Moran

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-51.1 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-51.1. Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, probation and parole officers, or emergency medical service providers; penalty; lesser included offense.

If any person maliciously causes bodily injury to another by any means including the means set out in § 18.2-52, with intent to maim, disfigure, disable or kill, and knowing or having reason to know that such other person is a law-enforcement officer, as defined hereinafter, firefighter, as defined in § 65.2-102, *parole and probation officer appointed under § 53.1-143 or § 16.1-237*, search and rescue personnel as defined hereinafter, or emergency medical services personnel, as defined in § 32.1-111.1 engaged in the performance of his public duties as a law-enforcement officer, firefighter, *parole and probation officer*, search and rescue personnel, or emergency medical services personnel, such person shall be guilty of a felony punishable by imprisonment for a period of not less than five years nor more than thirty years and, subject to subdivision (g) of § 18.2-10, a fine of not more than \$100,000. Upon conviction, the sentence of such person shall include a mandatory; minimum term of imprisonment of two years.

If any person unlawfully, but not maliciously, with the intent aforesaid, causes bodily injury to another by any means, knowing or having reason to know such other person is a law-enforcement officer, firefighter, as defined in § 65.2-102, *parole and probation officer appointed under § 53.1-143 or § 16.1-237*, search and rescue personnel, or emergency medical services personnel, engaged in the performance of his public duties as a law-enforcement officer, firefighter, *parole and probation officer*, search and rescue personnel, or emergency medical services personnel, he shall be guilty of a Class 6 felony, and upon conviction, the sentence of such person shall include a mandatory; minimum term of imprisonment of one year.

Nothing in this section shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

As used in this section the term "mandatory; minimum" means that the sentence it describes shall be served with no suspension of sentence in whole or in part.

As used in this section "law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is part of or administered by the Commonwealth or any political subdivision thereof, who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of this Commonwealth; any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; and auxiliary police officers appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733 and auxiliary deputy sheriffs appointed pursuant to § 15.2-1603.

As used in this section, "search and rescue personnel" means any employee or member of a search and rescue organization that is authorized by a resolution or ordinance duly adopted by the governing body of any county, city or town of the Commonwealth.

The provisions of § 18.2-51 shall be deemed to provide a lesser included offense hereof.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is at least \$226,825 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

INTRODUCED

HB1105