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HOUSE BILL NO. 1149

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on March 2, 2004)

(Patron Prior to Substitute—Delegate McDonnell)

A BILL to amend and reenact § 18.2-46.1 of the Code of Virginia, relating to crimes by criminal street gangs; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-46.1 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-46.1. Definitions.

As used in this article unless the context requires otherwise or it is otherwise provided:

"Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more predicate criminal acts, (ii) which has an identifiable name or identifying sign or symbol, and (iii) whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

"Pattern of criminal gang activity" means commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such predicate criminal acts (i) were not part of a common act, transaction or scheme or (ii) were committed by two or more persons who are members of, or belong to, the same criminal street gang.

"Predicate criminal act" means an (i) act of violence; (ii) any violation of §§ 18.2-46.3, 18.2-51, 18.2-51.1, 18.2-52, 18.2-53, 18.2-55, 18.2-57, 18.2-57.2, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, ~~or~~ § 18.2-147, subsection H, H 1 or H 2 of 18.2-248, 18.2-248.01, 18.2-255, or § 18.2-255.2; (iii) a second or subsequent felony violation of subsection C of § 18.2-248 or of § 18.2-248.1; or (iv) any violation of a local ordinance adopted pursuant to § 18.2-138.1.

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 cannot be determined 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.