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HOUSE BILL NO. 1970**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee for Courts of Justice
on February 2, 2007)

(Patrons Prior to Substitute—Delegates Albo, Miller, J.H. [HB 2936] and Cole [HB 1918])

A BILL to amend and reenact § 19.2-81.6 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-504.2, relating to illegal alien status in Virginia; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-81.6 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-504.2 as follows:

§ 18.2-504.2. Federal illegal alien status unlawful in Virginia; penalty.

Any person who has been verified by the Law Enforcement Support Center of the Bureau of Immigration and Customs Enforcement of the United States Department of Homeland Security to be not lawfully present in the United States and removable from the United States is guilty of a Class 1 misdemeanor. No arrest or charge for a violation of this section shall be made unless the officer has cause to detain or arrest the person for some other criminal violation or for a traffic infraction. It shall be an affirmative defense to a charge under this section that the person is lawfully present in the United States.

§ 19.2-81.6. Authority of law-enforcement officers to arrest illegal aliens.

All law-enforcement officers enumerated in § 19.2-81 shall have the authority to enforce immigration laws of the United States, pursuant to the provisions of this section. Any law-enforcement officer enumerated in § 19.2-81 may, in the course of acting upon reasonable suspicion that an individual has committed or is committing a crime or a traffic infraction, arrest the individual without a warrant upon receiving confirmation from the Law Enforcement Support Center of the Bureau of Immigration and Customs Enforcement of the United States Department of Homeland Security that the individual (i) is an alien illegally present in the United States; and (ii) has previously been convicted of a felony in the United States and deported or left the United States after such conviction. Upon receiving such confirmation, the officer shall take the individual forthwith before a magistrate or other issuing authority and proceed pursuant to § 19.2-82. All law-enforcement officers enumerated in § 19.2-81 shall have, in addition to the arrest authority set forth therein to enforce the laws of the Commonwealth, the authority to enforce immigration laws of the United States, pursuant to the provisions of this section.