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HOUSE BILL NO. 2131

Offered January 14, 2009

Prefiled January 13, 2009

A BILL to amend the Code of Virginia by adding in Article 2.1 of Chapter 4 of Title 18.2 a section numbered 18.2-46.3:4, relating to gang activity taking place in public areas; penalties.

Patron—Miller, J.H.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2.1 of Chapter 4 of Title 18.2 a section numbered 18.2-46.3:4 as follows:

§ 18.2-46.3:4. Enhanced punishment for gang activity taking place in public areas; penalties.

Any person who violates § 18.2-46.2 (i) upon a designated school bus stop, or upon either public property or any property open to public use that is within 1,000 feet of such school bus stop, during the time when school children are waiting to be picked up and transported to or are being dropped off from school or a school-sponsored activity; (ii) upon the property, including buildings and grounds, of any publicly owned or publicly operated recreation or community center facility or any public library; (iii) upon the property of any state facility as defined in § 37.2-100 or upon public property or property open to public use within 1,000 feet of such an institution; or (iv) upon any private property when 60 percent of the residents within an area to be designated a "gang-free" zone petition the locality for such status is guilty of a felony punishable as specified in § 18.2-46.2, and shall be sentenced to a mandatory minimum term of imprisonment of two years. A person who violates subsection A of § 18.2-46.3 upon any property listed in this section is guilty of a Class 6 felony, except that any person 18 years of age or older who violates subsection A of § 18.2-46.3 upon any property listed in this section, when such offense is committed against a juvenile, is guilty of a Class 5 felony. Any person who violates subsection B of § 18.2-46.3 upon any property listed in this section is guilty of a Class 5 felony. It is a violation of this section if the person violated § 18.2-46.2 or 18.2-46.3 on the property described in clauses (i) through (iii) regardless of where the person intended to commit such violation. Any locality may place signs on the perimeter of the areas designated herein describing the areas as "gang-free" zones and indicating that criminal gang activity within the zones is subject to enhanced penalties.

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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

INTRODUCED

HB2131