2010 SESSION

 HOUSE EILL NO. 113 Offered January 5, 2010 Prefield January 5, 2010 Prefield January 5, 2010 Patron—Bance A BILL to amend and reenact § 18.2-57 of the Code of Virginia, relating to assault and battery of a fire marshal; penalty. Patron—Dance Patron—Dance Be it enacted by the General Assembly of Virginia: Interfered to Committee for Courts of Justice Be it enacted by the General Assembly of Virginia: Interfered to Committee for Courts of Justice Be it enacted by the General Assembly of Virginia: Interfered to Assault and battery. A. Any person who commits a simple assault or assault and battery shall be guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, color or national origin, the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement. B. However, if a person intentionally selects the person against whom an assault and battery resulting in bodily injury is committed because of his race, religious conviction, color or national origin, the person shall be guilty of a Class 6 felony, and the penalty upon conviction shall include a term of confinement. C. In addition, if any person commits an assault on assault and battery against another knowing or having reason to know that such other person is a judge, a law-enforcement officer as defined in solitotic, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such person shall be guilty of a class 10 evoluticer fire department or voluneer rescue or emergency membe		10101705D
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55 § 27-30, when such fire marshal has police powers as set forth in § 27-34.2, conservation police officers 56 appointed pursuant to § 29.1-200, and full-time sworn members of the enforcement division of the		
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		$g \ge 2/-30$, when such fire marshall has police powers as set form in $g \ge 2/-34.2$, conservation police officers appointed pursuant to $g \ge 29.1-200$ and full-time sworn members of the enforcement division of the

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58 officers in local and regional correctional facilities, all deputy sheriffs, whether assigned to

Iaw-enforcement duties, court services or local jail responsibilities, auxiliary police officers appointed orprovided for pursuant to §§ 15.2-1731 and 15.2-1733, auxiliary deputy sheriffs appointed pursuant to

61 § 15.2-1603, and police officers of the Metropolitan Washington Airports Authority pursuant to 62 § 5.1-158.

63 "School security officer" means an individual who is employed by the local school board for the
64 purpose of maintaining order and discipline, preventing crime, investigating violations of school board
65 policies and detaining persons violating the law or school board policies on school property, a school
66 bus or at a school-sponsored activity and who is responsible solely for ensuring the safety, security and
67 welfare of all students, faculty and staff in the assigned school.

F. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any teacher, teacher aide, principal, assistant principal, guidance counselor, school security officer, school **68** 69 70 bus driver or school bus aide, while acting in the course and scope of his official capacity, any of the 71 following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from 72 73 the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) 74 reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) 75 reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary 76 force to obtain possession of weapons or other dangerous objects or controlled substances or associated 77 paraphernalia that are upon the person of the student or within his control.

78 In determining whether a person was acting within the exceptions provided in this subsection, due
79 deference shall be given to reasonable judgments that were made by a teacher, teacher aide, principal,
80 assistant principal, guidance counselor, school security officer, school bus driver, or school bus aide at
81 the time of the event.

82 2. That the provisions of this act may result in a net increase in periods of imprisonment or

83 commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is

84 \$14,845 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of 85 commitment to the custody of the Department of Juvenile Justice.