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SENATE BILL NO. 530

Offered January 13, 2010

Prefiled January 13, 2010

A BILL to amend and reenact § 18.2-46.3 of the Code of Virginia, relating to recruitment of persons for criminal street gang; penalty.

Patrons—McDougle and Martin

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-46.3 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-46.3. Recruitment of persons for criminal street gang; penalty.

A. Any person who solicits, invites, recruits, encourages or otherwise causes or attempts to cause another to actively participate in or become a member of what he knows to be a criminal street gang is guilty of a Class 1 misdemeanor. *Any person who, by telephone or by any electronically transmitted communication producing a visual or electronic message, solicits, invites, recruits, encourages or otherwise causes or attempts to cause another to actively participate in or become a member of what he knows to be a criminal street gang is guilty of a Class 6 felony.* Any person age 18 years or older who solicits, invites, recruits, encourages or otherwise causes or attempts to cause a juvenile to actively participate in or become a member of what he knows to be a criminal street gang is guilty of a Class 6 felony.

B. Any person who, in order to encourage an individual (a) to join a criminal street gang, (b) to remain as a participant in or a member of a criminal street gang, or (c) to submit to a demand made by a criminal street gang to commit a felony violation of this title, (i) uses force against the individual or a member of his family or household or (ii) threatens force against the individual or a member of his family or household, which threat would place any person in reasonable apprehension of death or bodily injury, is guilty of a Class 6 felony. The definition of "family or household member" set forth in § 16.1-228 applies to this section.

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; therefore, Chapter 781 of the Acts of Assembly of 2009 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.