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HOUSE BILL NO. 1867

Offered January 12, 2011

Prefiled January 11, 2011

A BILL to amend and reenact § 18.2-46.3:3 of the Code of Virginia, relating to definition of gang-free zones; penalty.

 Patron—Cole (By Request)

 Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-46.3:3 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-46.3:3. Enhanced punishment for gang activity taking place in a gang-free zone; penalties.

Any person who violates § 18.2-46.2 (i) upon the property, including buildings and grounds, of any public or private elementary, secondary, or postsecondary school, or any public or private two-year or four-year institution of higher education; (ii) upon public property or any property open to public use within 1,000 feet of such school property; (iii) on any school bus as defined in § 46.2-100 *or at any designated school bus stop*; or (iv) upon the property, including buildings and grounds, of any publicly owned or operated community center ~~or~~, any publicly owned or operated recreation center, *or any publicly owned or operated park or hospital* 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)~~ (iv) regardless of where the person intended to commit such violation.

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 874 of the Acts of Assembly of 2010 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.

INTRODUCED

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