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SENATE BILL NO. 1205

Offered January 9, 2013

Prefiled January 9, 2013

A BILL to amend and reenact § 18.2-46.1 of the Code of Virginia, relating to what constitutes criminal street gang predicate offenses.

Patron—McDougle

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-46.1 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-46.1. Definitions.

As used in this article unless the context requires otherwise or it is otherwise provided:

"Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any misdemeanor violation of § 18.2-42, 18.2-46.3, 18.2-51, 18.2-51.1, 18.2-52, 18.2-53, 18.2-53.1, 18.2-55, 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, subsection H, H1 or H2 of § 18.2-248, § 18.2-248.01, 18.2-255, 18.2-248.1, 18.2-255.2, 18.2-282.1, 18.2-286.1, 18.2-287.4, or of 18.2-308.1, 18.2-355, 18.2-356, or 18.2-357; (iii) a second or subsequent felony violation of subsection C of § 18.2-248 or of § 18.2-248.1; (iii) any felony violation of Chapter 4 (§ 18.2-30 et seq.), Chapter 5 (§ 18.2-77 et seq.), or Chapter 7 (§ 18.2-247 et seq.); (iv) any felony violation of Article 3 (§ 18.2-344 et seq.) of Chapter 8; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (v) (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

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 is at least \$1,225,148 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

SB1205