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HOUSE BILL NO. 1363

Offered January 22, 2016

A *BILL to amend and reenact § 24.2-233 of the Code of Virginia, relating to removal of certain local officers; petition requirements.*

Patron—Simon

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:**1. That § 24.2-233 of the Code of Virginia is amended and reenacted as follows:****§ 24.2-233. Removal of elected and certain appointed officers by courts.**

Upon petition, a circuit court may remove from office any elected officer or officer who has been appointed to fill an elective office, residing within the jurisdiction of the court:

1. For neglect of duty, misuse of office, or incompetence in the performance of duties when that neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse effect upon the conduct of the office;

2. Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and after all rights of appeal have terminated involving the:

a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or distribute a controlled substance or marijuana;

b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug paraphernalia; or

c. Possession of any controlled substance or marijuana and such conviction under subdivision a, b, or c has a material adverse effect upon the conduct of such office;

3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a "hate crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon the conduct of such office; or

4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into dwelling or enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of age or older in violation of § 18.2-371, or indecent exposure of himself or procuring another to expose himself in violation of § 18.2-387, and such conviction has a material adverse effect upon the conduct of such office.

The petition must be signed by a number of registered voters who reside within the jurisdiction of the officer equal to ~~ten~~ 10 percent of the total number of votes cast at the last election for the office that the officer holds. *In the case of a county supervisor, city council member, or school board member, the petition must be signed by a number of registered voters who reside within the jurisdiction of the officer equal to 10 percent of the amount that results when the total number of votes cast at the last election for the board or council is divided by the number of officers elected to the board or council at that election.*

Any person removed from office under the provisions of subdivision 2, 3, or 4 may not be subsequently subject to the provisions of this section for the same criminal offense.

INTRODUCED

HB1363