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HOUSE BILL NO. 1580

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on March 1, 2018)

(Patron Prior to Substitute—Delegate Cline)

A *BILL to amend and reenact § 16.1-253.2 of the Code of Virginia, relating to violation of protective order or stalking; third or subsequent offense; penalty.*

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-253.2 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-253.2. Violation of provisions of protective orders; penalty.

A. In addition to any other penalty provided by law, any person who violates any provision of a protective order issued pursuant to § 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.14, or 16.1-279.1 or subsection B of § 20-103, when such violation involves a provision of the protective order that prohibits such person from (i) going or remaining upon land, buildings, or premises; (ii) further acts of family abuse; or (iii) committing a criminal offense, or which prohibits contacts by the respondent with the allegedly abused person or family or household members of the allegedly abused person as the court deems appropriate, is guilty of a Class 1 misdemeanor. The punishment for any person convicted of a second offense of violating a protective order, when the offense is committed within five years of the prior conviction and when either the instant or prior offense was based on an *assault, battery, or act or threat threatened act of violence, as defined in subsection A of § 19.2-297.1*, shall include a mandatory minimum term of confinement of 60 days. Any person convicted of a third or subsequent offense of *any combination of (a) violating a protective order or (b) stalking in violation of § 18.2-60.3*, when the offense is committed within 20 years of the first conviction and when either the instant or one of the prior offenses was based on an *assault, battery, or act or threat threatened act of violence, as defined in subsection A of § 19.2-297.1, and the instant and prior offenses arise out of separate occurrences or incidents but involve the same victim* is guilty of a Class 6 felony and the punishment shall include a mandatory minimum term of confinement of six months. The mandatory minimum terms of confinement prescribed for violations of this section shall be served consecutively with any other sentence.

B. In addition to any other penalty provided by law, any person who, while knowingly armed with a firearm or other deadly weapon, violates any provision of a protective order with which he has been served issued pursuant to § 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.14, or 16.1-279.1 or subsection B of § 20-103 is guilty of a Class 6 felony.

C. If the respondent commits an assault and battery upon any party protected by the protective order resulting in bodily injury to the party or stalks any party protected by the protective order in violation of § 18.2-60.3, he is guilty of a Class 6 felony. Any person who violates such a protective order by furtively entering the home of any protected party while the party is present, or by entering and remaining in the home of the protected party until the party arrives, is guilty of a Class 6 felony, in addition to any other penalty provided by law.

D. Upon conviction of any offense hereunder for which a mandatory minimum term of confinement is not specified, the person shall be sentenced to a term of confinement and in no case shall the entire term imposed be suspended. Upon conviction, the court shall, in addition to the sentence imposed, enter a protective order pursuant to § 16.1-279.1 for a specified period not exceeding two years from the date of conviction.

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 836 of the Acts of Assembly of 2017 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.

3. That the provisions of this act shall not become effective unless an appropriation effectuating the purposes of this act is included in a general appropriation act passed in 2018 by the General Assembly that becomes law.