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## SENATE BILL NO. 828

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice  
on January 24, 2018)

(Patron Prior to Substitute—Senator Reeves)

A BILL to amend and reenact § 18.2-162 of the Code of Virginia, relating to damage or trespass to critical infrastructure or utilities; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-162 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-162. Damage or trespass to critical infrastructure or utilities; penalty.

Any person who shall intentionally destroy or damage any facility ~~which~~ that is used to furnish oil, telegraph, telephone, ~~cellular telephone or other wireless telecommunications~~, electric, gas, sewer, wastewater, or water service to the public, ~~shall be~~ is guilty of a Class 4 felony, provided that in the event the destruction or damage may be remedied or repaired for ~~\$200~~ \$500 or less such act shall constitute a Class 3 misdemeanor. On electric generating property marked with no trespassing signs, the security personnel of a utility may detain a trespasser for a period not to exceed one hour pending the arrival of a law-enforcement officer.

Any person who shall intentionally destroy or damage any alumina refinery, a chemical, polymer, or rubber manufacturing facility, a transmission facility used by a federally licensed radio or television station, a steelmaking facility that uses an electric arc furnace to make steel, a facility identified and regulated by the U.S. Department of Homeland Security Chemical Facility Anti-Terrorism Standards (CFATS) program, a dam that is regulated by the Commonwealth or federal government, or a port, a railroad switching yard, railroad tracks, a trucking terminal, or other freight transportation facility is guilty of a Class 4 felony, provided that in the event the destruction or damage may be remedied or repaired for \$500 or less such act shall constitute a Class 3 misdemeanor. On electric generating property marked with no trespassing signs, the security personnel of a utility may detain a trespasser for a period not to exceed one hour pending the arrival of a law-enforcement officer.

Notwithstanding any other provisions of this title, any person who shall intentionally destroy or damage, or attempt to destroy or damage, any such facility, equipment, or material connected therewith, the destruction or damage of which might, in any manner, threaten the release of radioactive materials or ionizing radiation beyond the areas in which they are normally used or contained, ~~shall be~~ is guilty of a Class 4 felony, provided that in the event the destruction or damage results in the death of another due to exposure to radioactive materials or ionizing radiation, such person ~~shall be~~ is guilty of a Class 2 felony; provided further, that in the event the destruction or damage results in injury to another, such person ~~shall be~~ is guilty of a Class 3 felony.

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.