

21100723D

HOUSE BILL NO. 1791

Offered January 13, 2021

Prefiled January 1, 2021

A BILL to amend and reenact §§ 18.2-57 and 18.2-60 of the Code of Virginia, relating to assault and battery or threats of bodily injury; sports official; penalty.

Patron—McNamara

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-57 and 18.2-60 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-57. Assault and battery; penalty.

A. Any person who commits a simple assault or assault and battery is guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, gender, disability, gender identity, sexual orientation, color, or national origin, the penalty upon conviction shall include a term of confinement of at least six months.

B. However, if a person intentionally selects the person against whom an assault and battery resulting in bodily injury is committed because of his race, religious conviction, gender, disability, gender identity, sexual orientation, color, or national origin, the person is guilty of a Class 6 felony, and the penalty upon conviction shall include a term of confinement of at least six months.

C. In addition, if any person commits an assault or an assault and battery against another knowing or having reason to know that such other person is a judge, a magistrate, a law-enforcement officer as defined in subsection F G, a correctional officer as defined in § 53.1-1, a person directly involved in the care, treatment, or supervision of inmates in the custody of the Department of Corrections or an employee of a local or regional correctional facility directly involved in the care, treatment, or supervision of inmates in the custody of the facility, a person directly involved in the care, treatment, or supervision of persons in the custody of or under the supervision of the Department of Juvenile Justice, an employee or other individual who provides control, care, or treatment of sexually violent predators committed to the custody of the Department of Behavioral Health and Developmental Services, a firefighter as defined in § 65.2-102, or a volunteer firefighter or any emergency medical services personnel member who is employed by or is a volunteer of an emergency medical services agency or as a member of a bona fide volunteer fire department or volunteer emergency medical services agency, regardless of whether a resolution has been adopted by the governing body of a political subdivision recognizing such firefighters or emergency medical services personnel as employees, engaged in the performance of his public duties anywhere in the Commonwealth, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of six months.

Nothing in this subsection shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

D. In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time employee of any public or private elementary or secondary school and is engaged in the performance of his duties as such, he such person is guilty of a Class 1 misdemeanor and the sentence of such person upon conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory minimum term of confinement. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to § 18.2-308.1, the such person shall serve a mandatory minimum sentence of confinement of six months.

E. In addition, any person who commits a battery against another knowing or having reason to know that such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the performance of his duties in a hospital or in an emergency room on the premises of any clinic or other facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall be a mandatory minimum term of confinement.

F. In addition, if any person commits a simple assault or assault and battery against another knowing or having reason to know that such other person is a sports official who is (i) engaged in the performance of his duties as such during a sports event or (ii) on the premises where a sports event is held immediately preceding or following a sports event, such person is guilty of a Class 1 misdemeanor.

INTRODUCED

HB1791

59 *The sentence of such person, upon conviction, shall include a mandatory minimum fine of \$500 and*
60 *such person shall be prohibited from coming within 50 feet of the premises where any sports event is*
61 *held in the Commonwealth an hour prior to the beginning of the sports event, during the sports event,*
62 *and an hour following the conclusion of the sports event for one year.*

63 G. As used in this section:

64 "Disability" means a physical or mental impairment that substantially limits one or more of a
65 person's major life activities.

66 "Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.) of
67 Title 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

68 "Judge" means any justice or judge of a court of record of the Commonwealth including a judge
69 designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore
70 under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers'
71 Compensation Commission, and any judge of a district court of the Commonwealth or any substitute
72 judge of such district court.

73 "Law-enforcement officer" means any full-time or part-time employee of a police department or
74 sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof
75 who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or
76 highway laws of the Commonwealth, any conservation officer of the Department of Conservation and
77 Recreation commissioned pursuant to § 10.1-115, any special agent of the Virginia Alcoholic Beverage
78 Control Authority, conservation police officers appointed pursuant to § 29.1-200, full-time sworn
79 members of the enforcement division of the Department of Motor Vehicles appointed pursuant to
80 § 46.2-217, and any employee with internal investigations authority designated by the Department of
81 Corrections pursuant to subdivision 11 of § 53.1-10, and such officer also includes jail officers in local
82 and regional correctional facilities, all deputy sheriffs, whether assigned to law-enforcement duties, court
83 services or local jail responsibilities, auxiliary police officers appointed or provided for pursuant to
84 §§ 15.2-1731 and 15.2-1733, auxiliary deputy sheriffs appointed pursuant to § 15.2-1603, police officers
85 of the Metropolitan Washington Airports Authority pursuant to § 5.1-158, and fire marshals appointed
86 pursuant to § 27-30 when such fire marshals have police powers as set out in §§ 27-34.2 and 27-34.2:1.

87 "School security officer" means the same as that term is defined in § 9.1-101.

88 "*Sports event*" means any athletic activity organized by a local government department or agency,
89 any interscholastic or intramural athletic activity at any public, private, or religious elementary, middle,
90 or high school or any intercollegiate or intramural athletic activity at any institution of higher
91 education, any organized athletic activity sponsored by a community, business, or nonprofit
92 organization, any athletic activity that is a professional or semiprofessional event, or any other
93 organized athletic activity in the Commonwealth.

94 "*Sports official*" means a person at a sports event who enforces the rules of the sports event,
95 supervises the participants in a sports event, or organizes the sports event, including an umpire, referee,
96 line judge, coach, trainer, equipment manager, or tournament director.

97 ~~G. H.~~ "Simple assault" or "assault and battery" shall not be construed to include the use of, by any
98 school security officer or full-time or part-time employee of any public or private elementary or
99 secondary school while acting in the course and scope of his official capacity, any of the following: (i)
100 incidental, minor or reasonable physical contact or other actions designed to maintain order and control;
101 (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a
102 disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and
103 necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and
104 necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain
105 possession of weapons or other dangerous objects or controlled substances or associated paraphernalia
106 that are upon the person of the student or within his control.

107 In determining whether a person was acting within the exceptions provided in this subsection, due
108 deference shall be given to reasonable judgments that were made by a school security officer or
109 full-time or part-time employee of any public or private elementary or secondary school at the time of
110 the event.

111 **§ 18.2-60. Threats of death or bodily injury to a person or member of his family; threats of**
112 **death or bodily injury to persons on school property; threats of death or bodily injury to a health**
113 **care provider or sports official; penalty.**

114 A. 1. Any person who knowingly communicates, in a writing, including an electronically transmitted
115 communication producing a visual or electronic message, a threat to kill or do bodily injury to a person,
116 regarding that person or any member of his family, and the threat places such person in reasonable
117 apprehension of death or bodily injury to himself or his family member, is guilty of a Class 6 felony.
118 However, any person who violates this subsection with the intent to commit an act of terrorism as
119 defined in § 18.2-46.4 is guilty of a Class 5 felony.

120 2. Any person who communicates a threat, in a writing, including an electronically transmitted

121 communication producing a visual or electronic message, to kill or do bodily harm, (i) on the grounds
122 or premises of any elementary, middle or secondary school property, (ii) at any elementary, middle or
123 secondary school-sponsored event or (iii) on a school bus to any person or persons, regardless of
124 whether the person who is the object of the threat actually receives the threat, and the threat would
125 place the person who is the object of the threat in reasonable apprehension of death or bodily harm, is
126 guilty of a Class 6 felony.

127 B. Any person who orally makes a threat to kill or to do bodily injury to (i) any employee of any
128 elementary, middle or secondary school, while on a school bus, on school property or at a
129 school-sponsored activity or; (ii) any health care provider as defined in § 8.01-581.1 who is engaged in
130 the performance of his duties in a hospital as defined in § 18.2-57 or in an emergency room on the
131 premises of any clinic or other facility rendering emergency medical care, unless the person is on the
132 premises of the hospital or emergency room of the clinic or other facility rendering emergency medical
133 care as a result of an emergency custody order pursuant to § 37.2-808, involuntary temporary detention
134 order pursuant to § 37.2-809, involuntary hospitalization order pursuant to § 37.2-817, or emergency
135 custody order of a conditionally released acquittee pursuant to § 19.2-182.9; or (iii) any sports official
136 as defined in § 18.2-57 who is engaged in the performance of his duties as such during a sports event
137 as defined in § 18.2-57 or on the premises where a sports event is held immediately preceding or
138 following the sports event is guilty of a Class 1 misdemeanor.

139 A prosecution pursuant to this section may be either in the county, city or town in which the
140 communication was made or received or in the City of Richmond if venue cannot otherwise be
141 established and the person threatened is one of the following officials or employees of the
142 Commonwealth and such official or employee was threatened while engaged in the performance of his
143 public duties or because of his position with the Commonwealth: the Governor, Governor-elect,
144 Lieutenant Governor, Lieutenant Governor-elect, Attorney General, or Attorney General-elect, a member
145 or employee of the General Assembly, a justice of the Supreme Court of Virginia, or a judge of the
146 Court of Appeals of Virginia.