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HOUSE BILL NO. 1198

Offered January 17, 2022

A *BILL to amend and reenact § 2.2-511 of the Code of Virginia, relating to Attorney General; instituting or conducting criminal prosecutions for certain acts of violence.*

Patrons—Bell, Austin, Ballard, Brewer, Cordoza, Fowler, Head, Hodges, Kilgore, LaRock, March, Morefield, Orrock, Tata, Taylor, Walker, Wiley, Williams and Wyatt

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-511 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-511. Criminal cases.

A. Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving (i) violations of the Alcoholic Beverage Control Act (§ 4.1-100 et seq.), (ii) violation of laws relating to elections and the electoral process as provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state bureau, institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws involving child pornography and sexually explicit visual material involving children, (vii) the practice of law without being duly authorized or licensed or the illegal practice of law, (viii) violations of § 3.2-4212 or 58.1-1008.2, (ix) *any of the following violations of Chapter 4 (§ 18.2-30 et seq.) or Chapter 5 (§ 18.2-77 et seq.) of Title 18.2 when such prosecution is requested by the sheriff or chief of police investigating the violation: (a) first and second degree murder and voluntary manslaughter under Article 1 (§ 18.2-30 et seq.) of Chapter 4, (b) mob-related felonies under Article 2 (§ 18.2-38 et seq.) of Chapter 4, (c) terrorism offenses under Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4, (d) criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.) of Chapter 4, or (e) arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony violation of § 18.2-79, (x) with the concurrence of the local attorney for the Commonwealth, violations of the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), ~~(xi)~~ (xi) with the concurrence of the local attorney for the Commonwealth, violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), ~~(xii)~~ (xii) with the concurrence of the local attorney for the Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law listed in clause ~~(x)~~ (xi) of this subsection, ~~(xii)~~ (xiii) with the concurrence of the local attorney for the Commonwealth, criminal violations by Medicaid providers or their employees in the course of doing business, or violations of Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, in which cases the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may institute proceedings by information, presentment or indictment, as appropriate, and conduct the same, ~~(xiii)~~ (xiv) with the concurrence of the local attorney for the Commonwealth, violations of Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2, ~~(xiv)~~ (xv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of §§ 18.2-186.3 and 18.2-186.4, ~~(xv)~~ (xvi) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of § 18.2-46.2, 18.2-46.3, or 18.2-46.5 when such violations are committed on the grounds of a state correctional facility, and ~~(xvi)~~ (xvii) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2. *The Attorney General shall give notice to the local attorney for the Commonwealth where such violation occurred of his intent to institute or conduct a criminal prosecution as provided by clause (ix) 30 days prior to instituting or conducting such criminal prosecution.**

In all other criminal cases in the circuit courts, except where the law provides otherwise, the authority of the Attorney General to appear or participate in the proceedings shall not attach unless and until a notice of appeal has been filed with the clerk of the circuit court noting an appeal to the Court of Appeals or the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in which the Commonwealth is a party or is directly interested, the Attorney General shall appear and represent the Commonwealth, unless, and with the consent of the Attorney General, the attorney for the Commonwealth who prosecuted the underlying criminal case files a notice of appearance to represent the Commonwealth in any such appeal.

B. The Attorney General shall, upon request of a person who was the victim of a crime and subject to such reasonable procedures as the Attorney General may require, ensure that such person is given

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58 notice of the filing, of the date, time and place and of the disposition of any appeal or habeas corpus
59 proceeding involving the cases in which such person was a victim. For the purposes of this section, a
60 victim is an individual who has suffered physical, psychological or economic harm as a direct result of
61 the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim;
62 or a spouse, child, parent or legal guardian of a victim of a homicide. Nothing in this subsection shall
63 confer upon any person a right to appeal or modify any decision in a criminal, appellate or habeas
64 corpus proceeding; abridge any right guaranteed by law; or create any cause of action for damages
65 against the Commonwealth or any of its political subdivisions, the Attorney General or any of his
66 employees or agents, any other officer, employee or agent of the Commonwealth or any of its political
67 subdivisions, or any officer of the court.