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HOUSE BILL NO. 1797

Offered January 8, 1997

A BILL to amend and reenact § 18.2-51.1 of the Code of Virginia, relating to malicious bodily injury to law-enforcement officers; penalty.

Patrons—Grayson, Barlow, Behm, Bennett, Bryant, Christian, Cooper, Councill, Johnson, Shuler, Wagner and Weatherholtz; Senator: Norment

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-51.1 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-51.1. Malicious bodily injury to law-enforcement officers; penalty; lesser included offense.

If any person maliciously causes bodily injury to another by any means including the means set out in § 18.2-52, with intent to maim, disfigure, disable or kill, and knowing or having reason to know that such other person is a law-enforcement officer, as defined hereinafter, engaged in the performance of his public duties as a law-enforcement officer, such person shall be guilty of a ~~Class 3~~ felony; *punishable by imprisonment for a period of not less than five years nor more than thirty years and, subject to subdivision (g) of § 18.2-10, a fine of not more than \$100,000 and, upon*. Upon conviction, the sentence of such person shall include a mandatory, minimum term of imprisonment of two years.

If any person unlawfully, but not maliciously, with the intent aforesaid, causes bodily injury to another by any means, knowing or having reason to know such other person is a law-enforcement officer as defined hereinafter, engaged in the performance of his public duties as a law-enforcement officer, he shall be guilty of a Class 6 felony, and upon conviction, the sentence of such person shall include a mandatory, minimum term of imprisonment of one year.

Nothing in this section 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.

As used in this section the term "mandatory, minimum" means that the sentence it describes shall be served with no suspension of sentence in whole or in part.

As used in this section a "law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of this Commonwealth; any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; and ~~includes~~ auxiliary police officers appointed or provided for pursuant to §§ 15.1-159.2 and 15.1-159.4 and auxiliary deputy sheriffs appointed pursuant to § 15.1-48.

The provisions of § 18.2-51 shall be deemed to provide a lesser included offense hereof.

2. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$ 0.

INTRODUCED

HB1797