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## HOUSE BILL NO. 1840

Offered January 8, 1997

A BILL to amend and reenact §§ 8.01-42.1, 18.2-57, 18.2-127, 18.2-423 and 18.2-423.1 of the Code of Virginia, relating to hate crimes and offenses; penalty.

Patron—Robinson

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.01-42.1, 18.2-57, 18.2-127, 18.2-423 and 18.2-423.1 of the Code of Virginia are amended and reenacted as follows:**

§ 8.01-42.1. Civil action for racial, religious, or ethnic harassment, violence or vandalism.

A. An action for injunctive relief or civil damages, or both, shall lie for any person who is subjected to acts of (i) intimidation or harassment or (ii) violence directed against his person; or (iii) vandalism directed against his real or personal property, where such acts are motivated by racial, religious, or ethnic animosity in whole or in part by the actor's perception or belief of the person's race, religion or ethnicity, whether or not the belief or perception is correct.

B. Any aggrieved party who initiates and prevails in an action authorized by this section shall be entitled to damages, including punitive damages, and in the discretion of the court to an award of the cost of the litigation and reasonable attorneys' fees in an amount to be fixed by the court.

C. The provisions of this section shall not apply to any actions between an employee and his employer, or between or among employees of the same employer, for damages arising out of incidents occurring in the workplace or arising out of the employee-employer relationship.

§ 18.2-57. Assault and battery.

Any person who ~~shall commit a simple~~ commits an assault or assault and battery shall be guilty of a Class 1 misdemeanor. However, if a person intentionally selects the person against whom the offense is committed because of his race, religious conviction, color or national origin in whole or in part because of the offender's perception or belief regarding the race, religious conviction, color or national origin of the victim, whether or not the belief or perception is correct, the penalty upon conviction shall include a mandatory, minimum term of confinement of at least six months, thirty days of which shall not be suspended, in whole or in part.

§ 18.2-127. Injuries to churches, church property, cemeteries, burial grounds, etc.; penalty.

A. Any person who willfully or maliciously commits any of the following acts is guilty of a Class 1 misdemeanor:

1. Destroys, removes, cuts, breaks, or injures any tree, shrub, or plant on any church property or within any cemetery or lot of any memorial or monumental association;

2. Destroys, mutilates, injures, or removes and carries away any flowers, wreaths, vases, or other ornaments placed within any church or on church property, or placed upon or around any grave, tomb, monument, or lot in any cemetery, graveyard, or other place of burial; or

3. Obstructs proper ingress to and egress from any church or any cemetery or lot belonging to any memorial or monumental association.

B. Any person who willfully or maliciously destroys, mutilates, defaces, injures, or removes any object or structure permanently attached or affixed within any church or on church property, any tomb, monument, gravestone, or other structure placed within any cemetery, graveyard, or place of burial, or within any lot belonging to any memorial or monumental association, or any fence, railing, or other work for the protection or ornament of any tomb, monument, gravestone, or other structure aforesaid, or of any cemetery lot within any cemetery is guilty of a Class 6 felony.

C. This section shall not apply to any work which is done by the authorities of a church or congregation in the maintenance or improvement of any church property or any burial ground or cemetery belonging to it and under its management or control and which does not injure or result in the removal of a tomb, monument, gravestone, grave marker or vault. For purposes of this section, "church" shall mean any place of worship, and "church property" shall mean any educational building or community center owned or rented by a church.

D. If any person in violation of section A or B hereof intentionally selects the place of worship or its property against which the offense is committed in whole or in part because of his perception or belief regarding the predominant race, religious conviction, color or national origin of members of the congregation, whether or not his perception or belief is correct, the penalty upon conviction shall include a mandatory minimum term of confinement of twelve months, six months of which shall not be

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60 *suspended, in whole or in part.*

61 § 18.2-423. Burning cross with intent to intimidate; penalty; prima facie evidence of intent.

62 It shall be unlawful for any person or persons, with the intent of intimidating any person or group of  
63 persons, to burn *a cross*; or cause *a cross* to be burned; ~~a cross on the property of another, a highway or~~  
64 ~~other public place on any public or private property.~~ Any person who shall violate any provision  
65 violation of this section ~~shall be guilty of~~ *is* a Class 6 felony.

66 Any such burning of a cross shall be prima facie evidence of an intent to intimidate a person or  
67 group of persons.

68 § 18.2-423.1. Placing swastika with intent to intimidate; penalty; prima facie evidence of intent.

69 It shall be unlawful for any person or persons, with the intent of intimidating another person or  
70 group of persons, to place or cause to be placed a swastika on any ~~church, synagogue or other building~~  
71 ~~or place used for religious worship, or on any school, educational facility or community center owned or~~  
72 ~~operated by a church or religious body~~ *public or private property.*

73 A violation of this section shall be punishable as a Class 6 felony.

74 For the purposes of this section, any such placing of a swastika shall be prima facie evidence of an  
75 intent to intimidate another person or group of persons.

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