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## HOUSE BILL NO. 1866

Offered January 8, 1997

A BILL to amend and reenact § 18.2-282 of the Code of Virginia, relating to assaults against a police officer and brandishing a firearm or object similar in appearance at a police officer; penalty.

Patron—Moore

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That § 18.2-282 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-57.1. Assault and battery against law-enforcement officers; penalty; lesser included offenses.

If any person commits an assault or an assault and battery against another by the shooting of any pistol, shotgun, rifle or other firearm, 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 4 misdemeanor and, upon conviction, the sentence of such person shall include a mandatory, minimum term of confinement in jail for six months 6 felony.

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, and no probation being given by the court.

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.

Assault and assault and battery shall be deemed to be lesser included offenses hereof.

§ 18.2-282. Pointing, holding, or brandishing firearm or object similar in appearance; penalty.

A. It shall be unlawful for any person to point, hold or brandish any firearm, as hereinafter described, or any object similar in appearance to a firearm, whether capable of being fired or not, in such manner as to reasonably induce fear in the mind of another or hold a firearm in a public place in such a manner as to reasonably induce fear in the mind of another of being shot or injured. However, this section shall not apply to any person engaged in excusable or justifiable self-defense. Persons violating the provisions of this section shall be guilty of a Class 1 misdemeanor or, if the violation occurs upon any public, private or parochial elementary, middle or high school, including buildings and grounds or upon public property within 1,000 feet of such school property, he shall be guilty of a Class 6 felony.

A1. It shall be unlawful for any person to point, hold or brandish any firearm, or any object similar in appearance to a firearm, whether capable of being fired or not, in such manner as to reasonably induce fear in the mind of a police officer who is in the performance of his duties or hold a firearm in a public place in such a manner as to reasonably induce fear in the mind of such police officer of being shot or injured. Any person violating the provisions of this section shall be guilty of a Class 6 felony.

B. Any police officer in the performance of his duty, in making an arrest under the provisions of this section, shall not be civilly liable in damages for injuries or death resulting to the person being arrested if he had reason to believe that the person being arrested was pointing, holding, or brandishing such firearm, or object which was similar in appearance to a firearm, with intent to induce fear in the mind of another.

C. For purposes of this section, the word "firearm" shall mean any weapon in which ammunition may be used or discharged by explosion or pneumatic pressure. The word "ammunition," as used herein, shall mean a cartridge, pellet, ball, missile or projectile adapted for use in a firearm.

**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 \$500,000.**

INTRODUCED

HB1866