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HOUSE BILL NO. 1907

Offered January 8, 1997

A BILL to amend and reenact § 18.2-57.1 of the Code of Virginia, relating to assault and battery against law-enforcement officer; penalty.

Patrons—McDonnell, Albo, Cantor, Cox and Mims

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-57.1 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.

Any person who commits a simple assault or assault and battery against another person, 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, shall be guilty of a Class 1 misdemeanor and, upon conviction, the sentence of such person shall include a mandatory, minimum term of confinement for six months, thirty days of which shall not be suspended, in whole or in part.

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 1 ~~misdemeanor~~ 6 felony and, upon conviction, the sentence of such person shall include a mandatory, minimum term of confinement ~~in jail~~ for six months.

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 *person who is a 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.

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 \$250,000.

INTRODUCED

HB1907