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SENATE BILL NO. 495

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 17, 1997)

(Patron Prior to Substitute—Senator Earley)

A BILL to amend and reenact §§ 18.2-31 and 18.2-51.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-32.1, relating to murder or wounding of a pregnant woman; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-31 and 18.2-51.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-32.1 as follows:

§ 18.2-31. Capital murder defined; punishment.

The following offenses shall constitute capital murder, punishable as a Class 1 felony:

1. The willful, deliberate, and premeditated killing of any person in the commission of abduction, as defined in § 18.2-48, when such abduction was committed with the intent to extort money or a pecuniary benefit or with the intent to defile the victim of such abduction;

2. The willful, deliberate, and premeditated killing of any person by another for hire;

3. The willful, deliberate, and premeditated killing of any person by a prisoner confined in a state or local correctional facility as defined in § 53.1-1, or while in the custody of an employee thereof;

4. The willful, deliberate, and premeditated killing of any person in the commission of robbery or attempted robbery;

5. The willful, deliberate, and premeditated killing of any person in the commission of, or subsequent to, rape or attempted rape, forcible sodomy or attempted forcible sodomy or object sexual penetration;

6. The willful, deliberate, and premeditated killing of a law-enforcement officer as defined in § 9-169 (9) when such killing is for the purpose of interfering with the performance of his official duties;

7. The willful, deliberate, and premeditated killing of more than one person as a part of the same act or transaction;

8. The willful, deliberate, and premeditated killing of more than one person within a three-year period; and

9. The willful, deliberate, and premeditated killing of any person in the commission of or attempted commission of a violation of § 18.2-248, involving a Schedule I or II controlled substance, when such killing is for the purpose of furthering the commission or attempted commission of such violation; and

10. The willful, deliberate and premeditated killing of a pregnant woman by one who knows that the woman is pregnant and has the intent to cause the involuntary termination of the woman's pregnancy without a live birth.

If any one or more subsections, sentences, or parts of this section shall be judged unconstitutional or invalid, such adjudication shall not affect, impair, or invalidate the remaining provisions thereof but shall be confined in its operation to the specific provisions so held unconstitutional or invalid.

§ 18.2-32.1. Murder of a pregnant woman; penalty.

The willful and deliberate killing of a pregnant woman without premeditation by one who knows that the woman is pregnant and has the intent to cause the involuntary termination of the woman's pregnancy without a live birth shall be punished by a term of imprisonment of not less than ten years nor more than forty years.

§ 18.2-51.2. Aggravated malicious wounding; penalty.

A. If any person maliciously shoots, stabs, cuts or wounds any other person, or by any means causes bodily injury, with the intent to maim, disfigure, disable or kill, he shall be guilty of a Class 2 felony if the victim is thereby severely injured and is caused to suffer permanent and significant physical impairment.

B. If any person maliciously shoots, stabs, cuts or wounds any other woman who is pregnant, or by any other means causes bodily injury, with the intent to maim, disfigure, disable or kill the pregnant woman or to cause the involuntary termination of her pregnancy, he shall be guilty of a Class 2 felony if the victim is thereby severely injured and is caused to suffer permanent and significant physical impairment.

C. For purposes of this section, the involuntary termination of a woman's pregnancy shall be deemed a severe injury and a permanent and significant physical impairment.

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.