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SENATE BILL NO. 601

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on December 20, 1996)

(Patron Prior to Substitute—Senator Waddell)

A BILL to amend and reenact §§ 18.2-51.1 and 18.2-57.1 of the Code of Virginia, relating to injury to public safety officials; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-51.1 and 18.2-57.1 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-51.1. Malicious bodily injury to law-enforcement officers or firefighters; 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, *or firefighter, as defined in § 65.2-102*, engaged in the performance of his public duties as a law-enforcement officer *or firefighter*, such person shall be guilty of a Class 3 felony, and, 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, *or firefighter, as defined in § 65.2-102*, engaged in the performance of his public duties as a law-enforcement officer *or firefighter*, 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.

§ 18.2-57.1. Assault and battery against law-enforcement officers or firefighters; 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, *or firefighter, as defined in § 65.2-102*, engaged in the performance of his public duties as a law-enforcement officer *or firefighter*, such person shall be guilty of a Class 1 misdemeanor 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 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

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60 is \$0.