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SENATE BILL NO. 793

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice)

(Patrons Prior to Substitute—Senators Lucas and Earley [SB 1185])

Senate Amendments in [] — February 4, 1997

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

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.

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 and, upon conviction, the sentence of such person shall include a mandatory, minimum term of confinement in jail for six months. A person shall be guilty of a Class 6 felony if he commits an assault or an assault and battery against another (i) using a weapon as defined in subsection A of §18.2-308 or (ii) with a motor vehicle, by willfully and wantonly endangering the life of another person, knowing or having reason to believe that such other person is a law-enforcement officer, as defined hereinafter, engaged in the performance of his duties. Nothing in this section shall preclude a prosecution under any other provision of law.

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, those officers so defined in § 9-169 of the Code of Virginia,] 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 \$

ENGROSSED

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