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HOUSE BILL NO. 98

Offered January 14, 1998

Prefiled January 13, 1998

A BILL to amend and reenact § 18.2-51.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-57.1:1, relating to injuring or disarming a law-enforcement officer; penalty.

Patrons—Parrish, Callahan and Sherwood; Senator: Barry

Referred to Committee on Militia and Police

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-51.1 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 18.2-57.1:1 as follows:

§ 18.2-51.1. Malicious and reckless 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 felony punishable by imprisonment for a period of not less than five years nor more than thirty years and, subject to subdivision (g) of § 18.2-10, a fine of not more than \$100,000. 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.

If any person recklessly 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, with the intent to impede or prevent the officer or firefighter from performing his duties, he shall be guilty of a Class 1 misdemeanor.

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.

§ 18.2-57.1:1. *Disarming a law-enforcement officer; penalty.*

Any individual who knows or has reason to know a person is a law-enforcement officer engaged in the performance of his public duties and, with the intent to impede or prevent the officer from performing his duties, knowingly and without the permission of the officer (i) removes a firearm from the possession of the officer or deprives the officer of the use of the firearm is guilty of a Class 6 felony or (ii) removes a chemical irritant weapon, stun weapon or impact weapon from the possession of the officer or deprives the officer of the use of the weapon is guilty of a Class 1 misdemeanor.

Any sentence of confinement imposed upon a conviction of this section shall be served consecutively with any other term of confinement imposed upon the offender.

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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HB98

60 is \$ 250,000.