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HOUSE BILL NO. 2559

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 21, 1999)

(Patron Prior to Substitute—Delegate Reid)

A BILL to amend and reenact § 8.01-42.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-1812.1, relating to action for vandalism to monuments.

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-42.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-1812.1 as follows:

§ 8.01-42.1. Civil action for racial, religious, or ethnic harassment, violence or vandalism.

A. An action for injunctive relief or civil damages, or both, shall lie for any person who is subjected to acts of (i) intimidation or harassment or (ii) violence directed against his person; ~~or~~ (iii) vandalism directed against his real or personal property, where such acts are motivated by racial, religious, or ethnic animosity; or (iv) vandalism, violence, or removal directed at, or placement of, statues, monuments or markings other than those actions described in § 15.2-1812 that are directed against any veterans' monuments or memorials where such acts are motivated by animosity or intent to incite racial prejudice pursuant to § 15.2-1812.1.

B. Any aggrieved party who initiates and prevails in an action authorized by this section shall be entitled to damages, including punitive damages, and in the discretion of the court to an award of the cost of the litigation and reasonable attorneys' fees in an amount to be fixed by the court.

C. The provisions of this section shall not apply to any actions between an employee and his employer, or between or among employees of the same employer, for damages arising out of incidents occurring in the workplace or arising out of the employee-employer relationship.

§ 15.2-1812.1. Action for injury resulting from damage to memorials for war veterans.

Any person or organization aggrieved by reason of a violation of, or encroachment upon, memorials for war veterans covered by § 15.2-1812 or noncompliance with the responsibility for the restitution for injury, or intentional injury to any property, memorial or monument covered by § 18.2-137, may sue and recover damages necessary for the purposes of rebuilding, repairing, preserving, and restoring such memorials, property, and monuments or markers to pre-encroachment condition at the original location. Punitive damages also may be recovered for reckless, willful or wanton conduct resulting in the defacement, malicious destruction, removal or damage of property, monuments and memorials.

All damages shall be utilized for said purposes only. All accounts and expenditures shall be reviewed by the Treasurer of Virginia once a year. Any aggrieved party who initiates and prevails in an action authorized by this section shall be entitled to an award of the cost of the litigation, including reasonable attorneys' fees in an amount to be fixed by the court. The provisions of this section shall not be construed to limit any person's or organization's right to pursue any additional civil remedy otherwise allowed by law.

In reference to "all accounts and expenditures," all funds received shall be certified by the Comptroller by a yearly certified statement showing, in detail, investments, expenditures and all receipts therefor. The statement shall show the compensation, either by salary, bonus, or otherwise paid out, of any officer or employee thereof. Funds received for the purpose of rebuilding, repairing, preserving, or restoring said memorials, property and monuments or markers shall not be used to pay any officer or employee of an organization or individuals who receive said award by the court or jury. Any remainder shall be invested for the purpose of preservation or maintenance. The principal of investments shall be reserved for the purpose of restoration or maintenance and may not be used to pay salary, bonus or compensation of individuals or organizations entrusted with its care.

An action shall be commenced before the expiration of two years after the plaintiff discovers or reasonably should have discovered the last conviction of, dismissal, or act in the course of conduct constituting an encroachment or violation of § 15.2-1812 or § 18.2-137.