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SENATE BILL NO. 1128

Offered January 12, 2011

Prefiled January 11, 2011

A BILL to amend and reenact § 44-41.1 of the Code of Virginia, relating to Virginia National Guard; failure to report.

Patron—Stosch

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 44-41.1 of the Code of Virginia is amended and reenacted as follows:

§ 44-41.1. Failure to report; etc.

If any person, being an active member of the Virginia National Guard, in violation of valid orders, fails to initially report for annual active to his appointed place of duty at the appointed time of duty training under Title 32 of the United States Code or for state active duty, or having initially reported absents himself from his unit without leave, upon warrant issued, after hearing, by a summary court-martial, such person shall be taken into custody by military personnel of the Virginia National Guard, or by any State Police Officer or local law-enforcement officer listed in § 44-50, and be forthwith returned to his assigned unit by such military personnel, or held by the State Police or by such local law-enforcement officers until such time as he is taken into custody by military personnel. If taken into custody by the State Police or by local law-enforcement officers, he shall be afforded reasonable opportunity to make bail or recognizance as provided in Chapter 9 (§ 19.2-119 et seq.) of Title 19.2. In no case shall he be held in custody by the State Police or by such local law-enforcement officers in excess of twenty-four hours. Upon return to his assigned unit, such person shall be subject to disciplinary proceedings.

If any active member of the Virginia National Guard fails to report for scheduled inactive duty training, he may, in the same manner, be taken into custody and returned to his unit where he shall be subject to disciplinary proceedings he shall be guilty of a Class 4 misdemeanor. A warrant for such offense may be sworn by any officer of the unit to which the soldier or airman who failed to report, or absented himself, is assigned. Any such warrant shall be withdrawn upon the written request of the soldier or airman's commanding officer.

INTRODUCED

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