

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 18.2-57 of the Code of Virginia, relating to assault and battery of*
3 *Department of Corrections investigators; penalty.*

4 [H 1226]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 18.2-57 of the Code of Virginia is amended and reenacted as follows:**8 **§ 18.2-57. Assault and battery; penalty.**

9 A. Any person who commits a simple assault or assault and battery is guilty of a Class 1
10 misdemeanor, and if the person intentionally selects the person against whom a simple assault is
11 committed because of his race, religious conviction, color or national origin, the penalty upon conviction
12 shall include a term of confinement of at least six months, 30 days of which shall be a mandatory
13 minimum term of confinement.

14 B. However, if a person intentionally selects the person against whom an assault and battery resulting
15 in bodily injury is committed because of his race, religious conviction, color or national origin, the
16 person is guilty of a Class 6 felony, and the penalty upon conviction shall include a term of
17 confinement of at least six months, 30 days of which shall be a mandatory minimum term of
18 confinement.

19 C. In addition, if any person commits an assault or an assault and battery against another knowing or
20 having reason to know that such other person is a judge, a magistrate, a law-enforcement officer as
21 defined in subsection F, a correctional officer as defined in § 53.1-1, a person directly involved in the
22 care, treatment, or supervision of inmates in the custody of the Department of Corrections or an
23 employee of a local or regional correctional facility directly involved in the care, treatment, or
24 supervision of inmates in the custody of the facility, a person directly involved in the care, treatment, or
25 supervision of persons in the custody of or under the supervision of the Department of Juvenile Justice,
26 an employee or other individual who provides control, care, or treatment of sexually violent predators
27 committed to the custody of the Department of Behavioral Health and Developmental Services, a
28 firefighter as defined in § 65.2-102, or a volunteer firefighter or any emergency medical services
29 personnel member who is employed by or is a volunteer of an emergency medical services agency or as
30 a member of a bona fide volunteer fire department or volunteer emergency medical services agency,
31 regardless of whether a resolution has been adopted by the governing body of a political subdivision
32 recognizing such firefighters or emergency medical services personnel as employees, engaged in the
33 performance of his public duties anywhere in the Commonwealth, such person is guilty of a Class 6
34 felony, and, upon conviction, the sentence of such person shall include a mandatory minimum term of
35 confinement of six months.

36 Nothing in this subsection shall be construed to affect the right of any person charged with a
37 violation of this section from asserting and presenting evidence in support of any defenses to the charge
38 that may be available under common law.

39 D. In addition, if any person commits a battery against another knowing or having reason to know
40 that such other person is a full-time or part-time employee of any public or private elementary or
41 secondary school and is engaged in the performance of his duties as such, he is guilty of a Class 1
42 misdemeanor and the sentence of such person upon conviction shall include a sentence of 15 days in
43 jail, two days of which shall be a mandatory minimum term of confinement. However, if the offense is
44 committed by use of a firearm or other weapon prohibited on school property pursuant to § 18.2-308.1,
45 the person shall serve a mandatory minimum sentence of confinement of six months.

46 E. In addition, any person who commits a battery against another knowing or having reason to know
47 that such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the
48 performance of his duties as an emergency health care provider in an emergency room of a hospital or
49 clinic or on the premises of any other facility rendering emergency medical care is guilty of a Class 1
50 misdemeanor. The sentence of such person, upon conviction, shall include a term of confinement of 15
51 days in jail, two days of which shall be a mandatory minimum term of confinement.

52 F. As used in this section:

53 "Judge" means any justice or judge of a court of record of the Commonwealth including a judge
54 designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore
55 under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers'
56 Compensation Commission, and any judge of a district court of the Commonwealth or any substitute

57 judge of such district court.

58 (Effective until July 1, 2018) "Law-enforcement officer" means any full-time or part-time employee
 59 of a police department or sheriff's office that is part of or administered by the Commonwealth or any
 60 political subdivision thereof who is responsible for the prevention or detection of crime and the
 61 enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the
 62 Department of Conservation and Recreation commissioned pursuant to § 10.1-115, any special agent of
 63 the Department of Alcoholic Beverage Control, conservation police officers appointed pursuant to
 64 § 29.1-200, ~~and~~ full-time sworn members of the enforcement division of the Department of Motor
 65 Vehicles appointed pursuant to § 46.2-217, *and any employee with internal investigations authority*
 66 *designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10*, and such officer
 67 also includes jail officers in local and regional correctional facilities, all deputy sheriffs, whether
 68 assigned to law-enforcement duties, court services or local jail responsibilities, auxiliary police officers
 69 appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, auxiliary deputy sheriffs appointed
 70 pursuant to § 15.2-1603, police officers of the Metropolitan Washington Airports Authority pursuant to
 71 § 5.1-158, and fire marshals appointed pursuant to § 27-30 when such fire marshals have police powers
 72 as set out in §§ 27-34.2 and 27-34.2:1.

73 (Effective July 1, 2018) "Law-enforcement officer" means any full-time or part-time employee of a
 74 police department or sheriff's office that is part of or administered by the Commonwealth or any
 75 political subdivision thereof who is responsible for the prevention or detection of crime and the
 76 enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the
 77 Department of Conservation and Recreation commissioned pursuant to § 10.1-115, any special agent of
 78 the Virginia Alcoholic Beverage Control Authority, conservation police officers appointed pursuant to
 79 § 29.1-200, ~~and~~ full-time sworn members of the enforcement division of the Department of Motor
 80 Vehicles appointed pursuant to § 46.2-217, *and any employee with internal investigations authority*
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 85 pursuant to § 15.2-1603, police officers of the Metropolitan Washington Airports Authority pursuant to
 86 § 5.1-158, and fire marshals appointed pursuant to § 27-30 when such fire marshals have police powers
 87 as set out in §§ 27-34.2 and 27-34.2:1.

88 "School security officer" means an individual who is employed by the local school board for the
 89 purpose of maintaining order and discipline, preventing crime, investigating violations of school board
 90 policies and detaining persons violating the law or school board policies on school property, a school
 91 bus or at a school-sponsored activity and who is responsible solely for ensuring the safety, security and
 92 welfare of all students, faculty and staff in the assigned school.

93 G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any
 94 school security officer or full-time or part-time employee of any public or private elementary or
 95 secondary school while acting in the course and scope of his official capacity, any of the following: (i)
 96 incidental, minor or reasonable physical contact or other actions designed to maintain order and control;
 97 (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a
 98 disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and
 99 necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and
 100 necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain
 101 possession of weapons or other dangerous objects or controlled substances or associated paraphernalia
 102 that are upon the person of the student or within his control.

103 In determining whether a person was acting within the exceptions provided in this subsection, due
 104 deference shall be given to reasonable judgments that were made by a school security officer or
 105 full-time or part-time employee of any public or private elementary or secondary school at the time of
 106 the event.

107 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
 108 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0**
 109 **for periods of imprisonment in state adult correctional facilities and cannot be determined for**
 110 **periods of commitment to the custody of the Department of Juvenile Justice.**