

2020 SPECIAL SESSION I

HOUSE SUBSTITUTE

20201037D

HOUSE BILL NO. 5069

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on August 26, 2020)

(Patron Prior to Substitute—Delegate Carroll Foy)

A *BILL to amend the Code of Virginia by adding a section numbered 18.2-51.8, relating to law-enforcement officers; prohibition on the use of neck restraints; penalty.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-51.8 as follows:

§ 18.2-51.8. Prohibition on the use of neck restraints by law-enforcement officers; penalty.

A. *As used in this section, "neck restraint" means the use of any body part or object to attempt to control or disable a person by applying pressure against the neck, including the trachea or carotid artery, with the purpose, intent, or effect of controlling or restricting the person's movement or restricting the person's blood flow or breathing, including chokeholds, carotid restraints, and lateral vascular neck restraints.*

B. *Any law-enforcement officer, as defined in § 9.1-101, who uses a neck restraint in the performance of his official duties is guilty of a Class 6 felony.*

A violation of this section shall constitute a separate and distinct offense. If the acts or activities violating this section also violate another provision of law, a prosecution under this section shall not prohibit or bar any prosecution or proceeding under such other provision or the imposition of any penalties provided for thereby.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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