

20200899D

## SENATE BILL NO. 5056

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary  
on August 20, 2020)

(Patron Prior to Substitute—Senator Reeves [SBs 5057, 5058, 5059, 5060, 5061, and 5062])

*A BILL to amend and reenact §§ 18.2-405, 18.2-406, 18.2-407, 18.2-414, 18.2-414.1, 18.2-416, and 18.2-419 of the Code of Virginia, relating to crimes against peace and order; penalty.***Be it enacted by the General Assembly of Virginia:****1. That § 18.2-405, 18.2-406, 18.2-407, 18.2-414, 18.2-414.1, 18.2-416, and 18.2-419 of the Code of Virginia are amended and reenacted as follows:****§ 18.2-405. What constitutes a riot; penalty.**Any unlawful use, by three or more persons acting together, of force or violence ~~which~~ *that* seriously jeopardizes the public safety, peace, or order is riot.Every person convicted of participating in any riot ~~shall be~~ *is* guilty of a Class 1 misdemeanor. *If a person commits an act of violence, as defined in § 19.2-297.1, during a riot, he is guilty a Class 6 felony.*If such person carried *or possessed*, at the time of such riot, any firearm or other deadly or dangerous weapon, he ~~shall be~~ *is* guilty of a ~~Class 5 felony~~ *Class 4 felony*.**§ 18.2-406. What constitutes an unlawful assembly; penalty.**Whenever three or more persons assembled share the common intent to advance some lawful or unlawful purpose by the commission of an act or acts of unlawful force or violence likely to jeopardize seriously public safety, peace, or order, and the assembly actually tends to inspire persons of ordinary courage with well-grounded fear of serious and immediate breaches of public safety, peace, or order, then such assembly is an unlawful assembly. Every person who participates in any unlawful assembly ~~shall be~~ *is* guilty of a Class 1 misdemeanor. *If a person commits an act of violence, as defined in § 19.2-297.1, during an unlawful assembly, he is guilty of a Class 6 felony.* If any such person carried *or possessed*, at the time of his participation in an unlawful assembly, any firearm or other deadly or dangerous weapon, he ~~shall be~~ *is* guilty of a ~~Class 5 felony~~ *Class 4 felony*.**§ 18.2-407. Remaining at place of riot or unlawful assembly after warning to disperse; penalty.**Every person, except the owner or lessee of the premises, his family and nonrioting guests, and public officers and persons assisting them, who remains at the place of any riot or unlawful assembly after having been lawfully warned to disperse, ~~shall be~~ *is* guilty of a ~~Class 3 misdemeanor~~ *Class 1 misdemeanor*.**§ 18.2-414. Injury to property or persons by persons unlawfully or riotously assembled; penalty.**If any person or persons, unlawfully or riotously assembled, pull down, injure, or destroy, or begin to pull down, injure, or destroy any dwelling house or other building, or assist therein, or perpetrate any ~~premeditated~~ injury on the person of another, he ~~shall be~~ *is* guilty of a Class 6 felony. *But if such violation occurs during a state of emergency, as defined in § 44-146.16, then such person is guilty of a Class 4 felony.***§ 18.2-414.1. Obstructing emergency services personnel in performance of mission; penalty.**Any person who unreasonably or unnecessarily obstructs the delivery of emergency medical services *or fire protection services* by emergency medical services agency personnel *or fire protection services personnel*, whether governmental, private, or volunteer, or who fails or refuses to cease such obstruction or move on when requested to do so by emergency medical services personnel *or fire protection services personnel* going to or at the site at which emergency medical services *or fire protection services* are required is guilty of a ~~Class 2 misdemeanor~~ *Class 1 misdemeanor*.**§ 18.2-416. Punishment for using abusive language to another; penalty.**If any person ~~shall~~, in the presence or hearing of another, ~~curse~~ *curses* or ~~abuse~~ *abuses* such other person, or ~~use~~ *uses* any violent abusive language to such person concerning himself or any of his relations, or otherwise ~~use~~ *uses* such language, under circumstances reasonably calculated to provoke a breach of the peace, he ~~shall be~~ *is* guilty of a Class 3 misdemeanor.*The provisions of this section also apply to persons cursing or abusing law-enforcement officers or emergency personnel who are performing their assigned duties.***§ 18.2-419. Picketing or disrupting tranquility of home; penalty.**Any person who ~~shall engage~~ *engages* in picketing before or about the residence or dwelling place of any individual, or who ~~shall assemble~~ *assembles* with another person or persons in a manner ~~which~~ *that* disrupts or threatens to disrupt any individual's right to tranquility in his home, ~~shall be~~ *is* guilty of a ~~Class 3 misdemeanor~~ *Class 1 misdemeanor*. Each day on which a violation of this section occurs shall constitute a separate offense.

60 Nothing herein shall be deemed to prohibit (1) the picketing in any lawful manner, during a labor  
61 dispute, of the place of employment involved in such labor dispute; (2) the picketing in any lawful  
62 manner of a construction site; or (3) the holding of a meeting or assembly on any premises commonly  
63 used for the discussion of subjects of general public interest.

64 Notwithstanding the penalties herein provided, any court of general equity jurisdiction may enjoin  
65 conduct, or threatened conduct, proscribed by this article, and may in any such proceeding award  
66 damages, including punitive damages, against the persons found guilty of actions made unlawful by this  
67 section.

68 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
69 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**  
70 **necessary appropriation is \_\_\_\_\_ for periods of imprisonment in state adult correctional**  
71 **facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal**  
72 **Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of**  
73 **the Code of Virginia, the estimated amount of the necessary appropriation is \_\_\_\_\_ for periods**  
74 **of commitment to the custody of the Department of Juvenile Justice.**