

2021 SPECIAL SESSION I

HOUSE SUBSTITUTE

21104105D

HOUSE BILL NO. 2132

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 3, 2021)

(Patron Prior to Substitute—Delegate Roem)

A *BILL to amend the Code of Virginia by adding in Article 1 of Chapter 4 of Title 18.2 a section numbered 18.2-37.1 and by adding in Article 4 of Chapter 4 of Title 18.2 a section numbered 18.2-57.5, relating to homicides and assaults and bodily woundings; certain matters not to constitute defenses.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 4 of Title 18.2 a section numbered 18.2-37.1 and by adding in Article 4 of Chapter 4 of Title 18.2 a section numbered 18.2-57.5 as follows:

§ 18.2-37.1. *Certain matters not to constitute defenses.*

A. *Notwithstanding any other provision of law, the discovery of, perception of, or belief about another person's actual or perceived sex, gender, gender identity, or sexual orientation, whether or not accurate, is not a defense to any charge of capital murder, murder in the first degree, murder in the second degree, or voluntary manslaughter and is not provocation negating or excluding malice as an element of murder.*

B. *Nothing in this section shall be construed to prevent a defendant from exercising his constitutionally protected rights, including his right to call for evidence in his favor that is relevant and otherwise admissible in a criminal prosecution.*

§ 18.2-57.5. *Certain matters not to constitute defenses.*

A. *Notwithstanding any other provision of law, the discovery of, perception of, or belief about another person's actual or perceived sex, gender, gender identity, or sexual orientation, whether or not accurate, is not a defense to any charge brought under this article.*

B. *Nothing in this section shall be construed to prevent a defendant from exercising his constitutionally protected rights, including his right to call for evidence in his favor that is relevant and otherwise admissible in a criminal prosecution.*

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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