

SENATE BILL NO. 1353

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary

on _____)

(Patron Prior to Substitute--Senator Norment)

A BILL to amend and reenact §§ 18.2-53.1 and 18.2-308.1 of the Code of Virginia, relating to firearms-related offenses; mandatory minimum sentences; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-53.1 and 18.2-308.1 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-53.1. Use or display of firearm in committing felony; penalty.

It ~~shall be~~ is unlawful for any person to use or attempt to use any pistol, shotgun, rifle, or other firearm or display such weapon in a threatening manner while committing or attempting to commit murder, rape, forcible sodomy, inanimate or animate object sexual penetration as defined in § 18.2-67.2, robbery, carjacking, burglary, malicious wounding as defined in § 18.2-51, malicious bodily injury to a law-enforcement officer as defined in § 18.2-51.1, aggravated malicious wounding as defined in § 18.2-51.2, malicious wounding by mob as defined in § 18.2-41, or abduction. ~~Violation~~ A violation of this section shall be punishable as a Class 4 felony and constitute a separate and distinct felony and any person found guilty thereof shall be sentenced to a mandatory minimum term of imprisonment of three years for a first conviction, and to a mandatory minimum term of ~~five~~ 10 years for a second or subsequent conviction under the provisions of this section. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

§ 18.2-308.1. Possession of firearm, stun weapon, or other weapon on school property prohibited; penalty.

A. If any person knowingly possesses any (i) stun weapon as defined in this section; (ii) knife, except a pocket knife having a folding metal blade of less than three inches; or (iii) weapon, including a weapon of like kind, designated in subsection A of § 18.2-308, other than a firearm; upon (a) the property

27 of any child day center or public, private, or religious preschool, elementary, middle, or high school,
28 including buildings and grounds; (b) that portion of any property open to the public and then exclusively
29 used for school-sponsored functions or extracurricular activities while such functions or activities are
30 taking place; or (c) any school bus owned or operated by any such school, he is guilty of a Class 1
31 misdemeanor.

32 B. If any person knowingly possesses any firearm designed or intended to expel a projectile by
33 action of an explosion of a combustible material while such person is upon (i) the property of any child
34 day center or public, private, or religious preschool, elementary, middle, or high school, including
35 buildings and grounds; (ii) that portion of any property open to the public and then exclusively used for
36 school-sponsored functions or extracurricular activities while such functions or activities are taking place;
37 or (iii) any school bus owned or operated by any such school, he is guilty of a Class 6 felony.

38 C. If any person knowingly possesses any firearm designed or intended to expel a projectile by
39 action of an explosion of a combustible material within the building of a child day center or public, private,
40 or religious preschool, elementary, middle, or high school and intends to use, or attempts to use, such
41 firearm, or displays such weapon in a threatening manner, such person is guilty of a Class-~~6~~ 5 felony and
42 sentenced to a mandatory minimum term of imprisonment of ~~five~~ 10 years to be served consecutively with
43 any other sentence.

44 D. The child day center and private or religious preschool provisions of this section (i) shall apply
45 only during the operating hours of such child day center or private or religious preschool and (ii) shall not
46 apply to any person (a) whose residence is on the property of a child day center or a private or religious
47 preschool and (b) who possesses a firearm or other weapon prohibited under this section while in his
48 residence.

49 E. The exemptions set out in §§ 18.2-308 and 18.2-308.016 shall apply, mutatis mutandis, to the
50 provisions of this section. The provisions of this section shall not apply to (i) persons who possess such
51 weapon or weapons as a part of the school's curriculum or activities; (ii) a person possessing a knife
52 customarily used for food preparation or service and using it for such purpose; (iii) persons who possess
53 such weapon or weapons as a part of any program sponsored or facilitated by either the school or any

54 organization authorized by the school to conduct its programs either on or off the school premises; (iv)
55 any law-enforcement officer, or retired law-enforcement officer qualified pursuant to subsection C of §
56 18.2-308.016; (v) any person who possesses a knife or blade which he uses customarily in his trade; (vi)
57 a person who possesses an unloaded firearm or a stun weapon that is in a closed container, or a knife
58 having a metal blade, in or upon a motor vehicle, or an unloaded shotgun or rifle in a firearms rack in or
59 upon a motor vehicle; (vii) a person who has a valid concealed handgun permit and possesses a concealed
60 handgun or a stun weapon while in a motor vehicle in a parking lot, traffic circle, or other means of
61 vehicular ingress or egress to the school; (viii) a school security officer authorized to carry a firearm
62 pursuant to § 22.1-280.2:1; or (ix) an armed security officer, licensed pursuant to Article 4 (§ 9.1-138 et
63 seq.) of Chapter 1 of Title 9.1, hired by a child day center or a private or religious school for the protection
64 of students and employees as authorized by such school. For the purposes of this subsection, "weapon"
65 includes a knife having a metal blade of three inches or longer and "closed container" includes a locked
66 vehicle trunk.

67 F. Nothing in subsection E or any other provision of law shall be construed as providing an
68 exemption to the provisions of this section for a special conservator of the peace appointed pursuant to §
69 19.2-13, other than the specifically enumerated exemptions that apply to the general population as
70 provided in subsection E.

71 G. As used in this section:

72 "Child day center" means a child day center, as defined in § 22.1-289.02, that is licensed in
73 accordance with the provisions of Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1 and is not operated at
74 the residence of the provider or of any of the children.

75 "Stun weapon" means any device that emits a momentary or pulsed output, which is electrical,
76 audible, optical or electromagnetic in nature and which is designed to temporarily incapacitate a person.

77 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
78 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**
79 **appropriation is _____ for periods of imprisonment in state adult correctional facilities;**
80 **therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia**

81 Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-
82 19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is _____ for
83 periods of commitment to the custody of the Department of Juvenile Justice.

84 #