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HOUSE BILL NO. 1542

Offered February 1, 2000

A BILL to amend and reenact § 18.2-60.3 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-152.7:1, relating to harassment by computer; penalties.

Patron—O'Brien

Consent to introduce

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-60.3 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 18.2-152.7:1 as follows:

§ 18.2-60.3. Stalking; penalty.

A. Any person who on more than one occasion engages in conduct directed at another person with the intent to place, or with the knowledge that the conduct places, that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member shall be guilty of a Class 1 misdemeanor.

For purposes of this section, "conduct directed at another" includes, but is not limited to, any verbal or written threat, including that performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct made with the intent to place the person who is the target of the threat in reasonable fear for his safety or the safety of his family or household member so as to cause the person who is the target of the threat to reasonably fear for his safety or the safety of his family or household member.

For purposes of this section, the term "electronic communication device" includes, but is not limited to, telephones, cellular phones, computers, video recorders, fax machines, or pagers.

B. ~~A third~~ ~~or~~ Any subsequent conviction occurring within five years of a conviction for an offense under this section or for a similar offense under the law of any other jurisdiction shall be a Class 6 felony.

C. A person may be convicted under this section irrespective of the jurisdiction or jurisdictions within the Commonwealth wherein the conduct described in subsection A occurred, if the person engaged in that conduct on at least one occasion in the jurisdiction where the person is tried. Evidence of any such conduct which occurred outside the Commonwealth may be admissible, if relevant, in any prosecution under this section provided that the prosecution is based upon conduct occurring within the Commonwealth.

A person may be convicted under this section irrespective of whether he had the intent to actually carry out the threats prohibited in subsection A. The present incarceration of the person shall not be a bar to prosecution under this section.

D. Upon finding a person guilty under this section, the court shall, in addition to the sentence imposed, issue an order prohibiting contact between the defendant and the victim or the victim's family or household member.

E. The Department of Corrections, sheriff or regional jail director shall give notice prior to the release from a state correctional facility or a local or regional jail of any person incarcerated upon conviction of a violation of this section, to any victim of the offense who, in writing, requests notice, or to any person designated in writing by the victim. The notice shall be given at least fifteen days prior to release of a person sentenced to a term of incarceration of more than thirty days or, if the person was sentenced to a term of incarceration of at least forty-eight hours but no more than thirty days, twenty-four hours prior to release. If the person escapes, notice shall be given as soon as practicable following the escape. The victim shall keep the Department of Corrections, sheriff or regional jail director informed of the current mailing address and telephone number of the person named in the writing submitted to receive notice.

All information relating to any person who receives or may receive notice under this subsection shall remain confidential and shall not be made available to the person convicted of violating this section.

For purposes of this subsection, "release" includes a release of the offender from a state correctional facility or a local or regional jail (i) upon completion of his term of incarceration or (ii) on probation or parole.

No civil liability shall attach to the Department of Corrections nor to any sheriff or regional jail

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60 director or their deputies or employees for a failure to comply with the requirements of this subsection.

61 F. As used in this section the term "family or household member" shall have the same meaning as
62 provided in § 16.1-228.

63 § 18.2-152.7:1. *Harassment by computer.*

64 A. *If any person, with the intent to coerce, intimidate, or harass any person, shall use a computer or*
65 *computer network to communicate obscene, vulgar, profane, lewd, lascivious, or indecent language, or*
66 *make any suggestion or proposal of an obscene nature, or threaten any illegal or immoral act, he shall*
67 *be guilty of a Class 1 misdemeanor.*

68 B. *If any person shall use a computer or computer network to communicate obscene, vulgar, profane,*
69 *lewd, lascivious, or indecent language, or make any suggestion or proposal of an obscene nature, or*
70 *threaten any illegal or immoral act, to an individual he knows or believes to be a juvenile, he shall be*
71 *guilty of a Class 1 misdemeanor.*

72 C. *If any person, with the intent to coerce, intimidate, or harass any person, shall use a computer or*
73 *computer network to communicate the personal information of another without permission of the subject*
74 *of the information, he shall be guilty of a Class 1 misdemeanor.*

75 D. *Any second or subsequent violation of this section shall be a Class 6 Felony.*

76 **2. That the provisions of this act may result in a net increase in periods of imprisonment in state**
77 **correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation**
78 **is \$0 in FY 2010.**