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## SENATE BILL NO. 1151

Offered January 8, 2003

Prefiled January 8, 2003

*A BILL to amend and reenact §§ 18.2-371, 18.2-371.1, and 40.1-103 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-51.5 and by adding in Article 3 of Chapter 12 of Title 18.2 a section numbered 18.2-510.1, relating to protection of infants; penalty.*

Patrons—Stolle, Blevins and Rerras

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-371, 18.2-371.1, and 40.1-103 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by a adding section numbered 18.2-51.5 and by adding in Article 3 of Chapter 12 of Title 18.2 a section numbered 18.2-510.1 as follows:**

*§ 18.2-51.5. Death or bodily injury of child in utero; penalty.*

*A. Any person, other than the mother of the child, who willfully, deliberately, and intentionally engages in unlawful conduct that causes the death of, or permanent, serious bodily injury to a child who is in utero at the time the conduct occurs is guilty of a Class 2 felony.*

*B. Any person, other than the mother of the child, who willfully and deliberately engages in unlawful conduct that causes the death of a child who is in utero at the time the conduct occurs is guilty of a Class 4 felony.*

*C. Any person, other than the mother of the child, who willfully and deliberately engages in unlawful conduct that causes permanent, serious bodily injury to a child who is in utero at the time the conduct occurs is guilty of a Class 4 felony.*

*D. A violation of this section shall constitute a separate and distinct felony.*

*§ 18.2-371. Causing or encouraging acts rendering children delinquent, abused, etc.; penalty.*

*Any person ~~eighteen~~ 18 years of age or older, including the parent of any child, who (i) willfully contributes to, encourages, or causes any act, omission, or condition which renders a child delinquent, in need of services, in need of supervision, or abused or neglected as defined in § 16.1-228, or (ii) engages in consensual sexual intercourse with a child ~~fifteen~~ 15 or older not his spouse, child, or grandchild, shall be guilty of a Class 1 misdemeanor. This section shall not be construed as repealing, modifying, or in any way affecting §§ 18.2-18, 18.2-19, 18.2-61, 18.2-63, 18.2-66, and 18.2-347.*

*If the prosecution is based solely on the accused parent having left the child at a hospital, rescue squad or fire department, it shall be an affirmative defense to prosecution of a parent under this section that such parent delivered the child to a hospital that provides 24-hour emergency services or to a rescue squad or fire department that employs emergency medical technicians, within the first 2 weeks of the child's life.*

*§ 18.2-371.1. Abuse and neglect of children; penalty.*

*A. Any parent, guardian, or other person responsible for the care of a child under the age of ~~eighteen~~ 18 who by willful act or omission or refusal to provide any necessary care for the child's health causes or permits serious injury to the life or health of such child shall be guilty of a Class 4 felony. For purposes of this subsection, "serious injury" shall include but not be limited to (i) disfigurement, (ii) a fracture, (iii) a severe burn or laceration, (iv) mutilation, (v) maiming, (vi) forced ingestion of dangerous substances, or (vii) life-threatening internal injuries.*

*B. Any parent, guardian, or other person responsible for the care of a child under the age of ~~eighteen~~ 18 whose willful act or omission in the care of such child was so gross, wanton and culpable as to show a reckless disregard for human life shall be guilty of a Class 6 felony. *If the prosecution is based solely on the accused parent having left the child at a hospital, rescue squad or fire department, it shall be an affirmative defense to prosecution of a parent under this subsection that such parent delivered the child to a hospital that provides 24-hour emergency services or to a rescue squad or fire department that employs emergency medical technicians, within the first 2 weeks of the child's life.**

*C. Any parent, guardian or other person having care, custody, or control of a minor child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall not, for that reason alone, be considered in violation of this section.*

*§ 18.2-510.1. Duty to report childbirth; concealing birth or parents' identity; penalty.*

*A. Any woman who, without a health care professional in attendance, gives birth after more than 24 weeks have elapsed since the beginning of her last menstrual period and who, though she is reasonably*

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59 *able to do so, fails to report the birth, whether a live birth or stillbirth, within 72 hours of the event, to*  
60 *the health department or to a law-enforcement agency is guilty of a Class 1 misdemeanor.*

61 *B. If such birth is a stillbirth or if the infant dies prior to the birth being reported to the health*  
62 *department or law-enforcement agency, any person who takes any action to conceal the birth or to*  
63 *conceal the identity of a parent of an infant whose birth was not attended by a health care professional*  
64 *and not reported as required by subsection A, from the health department or a law-enforcement agency,*  
65 *is guilty of a Class 6 felony.*

66 § 40.1-103. Cruelty and injuries to children.

67 It shall be unlawful for any person employing or having the custody of any child willfully or  
68 negligently to cause or permit the life of such child to be endangered or the health of such child to be  
69 injured, or willfully or negligently to cause or permit such child to be placed in a situation that its life,  
70 health or morals may be endangered, or to cause or permit such child to be overworked, tortured,  
71 tormented, mutilated, beaten or cruelly treated. Any person violating this section shall be guilty of a  
72 Class 6 felony.

73 *If the prosecution is based solely on the accused parent having left the child at a hospital, rescue*  
74 *squad or fire department, it shall be an affirmative defense to prosecution of a parent under this section*  
75 *that such parent delivered the child to a hospital that provides 24-hour emergency services or to a*  
76 *rescue squad or fire department that employs emergency medical technicians, within the first 2 weeks of*  
77 *the child's life.*

78 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
79 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**  
80 **be determined for periods of imprisonment in state adult correctional facilities and cannot be**  
81 **determined for periods of commitment to the custody of the Department of Juvenile Justice.**