

## 2004 SESSION

INTRODUCED

040894134

1                   **HOUSE BILL NO. 1054**

2                   Offered January 14, 2004

3                   Prefiled January 14, 2004

4                   A *BILL to amend and reenact §§ 15.2-1724, 18.2-345, 18.2-346, 18.2-348, 18.2-356, 18.2-370,*  
5                   *18.2-370.1 and 18.2-371 of the Code of Virginia and to amend the Code of Virginia by adding in*  
6                   *Article 3 of Chapter 8 of Title 18.2 a section numbered 18.2-361.1 and by adding a section*  
7                   *numbered 18.2-387.1 and to repeal § 18.2-344 of the Code of Virginia, relating to sex offenses;*  
8                   *penalties.*

9                   Patron—Albo

10                  Referred to Committee for Courts of Justice

## 11                  Be it enacted by the General Assembly of Virginia:

12                  1. That §§ 15.2-1724, 18.2-345, 18.2-346, 18.2-348, 18.2-356, 18.2-370, 18.2-370.1 and 18.2-371 of the  
13                  Code of Virginia are amended and reenacted and the Code of Virginia is amended by adding in  
14                  Article 3 of Chapter 8 of Title 18.2 a section numbered 18.2-361.1 and by adding a section  
15                  numbered 18.2-387.1 as follows:

16                  § 15.2-1724. Police and other officers may be sent beyond territorial limits.

17                  Whenever the necessity arises (i) for the enforcement of laws designed to control or prohibit the use  
18                  or sale of controlled drugs as defined in § 54.1-3401 or laws contained in Article 3 (§ 18.2-344  
19                  18.2-345 et seq.) of Chapter 8 of Title 18.2, (ii) in response to any law-enforcement emergency  
20                  involving any immediate threat to life or public safety, (iii) during the execution of the provisions of  
21                  § 37.1-67.01 or § 37.1-67.1 relating to orders for temporary detention or emergency custody for mental  
22                  health evaluation or (iv) during any emergency resulting from the existence of a state of war, internal  
23                  disorder, or fire, flood, epidemic or other public disaster, the police officers and other officers, agents  
24                  and employees of any locality and the police of any state-supported institution of higher learning  
25                  appointed pursuant to § 23-233 may, together with all necessary equipment, lawfully go or be sent  
26                  beyond the territorial limits of such locality or such state-supported institution of higher learning to any  
27                  point within or without the Commonwealth to assist in meeting such emergency or need, or while  
28                  enroute to a part of the jurisdiction which is only accessible by roads outside the jurisdiction. However,  
29                  the police of any state-supported institution of higher learning may be sent only to a locality within the  
30                  Commonwealth, or locality outside the Commonwealth, whose boundaries are contiguous with the  
31                  locality in which such institution is located. No member of a police force of any state-supported  
32                  institution of higher learning shall be sent beyond the territorial limits of the locality in which such  
33                  institution is located unless such member has met the requirements established by the Department of  
34                  Criminal Justice Services as provided in subdivision 2 (i) of § 9.1-102.

35                  In such event the acts performed for such purpose by such police officers or other officers, agents or  
36                  employees and the expenditures made for such purpose by such locality or a state-supported institution  
37                  of higher learning shall be deemed conclusively to be for a public and governmental purpose, and all of  
38                  the immunities from liability enjoyed by a locality or a state-supported institution of higher learning  
39                  when acting through its police officers or other officers, agents or employees for a public or  
40                  governmental purpose within its territorial limits shall be enjoyed by it to the same extent when such  
41                  locality or a state-supported institution of higher learning within the Commonwealth is so acting, under  
42                  this section or under other lawful authority, beyond its territorial limits.

43                  The police officers and other officers, agents and employees of any locality or a state-supported  
44                  institution of higher learning when acting hereunder or under other lawful authority beyond the territorial  
45                  limits of such locality or such state-supported institution of higher learning shall have all of the  
46                  immunities from liability and exemptions from laws, ordinances and regulations and shall have all of the  
47                  pension, relief, disability, workers' compensation and other benefits enjoyed by them while performing  
48                  their respective duties within the territorial limits of such locality or such state-supported institution of  
49                  higher learning.

50                  § 18.2-345. Lewd and lascivious behavior in a public place.

51                  If any persons, not married to each other, lewdly and lasciviously associate and cohabit together, or,  
52                  whether married or not, be guilty of open and gross lewdness and lasciviousness, each of them shall  
53                  be Any person who engages in lewd and lascivious behavior in a public place is guilty of a Class 3  
54                  misdemeanor; and upon a repetition of the offense, and for a first conviction thereof, each of them shall  
55                  be guilty and of a Class 1 misdemeanor for any subsequent conviction.

56                  § 18.2-346. Being a prostitute or prostitution.

59     A. Any person who, for money or its equivalent, commits adultery, fornication, *carnal knowledge by the anus or by or with the mouth or voluntarily submits to such carnal knowledge*, or any act in violation of § 18.2-361, or offers to commit adultery, fornication, *carnal knowledge by the anus or by or with the mouth or voluntarily submits to such carnal knowledge* or any act in violation of § 18.2-361 and thereafter does any substantial act in furtherance thereof, ~~shall be~~ *is* guilty of being a prostitute, or prostitution, ~~which shall be punishable as a Class 1 misdemeanor.~~

60     B. Any person who offers money or its equivalent to another for the purpose of engaging in sexual acts as enumerated above and thereafter does any substantial act in furtherance thereof ~~shall be~~ *is* guilty of solicitation of prostitution ~~and shall be guilty of~~, a Class 1 misdemeanor.

61       § 18.2-348. Aiding prostitution or illicit sexual intercourse.

62     It shall be unlawful for any person or any officer, employee or agent of any firm, association or corporation, with knowledge of, or good reason to believe, the immoral purpose of such visit, to take or transport or assist in taking or transporting, or offer to take or transport on foot or in any way, any person to a place, whether within or without any building or structure, used or to be used for the purpose of lewdness, assignation or prostitution within this Commonwealth; or procure or assist in procuring for the purpose of illicit sexual intercourse, *carnal knowledge by the anus or by or with the mouth or the voluntarily submission to such carnal knowledge*, or any act violative of § 18.2-361, or to give any information or direction to any person with intent to enable such person to commit an act of prostitution.

63       § 18.2-356. Receiving money for procuring person.

64     Any person who shall receive any money or other valuable thing for or on account of procuring for or placing in a house of prostitution or elsewhere any person for the purpose of causing such person to engage in unlawful sexual intercourse, *carnal knowledge by the anus or by or with the mouth or the voluntarily submission to such carnal knowledge*, or any act in violation of § 18.2-361 ~~shall be~~ *is* guilty of a Class 4 felony.

65       § 18.2-361.1 *Carnal knowledge.*

66     Any person who carnally knows in any manner in a public place any person by the anus or by or with the mouth, or who voluntarily submits to such carnal knowledge is guilty of a Class 6 felony.

67       § 18.2-370. Taking indecent liberties with children; penalties.

68     A. Any person ~~eighteen~~ 18 years of age or over, who, with lascivious intent, ~~shall knowingly and intentionally ecommit~~ *commits* any of the following acts with any child under the age of ~~fourteen~~ 14 years ~~shall be~~ *is* guilty of a Class 5 felony:

69       (1) Expose his or her sexual or genital parts to any child to whom such person is not legally married or propose that any such child expose his or her sexual or genital parts to such person; or

70       (2) [Repealed.]

71       (3) Propose that any such child feel or fondle the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child; or

72       (4) Propose to such child the performance of an act of sexual intercourse or any act constituting an offense under § 18.2-361, *or any act of carnal knowledge, as that term is defined in § 18.2-63*; or

73       (5) Entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other place, for any of the purposes set forth in the preceding subdivisions of this section.

74     B. Any person ~~eighteen~~ 18 years of age or over who, with lascivious intent, knowingly and intentionally receives money, property, or any other remuneration for allowing, encouraging, or enticing any person under the age of ~~eighteen~~ 18 years to perform in or be a subject of sexually explicit visual material as defined in § 18.2-374.1 or who knowingly encourages such person to perform in or be a subject of sexually explicit material; shall be guilty of a Class 5 felony.

75     C. Any person who is convicted of a second or subsequent violation of this section shall be guilty of a Class 4 felony; provided that (i) the offenses were not part of a common act, transaction or scheme, (ii) the accused was at liberty as defined in § 53.1-151 between each conviction, and (iii) it is admitted, or found by the jury or judge before whom the person is tried, that the accused was previously convicted of a violation of this section.

76       § 18.2-370.1. Taking indecent liberties with child by person in custodial or supervisory relationship; penalties.

77     A. Any person ~~eighteen~~ 18 years of age or older who maintains a custodial or supervisory relationship over a child under the age of ~~eighteen~~ 18, including but not limited to the parent, step-parent, grandparent, step-grandparent, or who stands in loco parentis with respect to such child and is not legally married to such child, and who, with lascivious intent, knowingly and intentionally (i) proposes that any such child feel or fondle the sexual or genital parts of such person or that such person feel or handle the sexual or genital parts of the child, ~~or~~ (ii) proposes to such child the performance of an act of sexual intercourse or any act constituting an offense under § 18.2-361, ~~or~~ *or any act of carnal knowledge, as that term is defined in § 18.2-63*, (iii) exposes his or her sexual or genital parts to such child, ~~or~~ (iv) proposes that any such child expose his or her sexual or genital parts to such person, ~~or~~

121 (v) proposes to the child that the child engage in sexual intercourse, sodomy or fondling of sexual or  
122 genital parts with another person, or (vi) sexually abuses the child as defined in § 18.2-67.10 (6), shall  
123 be *(vii) allows such child to feel or fondle the sexual or genital parts of such person, (viii) feels or*  
124 *handles the sexual or genital parts of the child, (ix) performs an act of sexual intercourse or any act*  
125 *constituting an offense under § 18.2-361, or any act of carnal knowledge, as that term is defined in*  
126 *§ 18.2-63, with such child, (x) has the child expose his or her genital parts to such person, or (xi) has*  
127 *the child engage in sexual intercourse, sodomy or fondling of sexual or genital parts with another*  
128 *person is guilty of a Class 6 felony.*

129 B. Any person who is convicted of a second or subsequent violation of this section shall be is guilty  
130 of a Class 5 felony; provided that (i) the offenses were not part of a common act, transaction or scheme,  
131 (ii) the accused was at liberty as defined in § 53.1-151 between each conviction, and (iii) it is admitted,  
132 or found by the jury or judge before whom the person is tried, that the accused was previously  
133 convicted of a violation of this section.

134 § 18.2-371. Causing or encouraging acts rendering children delinquent, abused, etc.; penalty;  
135 abandoned infant.

136 Any person 18 years of age or older, including the parent of any child, who (i) willfully contributes  
137 to, encourages, or causes any act, omission, or condition which renders a child delinquent, in need of  
138 services, in need of supervision, or abused or neglected as defined in § 16.1-228, or (ii) engages in  
139 consensual sexual intercourse, or any act of carnal knowledge, as that term is defined in § 18.2-63,  
140 with a child 15 or older not his spouse, child, or grandchild, shall be is guilty of a Class 1  
141 misdemeanor. This section shall not be construed as repealing, modifying, or in any way affecting  
142 §§ 18.2-18, 18.2-19, 18.2-61, 18.2-63, 18.2-66, and 18.2-347.

143 If the prosecution under this section is based solely on the accused parent having left the child at a  
144 hospital or rescue squad, it shall be an affirmative defense to prosecution of a parent under this section  
145 that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to  
146 an attended rescue squad that employs emergency medical technicians, within the first 14 days of the  
147 child's life.

148 § 18.2-387.1. Carnal knowledge in correctional facility prohibited.

149 Any person who engages in any act of carnal knowledge as defined in § 18.2-63 in any local or state  
150 correctional facility or facility detaining or incarcerating juveniles is guilty of a Class 1 misdemeanor.

151 2. That § 18.2-344 of the Code of Virginia is repealed.

152 3. That the provisions of this act may result in a net increase in periods of imprisonment or  
153 commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot  
154 be determined for periods of imprisonment in state adult correctional facilities and is \$0 for  
155 periods of commitment to the custody of the Department of Juvenile Justice.