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SENATE BILL NO. 477

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 11, 2004)

(Patron Prior to Substitute—Senator Ticer)

*A BILL to amend and reenact §§ 18.2-361 and 18.2-371 of the Code of Virginia, relating to crimes against nature.***Be it enacted by the General Assembly of Virginia:****1. That §§ 18.2-361 and 18.2-371 of the Code of Virginia are amended and reenacted as follows:**

§ 18.2-361. Crimes against nature.

A. ~~If any~~ Any person *who* (i) carnally knows in any manner any brute animal *is guilty of a Class 6 felony*, or (ii) carnally knows any male or female person by the anus or by or with the mouth, or voluntarily submits to such carnal knowledge, ~~he or she shall be~~ *is guilty of a Class 6 felony 3 misdemeanor*, except as provided in subsection B. *The provisions of clause (ii) of this subsection shall not apply where all persons are consenting adults who are not in a public place and who are not aiding, abetting, procuring, engaging in or performing any act in furtherance of prostitution.*

B. Any person who carnally knows by the anus or by or with the mouth his daughter or granddaughter, son or grandson, brother or sister, or father or mother ~~shall be~~ *is guilty of a Class 5 felony*. However, if a parent or grandparent *who* commits any such act with his child or grandchild and such child or grandchild is at least ~~thirteen~~ 13 but less than ~~eighteen~~ 18 years of age at the time of the offense, ~~such parent or grandparent shall be~~ *is guilty of a Class 3 felony*.

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

Any person 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 15 years of age or older not his spouse, child, or grandchild, ~~shall be~~ *or (iii) engages in consensual carnal knowledge by the anus or by or with the mouth or the voluntary submission to such carnal knowledge with a child 15 years of age or older not his spouse, child, or grandchild, is 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 under this section is based solely on the accused parent having left the child at a hospital or rescue squad, it shall be an affirmative defense to prosecution of a parent under this section that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians, within the first 14 days of the child's life.