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HOUSE BILL NO. 2836

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Militia, Police and Public Safety
on February 4, 2005)

(Patrons Prior to Substitute—Delegates Sherwood, Athey [H.B. 2767], Brink [H.B. 1867], O'Bannon [H.B. 1937], Shannon [H.B. 1933], Sherwood [H.B. 2838], and Sickles [H.B. 2703])

A BILL to amend and reenact §§ 9.1-902, 9.1-905, and 9.1-907 of the Code of Virginia, relating to the Virginia Sex Offender and Crimes Against Minors Registry Act.

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-902, 9.1-905, and 9.1-907 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-902. Offenses requiring registration.

A. For purposes of this chapter:

"Offense for which registration is required" means:

1. A *murder or attempted murder of a child under the age of 15*, a violation or attempted violation of §§ 18.2-63, 18.2-64.1, 18.2-67.2:1, 18.2-90 with the intent to commit rape, § 18.2-374.1 or subsection D of § 18.2-374.1:1; or a third or subsequent conviction of (i) § 18.2-67.4, (ii) subsection C of § 18.2-67.5 or (iii) § 18.2-386.1;

2. Where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, a violation or attempted violation of subsection A of § 18.2-47, clause (i) or (iii) of § 18.2-48, § 18.2-67.4, subsection C of § 18.2-67.5, §§ 18.2-361, 18.2-366, or clause (iv) of subsection B of § 18.2-374.3;

3. A violation of Chapter 117 (18 U.S.C. § 2421 et seq.) of Title 18 of the United States Code; or

4. A "sexually violent offense."

"Sexually violent offense" means a violation or attempted violation of:

1. Clause (ii) of § 18.2-48, §§ 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-67.3, subsections A and B of § 18.2-67.5, § 18.2-370 or § 18.2-370.1; *18.2-67.4 where the victim is under the age of six*; or

2. Sections 18.2-63, 18.2-64.1, 18.2-67.2:1, § 18.2-90 with the intent to commit rape or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, a violation or attempted violation of subsection A of § 18.2-47, § 18.2-67.4, subsection C of § 18.2-67.5, clause (i) or (iii) of § 18.2-48, §§ 18.2-361, 18.2-366, or § 18.2-374.1. Conviction of an offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted of any two or more such offenses, provided that person had been at liberty between such convictions.

B. "Offense for which registration is required" and "sexually violent offense" shall also include any similar offense under the laws of the United States or any political subdivision thereof *and any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the political subdivision where the offender was convicted.*

§ 9.1-905. New residents and nonresident offenders; registration required.

A. All persons required to register shall register within 10 days of establishing a residence in the Commonwealth.

B. Nonresident offenders entering the Commonwealth for *an extended visit*, for employment, to carry on a vocation, or as a student attending school who are required to register in their state of residence or who would be required to register if a resident of the Commonwealth shall, within 10 days of *entering the Commonwealth for an extended visit*, accepting employment or enrolling in school in the Commonwealth, be required to register and reregister in person with the local law-enforcement agency.

C. To document employment or school attendance in Virginia a person shall present proof of enrollment as a student or suitable proof of temporary employment in the Commonwealth and one photo-identification form issued by a governmental agency of the person's state of residence which contains the person's complete name, gender, date of birth and complete address.

D. For purposes of this section:

"Employment" and "carry on a vocation" include employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

"Extended visit" means a period of visitation for any purpose in the Commonwealth of 30 days or more.

"Student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.

60 § 9.1-907. Procedures upon a failure to register or reregister.

61 A. Whenever it appears from the records of the State Police that a person has failed to comply with
62 the duty to register or reregister, the State Police shall promptly investigate and, if there is probable
63 cause to believe a violation has occurred, obtain a warrant charging a violation of § 18.2-472.1 in the
64 jurisdiction in which the person last registered or reregistered or, if the person failed to comply with the
65 duty to register, in the jurisdiction in which the person was last convicted of an offense for which
66 registration or reregistration is required. The State Police shall forward to the jurisdiction, ~~together with~~
67 ~~the warrant,~~ an affidavit signed by the custodian of the records that such person failed to comply with
68 the duty to register or reregister. Such affidavit shall be admitted into evidence as prima facie evidence
69 of the failure to comply with the duty to register or reregister in any trial for the violation of
70 § 18.2-472.1. The State Police shall also promptly notify the local law-enforcement agency of the
71 jurisdiction of the person's last known residence as shown in the records of the State Police.

72 B. *Nothing in this section shall prohibit a law-enforcement officer employed by a sheriff's office or*
73 *police department of a locality from enforcing the provisions of this chapter.*