

061482380

## HOUSE BILL NO. 1698

Offered January 10, 2007

Prefiled December 15, 2006

A BILL to amend and reenact §§ 18.2-370 and 18.2-370.1 of the Code of Virginia, relating to taking indecent liberties with children; penalty.

Patrons—Lingamfelter, Athey, Cole, Hugo, Iaquinto, Jones, S.C., Miller, J.H., Nutter, O'Bannon, Rust and Sherwood

Referred to Committee for Courts of Justice

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

**1. That §§ 18.2-370 and 18.2-370.1 of the Code of Virginia are amended and reenacted as follows:**

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

A. Any person 18 years of age or over, who, with lascivious intent, knowingly and intentionally commits any of the following acts with any child under the age of 15 years is guilty of a Class 5 felony:

(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

(2) [Repealed.]

(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 propose that such child feel or fondle the child's own sexual or genital parts*; or

(4) Propose to such child the performance of an act of sexual intercourse or any act constituting an offense under § 18.2-361; or

(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.

B. Any person 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 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.

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.

D. Any parent, step-parent, grandparent or step-grandparent who commits a violation of either this section or clause (v) or (vi) of subsection A of § 18.2-370.1 (i) upon his child, step-child, grandchild or step-grandchild who is at least 15 but less than 18 years of age is guilty of a Class 5 felony or (ii) upon his child, step-child, grandchild or step-grandchild less than 15 years of age is guilty of a Class 4 felony.

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

A. Any person 18 years of age or older who, except as provided in § 18.2-370, maintains a custodial or supervisory relationship over a child under the age of 18 and is not legally married to such child and such child is not emancipated 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 *proposes that such person feel or handle the sexual or genital parts of the child or proposes that such child feel or fondle the child's own sexual or genital parts*; 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 (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 (v) proposes to the child that the child engage in sexual intercourse, sodomy or fondling of sexual or genital parts with another person; or (vi) sexually abuses the child as defined in § 18.2-67.10 (6), shall be guilty of a Class 6 felony.

B. Any person who is convicted of a second or subsequent violation of this section shall be guilty of a Class 5 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

INTRODUCED

HB1698

58 convicted of a violation of this section.

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