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HOUSE BILL NO. 2279

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

January 23, 2007)

(Patron Prior to Substitute—Delegate Watts)

A BILL to amend the Code of Virginia by adding a section numbered 18.2-370.02, relating to indecent liberties with certain children; penalties.

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 18.2-370.02 as follows:**

§ 18.2-370.02. Taking indecent liberties with certain children; penalties.

A. A person 18 years of age or over shall be guilty of taking indecent liberties with a child if he, with lascivious intent, knowingly and intentionally commits any of the following acts with any child:

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

2. 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

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

4. Commit sexual abuse of the child as defined in subdivision 6 of § 18.2-67.10.

5. Propose that any such child engage in sexual intercourse or sodomy or the fondling of sexual or genital parts with another person; or

6. Receive money, property, or any other remuneration for allowing, encouraging, or enticing such child to perform in or be a subject of sexually explicit visual material as defined in § 18.2-374.1 or knowingly encourages such child to perform in or be a subject of sexually explicit material.

7. 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 who commits a violation of subsection A (i) when the victim was less than 13 years of age; or (ii) who is the parent, step-parent, grandparent, or step-grandparent of a victim who was less than 18 years of age at the time of the violation is guilty of a felony punishable by confinement in a state correctional facility for a term of not less than one nor more than 20 years and by a fine of not more than \$100,000. A parent, step-parent, grandparent, or step-grandparent of a victim who was less than 15 years of age at the time of the violation is guilty of a felony punishable by confinement in a state correctional facility for a term of not less than two nor more than 20 years and by a fine of not more than \$100,000.

C. Any person, not included under clause (ii) of subsection B, who (i) commits a violation of subdivisions A 1 through A 5 or subdivision A 7 when the victim was at least 13 but less than 15 years of age or (ii) commits a violation of subdivision A 6 when the victim is under 18 years of age is guilty of a Class 5 felony.

D. Any person, not included under clause (ii) of subsection B, who commits a violation of subsection A when the victim was at least 15 years of age but less than 18 years of age and who maintained a custodial or supervisory relationship over such child and who was not legally married to such child and such child was not emancipated at the time of the violation is guilty of a Class 6 felony.

E. Any person who is convicted of a second or subsequent violation of (i) subsection B is guilty of a Class 3 felony; (ii) subsection C is guilty of a Class 4 felony; and (iii) subsection D is guilty of a Class 5 felony; provided that (a) the offenses were not part of a common act, transaction or scheme; (b) the accused was at liberty as defined in § 53.1-151 between each conviction; and (c) 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.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is at least \$3,890,132 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.