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HOUSE BILL NO. 2337

Offered January 10, 2007

Prefiled January 9, 2007

A BILL to amend and reenact § 18.2-371.1 of the Code of Virginia, relating to ingestion of drugs by pregnant woman as child abuse; penalty.

Patron—Gilbert

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-371.1 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-371.1. Abuse and neglect of children; penalty; abandoned infant.

A. Any parent, guardian, or other person responsible for the care of a child under the age of 18 who by willful act or omission or refusal to provide any necessary care for the child's health causes or permits serious injury to the life or health of such child shall be guilty of a Class 4 felony. For purposes of this subsection, "serious injury" shall include but not be limited to (i) disfigurement, (ii) a fracture, (iii) a severe burn or laceration, (iv) mutilation, (v) maiming, (vi) forced ingestion of dangerous substances, or (vii) life-threatening internal injuries.

B. 1. Any parent, guardian, or other person responsible for the care of a child under the age of 18 whose willful act or omission in the care of such child was so gross, wanton and culpable as to show a reckless disregard for human life shall be guilty of a Class 6 felony. *Any pregnant female who intentionally ingests a Schedule I or II controlled substance without a prescription or, if prescribed for her, in a manner inconsistent with the prescription is guilty of an act so gross, wanton and culpable as to show a reckless disregard for human life and is guilty of a Class 6 felony. Presence in the pregnant female's bloodstream of an illegal Schedule I or II controlled substance or a legal Schedule I or II controlled substance in a quantity inconsistent with her prescription raises an inference that the substance was ingested intentionally.*

2. If a prosecution under this subsection 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 subsection 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. In order for the affirmative defense to apply, the child shall be delivered in a manner reasonably calculated to ensure the child's safety.

C. Any parent, guardian or other person having care, custody, or control of a minor child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall not, for that reason alone, be considered in 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 cannot be determined for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

INTRODUCED

HB2337