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HOUSE BILL NO. 969

Offered January 9, 2008

Prefiled January 8, 2008

A *BILL to amend and reenact §§ 8.01-226.5:2 and 18.2-371 of the Code of Virginia, relating to causing or encouraging acts rendering children delinquent; penalty.*

Patron—Shannon

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-226.5:2 and 18.2-371 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-226.5:2. Immunity of hospital or rescue squad personnel for the acceptance of certain infants.

Any personnel of a hospital or rescue squad receiving a child under the circumstances described in subsection ~~B~~ D of § 18.2-371, subdivision B 2 of § 18.2-371.1 or subsection B of § 40.1-103 shall be immune from civil liability or criminal prosecution for injury or other damage to the child unless such injury or other damage is the result of gross negligence or willful misconduct by such personnel.

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

A. 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 or older not his spouse, child, or grandchild, ~~shall be~~ is guilty of a Class 1 misdemeanor.

B. Any person 18 years of age or older who engages in sexual intercourse with a child 15 years of age or older not his spouse, child, or grandchild as a part of initiation or recruitment into a criminal street gang is guilty of a Class 6 felony.

C. 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.

D. 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. In order for the affirmative defense to apply, the child shall be delivered in a manner reasonably calculated to ensure the child's safety.

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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

INTRODUCED

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