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HOUSE BILL NO. 23

Offered January 13, 2010

Prefiled December 17, 2009

A *BILL to amend the Code of Virginia by adding a section numbered 18.2-370.7, relating to prohibited photographs of a child; penalty.*

Patron—Johnson

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 18.2-370.7 as follows:***§ 18.2-370.7. Prohibited photograph of a child; penalty.**A. Definitions.*

"Photograph of a child" means a photograph, film, still image, or videotape or videographic record of a person under the age of 18 captured by a camera or by any other device that records a still image or moving image.

"Prohibited location" means (i) a primary, secondary, or high school, (ii) any place owned or operated by a locality that the person knows or should know is a playground, athletic field or facility, or gymnasium, (iii) any place the person knows or has reason to know is a child day program as defined in § 63.2-100, or (iv) a public park that is owned and operated by a county, city, or town.

"Prohibited photograph of a child" means a photograph of a child captured at a prohibited location or captured without the express permission of the parent or guardian of the child when the child (i) is the only individual depicted in the photograph or is the primary or central image in the photograph and (ii) is not the natural or adopted child or legal ward of the person.

B. Any person convicted of an "offense prohibiting proximity to children" as defined in § 18.2-370.2 who creates a prohibited photograph of a child is guilty of a Class 6 felony. This section shall not apply to any sports photographer or news photographer engaged in the performance of his professional duties.

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; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

INTRODUCED

HB23