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HOUSE BILL NO. 2200

Offered January 12, 2011

Prefiled January 12, 2011

A *BILL to amend and reenact § 18.2-374.3 of the Code of Virginia, relating to use of computers to facilitate certain offenses involving children.*

Patron—Comstock

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-374.3 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-374.3. Use of communications systems to facilitate certain offenses involving persons.

A. As used in subsections C, D, and E "use a communications system" means making personal contact or direct contact through any agent or agency, any print medium, the United States mail, any common carrier or communication common carrier, any electronic communications system, the Internet, or any telecommunications, wire, computer network, or radio communications system.

B. It shall be unlawful for any person to use a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means for the purposes of procuring or promoting the use of a minor for any activity in violation of § 18.2-370 or § 18.2-374.1. A violation of this subsection is a Class 6 felony.

C. It shall be unlawful for any ~~person 18 years of age or older~~ *adult* to use a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting, with lascivious intent, any person he knows or has reason to believe is a ~~child~~ less than 15 years of age to knowingly and intentionally:

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

2. Propose that any such ~~child~~ *person* feel or fondle the sexual or genital parts of such ~~person~~ *adult* or propose that such ~~person~~ *adult* feel or fondle the sexual or genital parts of any such ~~child~~ *person*;

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

4. Entice, allure, persuade, or invite any such ~~child~~ *person* to enter any vehicle, room, house, or other place, for any purposes set forth in the preceding subdivisions.

Any ~~person~~ *adult* who violates this subsection is guilty of a Class 5 felony. However, if the ~~person~~ *adult* is at least seven years older than the ~~child~~ *person* he knows or has reason to believe is less than 15 years of age, the ~~person~~ *adult* shall be punished by a term of imprisonment of not less than five years nor more than 30 years in a state correctional facility, five years of which shall be mandatory minimum term of imprisonment. Any ~~person~~ *adult* who commits a second or subsequent violation of this subsection when the ~~person~~ *adult* is at least seven years older than the ~~child~~ *person* he knows or has reason to believe is less than 15 years of age shall be punished by a term of imprisonment of not less than 10 years nor more than 40 years, 10 years of which shall be a mandatory minimum term of imprisonment.

D. Any person who uses a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting, with lascivious intent, any ~~child~~ *person* he knows or has reason to believe is at least 15 years of age but less than 18 years of age to knowingly and intentionally commit any of the activities listed in subsection C if the person is at least seven years older than the ~~child~~ *person he knows or has reason to believe is less than 15 years of age* is guilty of a Class 5 felony. Any person who commits a second or subsequent violation of this subsection shall be punished by a term of imprisonment of not less than one nor more than 20 years, one year of which shall be a mandatory minimum term of imprisonment.

E. Any ~~person 18 years of age or older~~ *adult* who uses a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting any person he knows or has reason to believe is a ~~child~~ less than 18 years of age for (i) any activity in violation of § 18.2-355 or 18.2-361, (ii) any activity in violation of § 18.2-374.1, or (iii) a violation of § 18.2-374.1:1 is guilty of a Class 5 felony.

2. That the provisions of this act are declarative of existing law.

INTRODUCED

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