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HOUSE JOINT RESOLUTION NO. 595
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Rules
on January 31, 2013)

(Patron Prior to Substitute—Delegate Loupassi)

Directing the Virginia State Crime Commission to study laws and policies governing the investigation of alleged child sexual abuse in the Commonwealth. Report.

WHEREAS, § 18.2-370.1 of the Code of Virginia punishes as a Class 6 felony the taking of indecent liberties with a minor under the age of 18 by a person who maintains a custodial or supervisory relationship over the child and who is not married to the child, and this section is used to prosecute teachers and other school personnel who maintain such a custodial or supervisory relationship over their students and who take indecent liberties with such students; and

WHEREAS, numerous students who have reached their eighteenth birthdays attend secondary schools in the Commonwealth, and teachers and other school personnel in such secondary schools maintain the same custodial or supervisory relationship over students 18 years of age or older as they do over students under the age of 18; and

WHEREAS, the provisions of § 18.2-370.1 of the Code of Virginia apply only to minors, and there is no criminal penalty for teachers or other school personnel engaging in sexual conduct with students 18 years of age or older; and

WHEREAS, over 5,000 reports of child sexual abuse are received by the Virginia Department of Social Services each year; and

WHEREAS, high quality investigations of alleged cases of child sexual abuse are fundamental for the protection of children and the successful prosecution of perpetrators; and

WHEREAS, significant variations exist across agencies with regard to how reports of alleged child sexual abuse are received, investigated, and tracked, including variations in requirements for notification of the individual alleged to have committed the abuse; and

WHEREAS, these differences may result in opportunities for individuals who are alleged to have committed child sexual abuse and who are the subjects of investigations to destroy evidence, intimidate victims, or otherwise interfere with the conduct of such investigation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be directed to study laws and policies governing the investigation of alleged child sexual abuse in the Commonwealth.

In conducting its study, the Commission shall determine (i) the availability of penalties for sexual conduct between secondary school students 18 years of age and older and teachers; (ii) the reasons why sexual conduct between teachers or other school personnel who maintain a custodial or supervisory relationship over students under the age of 18 is subject to criminal penalties while the same conduct with students 18 years of age or older is not; (iii) the feasibility of penalizing sexual conduct between teachers or other school personnel and students age 18 or older; (iv) the number of cases involving sexual conduct between teachers or other school personnel and students 18 years of age or older each year; (v) laws, regulations, policies, and training practices of the Commonwealth and its agencies governing reporting, investigation, and tracking of complaints of suspected child abuse, including suspected sexual abuse of a child and including such laws, regulations, policies, and training practices of or governing the Department of Social Services, local departments of social services, law-enforcement agencies, schools, and child welfare agencies; (vi) variations or discrepancies in how the various agencies receive, investigate, and track alleged cases of child sexual abuse, particularly those variations or discrepancies that may create opportunities for individuals who are alleged to have committed child sexual abuse and who are the subjects of investigations to destroy evidence, intimidate victims, or otherwise interfere with the conduct of such investigation; and (vii) recommendations for legislative, regulatory, and budgetary changes to reduce or eliminate variations or discrepancies in how the various agencies receive, investigate, and track alleged cases of child sexual abuse in order to increase the quality and effectiveness of child protective services, investigations of alleged child sexual abuse, and prosecutions of individuals alleged to have committed child sexual abuse in the Commonwealth.

In addition, the Commission shall convene a work group that shall consist of one representative of a rural local department of social services child protective services unit and one representative of an urban local department of social services child protective services unit, each of whom shall have experience in the investigation of cases of alleged child sexual abuse; one representative of a rural law-enforcement agency and one representative of an urban law-enforcement agency, each of whom shall have experience in the investigation of cases against alleged perpetrators of child sexual abuse; one attorney for the Commonwealth representing a rural jurisdiction and one attorney for the Commonwealth representing an

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60 urban jurisdiction, each of whom shall have experience in the prosecution of cases of alleged child
61 sexual abuse; one representative of a rural county or city attorney and one representative of an urban
62 county or city attorney, each of whom shall have experience representing the local department of social
63 services in civil matters related to cases of alleged child sexual abuse; one representative of the Virginia
64 Department of Social Services, Division of Family Services; one representative of the Department of
65 Criminal Justice Services with experience in matters related to investigation of cases of alleged child
66 sexual abuse; one representative of the Office of the Attorney General; one representative of a nationally
67 accredited child advocacy center; and one representative of a victims' rights organization.

68 Technical assistance shall be provided to the Virginia State Crime Commission by the Department of
69 State Police, the Department of Social Services, and the Virginia Criminal Sentencing Commission. All
70 agencies of the Commonwealth shall provide assistance to the Virginia State Crime Commission for this
71 study, upon request.

72 The Virginia State Crime Commission shall complete its meetings by November 30, 2013, and the
73 Chairman shall submit to the Division of Legislative Automated Systems an executive summary of its
74 findings and recommendations no later than the first day of the 2014 Regular Session of the General
75 Assembly. The executive summary shall state whether the Virginia State Crime Commission intends to
76 submit to the General Assembly and the Governor a report of its findings and recommendations for
77 publication as a House or Senate document. The executive summary and report shall be submitted as
78 provided in the procedures of the Division of Legislative Automated Systems for the processing of
79 legislative documents and reports and shall be posted on the General Assembly's website.