

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 18.2-374.1:1 of the Code of Virginia, relating to child pornography;*
3 *mandatory minimum sentence; penalties.*

4
5 Approved

[S 832]

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That § 18.2-374.1:1 of the Code of Virginia is amended and reenacted as follows:**

8 **§ 18.2-374.1:1. Possession, reproduction, distribution, solicitation, and facilitation of child**
9 **pornography; penalty.**

10 A. Any person who knowingly possesses child pornography is guilty of a Class 6 felony.

11 B. Any person who commits a second or subsequent violation of subsection A is guilty of a Class 5
12 felony.

13 C. Any person who (i) reproduces by any means, including by computer, sells, gives away,
14 distributes, electronically transmits, displays with lascivious intent, purchases, or possesses with intent to
15 sell, give away, distribute, transmit, or display child pornography with lascivious intent or (ii)
16 commands, entreats, or otherwise attempts to persuade another person to send, submit, transfer or
17 provide to him any child pornography in order to gain entry into a group, association, or assembly of
18 persons engaged in trading or sharing child pornography shall be punished by not less than five years
19 nor more than 20 years in a state correctional facility. Any person who commits a second or subsequent
20 violation under this subsection shall be punished by a term of imprisonment of not less than five years
21 nor more than 20 years in a state correctional facility, five years of which shall be a mandatory
22 minimum term of imprisonment. *Such mandatory minimum term of imprisonment shall be separate and*
23 *apart from, and shall be made to run consecutively with, any other sentence.*

24 D. Any person who intentionally operates an Internet website for the purpose of facilitating the
25 payment for access to child pornography is guilty of a Class 4 felony.

26 E. All child pornography shall be subject to lawful seizure and forfeiture pursuant to § 19.2-386.31.

27 F. For purposes of this section it may be inferred by text, title or appearance that a person who is
28 depicted as or presents the appearance of being less than 18 years of age in sexually explicit visual
29 material is less than 18 years of age.

30 G. Venue for a prosecution under this section may lie in the jurisdiction where the unlawful act
31 occurs or where any child pornography is produced, reproduced, found, stored, received, or possessed in
32 violation of this section.

33 H. The provisions of this section shall not apply to any such material that is possessed for a bona
34 fide medical, scientific, governmental, law-enforcement, or judicial purpose by a physician, psychologist,
35 scientist, attorney, employee of a law-enforcement agency, or judge who possesses such material in the
36 course of conducting his professional duties as such.

37 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
38 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
39 **be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter**
40 **3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing**
41 **Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated**
42 **amount of the necessary appropriation cannot be determined for periods of commitment to the**
43 **custody of the Department of Juvenile Justice.**

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