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HOUSE BILL NO. 1526

Offered January 14, 2015

Prefiled January 6, 2015

A BILL to amend and reenact § 18.2-374.3 of the Code of Virginia, relating to use of communications systems to facilitate certain offenses involving children; penalty.

Patron—Berg

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 children.**

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 is 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 is unlawful for any person 18 years of age or older 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 younger than 15 years of age to knowingly and intentionally:

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

2. Propose that any such child feel or fondle his own sexual or genital parts or the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child;

3. Propose to such child the performance of an act of sexual intercourse, anal intercourse, cunnilingus, fellatio, or anilingus or any act constituting an offense under § 18.2-361; or

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

Any person who violates this subsection is guilty of a Class 5 felony. However, if the person is at least seven years older than the child he knows or has reason to believe is less than 15 years of age, the person 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 who commits a second or subsequent violation of this subsection when the person is at least seven years older than the child 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 he knows or has reason to believe is at least 15 years of age but younger 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 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 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 younger 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.

F. Any person under 18 years of age 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 he knows or has reason to believe is at least 13 years of age but younger than 15 years of age to knowingly and intentionally commit any of the activities listed in

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59 *subsection C if the person is at least three years older than the child is guilty of a Class 1*
60 *misdemeanor.*

61 *G. Any person under 18 years of age who uses a communications system, including but not limited*
62 *to computers or computer networks or bulletin boards, or any other electronic means, for the purposes*
63 *of soliciting, with lascivious intent, any child he knows or has reason to believe is younger than 13*
64 *years of age to knowingly and intentionally commit any of the activities listed in subsection C is guilty*
65 *of a Class 5 felony.*

66 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
67 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
68 **be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter**
69 **2 of the Acts of Assembly of 2014, Special Session I, requires the Virginia Criminal Sentencing**
70 **Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated**
71 **amount of the necessary appropriation cannot be determined for periods of commitment to the**
72 **custody of the Department of Juvenile Justice.**