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SENATE BILL NO. 1074

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 19, 2015)

(Patrons Prior to Substitute—Senators McDougale and Wexton [SB 934])

A BILL to amend and reenact § 9.1-918 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 9 of Title 9.1 a section numbered 9.1-923, relating to the Supplement to the Sex Offender and Crimes Against Minors Registry; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-918 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 9 of Title 9.1 a section numbered 9.1-923 as follows:

§ 9.1-918. Misuse of registry or supplement information; penalty.

Use of registry information or information from the Supplement to the Registry established pursuant to § 9.1-923 for purposes not authorized by this chapter is prohibited, the unlawful use of the information contained in or derived from the Registry or Supplement for purposes of intimidating or harassing another is prohibited, and a willful violation of this chapter is a Class 1 misdemeanor. For purposes of this section, absent other aggravating circumstances, the mere republication or reasonable distribution of material contained on or derived from the publicly available Internet sex offender database shall not be deemed intimidation or harassment.

§ 9.1-923. Supplement to the Sex Offender and Crimes Against Minors Registry established.

A. The Superintendent of State Police shall establish a Supplement to the Registry of information composed of persons who were convicted of an offense listed in subsection B on or after July 1, 1980, and before July 1, 1994, but whose names are not on the Registry. Access to the Supplement to the Registry shall be made available to the public on the website of the Department of State Police and shall contain the following information for each person: name, the date of the conviction, the jurisdiction in which the conviction occurred, the person's age on the date of the conviction, the offense of which he was convicted, and the Code of Virginia section of the conviction.

B. Information on the following offenses where the conviction occurred on or after July 1, 1980, and before July 1, 1994, shall be listed in the Supplement: clause (i) of § 18.2-48 if the victim was a minor; clauses (ii) and (iii) of § 18.2-48; § 18.2-61; § 18.2-63 if the victim was under 13 years of age; subsection A of § 18.2-63 if the offender was more than five years older than the victim; §§ 18.2-67.1, 18.2-67.2, and 18.2-67.3; § 18.2-67.4 if the victim was a minor; subsections A and B of § 18.2-67.5; subsection C of § 18.2-67.5 if the victim was a minor; § 18.2-361 if the victim was a minor; and §§ 18.2-370, 18.2-370.1, and 18.2-374.1.

C. Persons whose names and conviction information appear on the Supplement are not subject to the registration requirements of this chapter and are not considered persons for whom registration is required unless they are required to register pursuant to other provisions of this chapter.

D. A person whose name and conviction information appear on the Supplement may, regardless of the date of conviction, petition the circuit court in which he was convicted or the circuit court where he then resides for removal of his name and conviction information from the Supplement if the offense he was convicted of would qualify for removal from the Registry under § 9.1-910. A petition may not be filed until all court ordered treatment, counseling, and restitution has been completed. The court shall obtain a copy of the petitioner's complete criminal history and then hold a hearing on the petition at which the applicant and any interested persons may present witnesses and other evidence. The Commonwealth shall be made a party to any action under this subsection. If after such a hearing, the court is satisfied that such person does not pose a risk to public safety, the court shall grant the petition. In the event the petition is not granted, the person shall wait at least 24 months from the date of denial to file a new petition for removal from the Supplement. The State Police shall remove from the Supplement the name and conviction information upon receipt of an order granting a petition pursuant to this subsection.

E. The Superintendent of State Police shall complete the Supplement to the Registry prior to January 1, 2016.