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SENATE BILL NO. 1278**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Senate Committee for Courts of Justice
on January 16, 2017)

(Patron Prior to Substitute—Senator McDougle)

A *BILL to amend the Code of Virginia by adding a section numbered 17.1-805.1, relating to discretionary sentencing guideline midpoints; possession of child pornography.*

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-298.01 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 17.1-805.1 as follows:

§ 17.1-805.1. Discretionary sentencing guideline midpoints; possession of child pornography.

The midpoint of the recommended sentencing range for possession of child pornography in violation of § 18.2-374.1:1 adopted by the Commission shall be further increased by (i) 100 percent in cases in which the defendant has no previous conviction of a violent felony offense, (ii) 200 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years, or (iii) 400 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of 40 years or more. The discretionary sentencing guidelines for any violation of § 18.2-374.1:1 shall be calculated on Section C of the Other Sexual Assault/Obcenity worksheet adopted by the Commission.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$989,660 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

SENATE SUBSTITUTE

SB1278S1