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SENATE BILL NO. 1508

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice on January 23, 2019)

(Patron Prior to Substitute—Senator Carrico)

A BILL to amend and reenact §§ 18.2-370 and 18.2-460 of the Code of Virginia, relating to obstruction of justice; concealing evidence of an abduction; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-370 and 18.2-460 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-370. Taking indecent liberties with children; penalties.

A. Any person 18 years of age or over, who, with lascivious intent, knowingly and intentionally commits any of the following acts with any child under the age of 15 years is guilty of a Class 5 felony:

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

(2) 2. [Repealed.]

(3) 3. 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; or

(4) 4. 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

(5) 5. Entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other place, for any of the purposes set forth in the preceding subdivisions of this subsection.

B. Any person 18 years of age or over who, with lascivious intent, knowingly and intentionally receives money, property, or any other remuneration for allowing, encouraging, or enticing any person under the age of 18 years to perform in or be a subject of sexually explicit visual material as defined in § 18.2-374.1 or who knowingly encourages such person to perform in or be a subject of sexually explicit material is guilty of a Class 5 felony.

C. Any person who is convicted of a second or subsequent violation of this section is guilty of a Class 4 felony, provided that (i) the offenses were not part of a common act, transaction or scheme; (ii) the accused was at liberty as defined in § 53.1-151 between each conviction; and (iii) it is admitted, or found by the jury or judge before whom the person is tried, that the accused was previously convicted of a violation of this section.

D. Any parent, step-parent, grandparent, or step-grandparent who commits a violation of either this section or clause (v) or (vi) of subsection A of § 18.2-370.1 (i) upon his child, step-child, grandchild, or step-grandchild who is at least 15 but less than 18 years of age is guilty of a Class 5 felony or (ii) upon his child, step-child, grandchild, or step-grandchild less than 15 years of age is guilty of a Class 4 felony.

E. Any person, except those persons exempted by reason of their relationship by § 18.2-19, with actual knowledge of a violation of subdivision A 5 or clause (iii) or (v) of § 18.2-48 who willfully conceals, alters, dismembers, or destroys any item of physical evidence or knowingly and willfully makes any materially false statement or representation to a law-enforcement officer with the intent to delay, impede, obstruct, prevent, or hinder the investigation, apprehension, prosecution, conviction, or punishment of any person regarding such offense is guilty of a Class 5 felony.

§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer; penalties.

A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555, he is guilty of a Class 1 misdemeanor.

B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1 misdemeanor.

C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer,

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60 lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in
61 any court relating to a violation of or conspiracy to violate § 18.2-248 or subdivision (a)(3), (b) or (c) of
62 § 18.2-248.1, or § 18.2-46.2 or § 18.2-46.3, or relating to the violation of or conspiracy to violate any
63 violent felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

64 D. Any person who knowingly and willfully makes any materially false statement or representation
65 to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the
66 course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

67 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from
68 lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of
69 this subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a
70 law-enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer
71 communicates to the person that he is under arrest and (a) the officer has the legal authority and the
72 immediate physical ability to place the person under arrest, and (b) a reasonable person who receives
73 such communication knows or should know that he is not free to leave.

74 F. Any person, except those persons exempted by reason of their relationship by § 18.2-19, with
75 actual knowledge of the commission by another of any felony offense, who knowingly and willfully
76 makes any materially false statement or representation to a law-enforcement officer regarding the
77 location or whereabouts of such other person with the intent to delay, impede, obstruct, prevent, or
78 hinder the investigation, apprehension, prosecution, conviction, or punishment of any person regarding
79 such offense, and such other person is named in an active felony warrant of arrest under the laws of the
80 Commonwealth or of any other state, the District of Columbia, or the United States or any territory
81 thereof, is guilty of a Class 1 misdemeanor.

82 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
83 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**
84 **necessary appropriation cannot be determined for periods of imprisonment in state adult**
85 **correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2018, Special Session I,**
86 **requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of**
87 **\$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**
88 **appropriation cannot be determined for periods of commitment to the custody of the Department**
89 **of Juvenile Justice.**