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SENATE BILL NO. 778

Offered January 8, 1997

A BILL to amend and reenact § 18.2-60.3 of the Code of Virginia, relating to stalking; penalty.

Patrons—Ticer, Couric, Marye, Maxwell, Miller, Y.B., Waddell and Whipple; Delegates: Connally, Cooper, Cunningham, Darner, Keating, Moran, Plum, Puller, Van Landingham, Van Yahres and Watts

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-60.3 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-60.3. Stalking; penalty.

A. Any person who on more than one occasion engages in conduct directed at another person with the intent to place, or with the knowledge that the conduct places, that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member shall be guilty of a Class ~~2~~ 1 misdemeanor.

B. However, any person who is convicted of a first offense in violation of subsection A when, at the time of the offense, (i) there was in effect any order prohibiting contact between the defendant and the victim or the victim's family or household member; or (ii) *the person was in possession of any weapon named or described in subsection A of § 18.2-308*, shall be guilty of a Class ~~4~~ *misdemeanor* 6 felony.

C. A second conviction occurring within five years of a first conviction for an offense under this section or for a similar offense under the law of any other jurisdiction shall be a Class ~~4~~ *misdemeanor* 6 felony. A third or subsequent conviction occurring within five years of a conviction for an offense under this section or for a similar offense under the law of any other jurisdiction shall be a Class ~~6~~ 5 felony.

D. A person may be convicted under this section irrespective of the jurisdiction or jurisdictions within the Commonwealth wherein the conduct described in subsection A occurred, if the person engaged in that conduct on at least one occasion in the jurisdiction where the person is tried. Evidence of any such conduct which occurred outside the Commonwealth may be admissible, if relevant, in any prosecution under this section provided that the prosecution is based upon conduct occurring within the Commonwealth.

E. Upon finding a person guilty under this section, the court shall, in addition to the sentence imposed, issue an order prohibiting contact between the defendant and the victim or the victim's family or household member.

F. The Department of Corrections, sheriff or regional jail director shall give notice prior to the release from a state correctional facility or a local or regional jail of any person incarcerated upon conviction of a violation of this section, to any victim of the offense who, in writing, requests notice, or to any person designated in writing by the victim. The notice shall be given at least fifteen days prior to release of a person sentenced to a term of incarceration of more than thirty days or, if the person was sentenced to a term of incarceration of at least forty-eight hours but no more than thirty days, twenty-four hours prior to release. If the person escapes, notice shall be given as soon as practicable following the escape. The victim shall keep the Department of Corrections, sheriff or regional jail director informed of the current mailing address and telephone number of the person named in the writing submitted to receive notice.

All information relating to any person who receives or may receive notice under this subsection shall remain confidential and shall not be made available to the person convicted of violating this section.

For purposes of this subsection, "release" includes a release of the offender from a state correctional facility or a local or regional jail (i) upon completion of his term of incarceration or (ii) on probation or parole.

No civil liability shall attach to the Department of Corrections nor to any sheriff or regional jail director or their deputies or employees for a failure to comply with the requirements of this subsection.

G. As used in this section the term "family or household member" shall have the same meaning as provided in § 16.1-228.

2. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$62,500.

INTRODUCED

SB778