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HOUSE BILL NO. 1481

Offered January 13, 1999

Prefiled December 15, 1998

A BILL to amend and reenact §§ 18.2-374.1:1 and 18.2-374.3 of the Code of Virginia, relating to possession of child pornography and taking indecent liberties with children; penalty.

Patron—Hamilton

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-374.1:1 and 18.2-374.3 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-374.1:1. Possession of child pornography; penalty.

A. Any person who knowingly possesses any sexually explicit visual material utilizing or having as a subject a person less than eighteen years of age shall be guilty of a Class 3 ~~misdemeanor~~ 6 *felony*. However, no prosecution for possession of material prohibited by this section shall lie where the prohibited material comes into the possession of the person charged from a law-enforcement officer or law-enforcement agency.

B. The provisions of this section shall not apply to any such material which is possessed for a bona fide artistic, medical, scientific, educational, religious, governmental, judicial or other proper purpose by a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, clergyman, prosecutor, judge, or other person having a proper interest in the material.

C. All sexually explicit visual material which utilizes or has as a subject a person less than eighteen years of age shall be subject to lawful seizure and forfeiture pursuant to § 18.2-374.2.

~~D. Any person convicted of a second or subsequent offense under this section shall be guilty of a Class 6 felony.~~

§ 18.2-374.3. Use of electronic means to facilitate certain offenses involving children.

It shall be 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 promoting the use of a minor for any activity in violation of § 18.2-374.1 *or* § 18.2-370. A violation of this section shall be punishable as a Class 6 felony.

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 \$0.

INTRODUCED

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