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HOUSE BILL NO. 1731

Offered January 13, 1999

A BILL to amend and reenact § 18.2-374.1:1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-374.4, relating to child stalking, unlawful contact with a minor and possession of child pornography; penalties.

Patron—Watts

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-374.1:1 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 18.2-374.4 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~~ *Class 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.~~

§ 18.2-374.4. Unlawful contact with a minor.

A. Any person who, with the intent to commit a violation of § 18.2-370 or 18.2-374.1, knowingly communicates with any person he knows or has reason to know is a minor under fourteen years of age and suggests a meeting with the person shall be guilty of a *Class 5 felony*.

B. As used in this section, "communicates" means making personal contact or indirect contact through any agent or agency, any print medium, the United States mail, any common carrier or communication common carrier, any electronic communications system, or any telecommunications, wire, computer, or radio communications system.

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 in FY 2009.

INTRODUCED

HB1731