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HOUSE BILL NO. 1268

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact § 18.2-374.3 of the Code of Virginia, relating to use of communications systems to facilitate certain offenses involving children; penalty.

Patrons—Janis, Athey, Callahan, Cosgrove, Fralin, Gear, Gilbert, Kilgore, Landes, Lingamfelter, O'Bannon, Peace, Suit, Welch and Wright

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

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

§ 18.2-374.3. Use of communications systems to facilitate certain offenses involving children; penalties.

A. 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 procuring or promoting the use of a ~~minor~~ *child less than 18 years of age, or any person he knows or has reason to believe is a child less than 18 years of age*, for any activity in violation of § 18.2-355, 18.2-361, 18.2-370 or § 18.2-374.1. ~~A violation of this subsection is a Class 6 felony.~~

B. It shall be unlawful for any person 18 years of age or older 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 soliciting any person he knows or has reason to believe is a child less than 18 years of age for (i) any activity in violation of § 18.2-355 or § 18.2-361, (ii) any activity in violation of § 18.2-374.1, (iii) a violation of § 18.2-374.1:1, or (iv) any activity in violation of subsection A of § 18.2-370.

C. As used in this ~~subsection~~ *section*, "use a communications system" means making personal contact or direct 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.

D. A violation of this ~~subsection~~ *section* is a Class 5 felony.

E. For the purposes of this section, venue shall include any place stated in Article 2 (§ 19.2-244 *et seq.*) of Chapter 15 of Title 19.2 and any place in which the communications system contact was initiated or received.

F. Any motor vehicle used by the owner thereof during the commission of, or in an attempt to commit an offense under this section or used by another with the owner's knowledge that the person intends to use such vehicle during the commission of, or in an attempt to commit, an offense under this section, shall be forfeited to the Commonwealth. The vehicle shall be seized by any law-enforcement officer arresting an individual for the criminal offense. The officer shall take a receipt thereof. Forfeiture of such vehicle shall be enforced as provided in § 19.2-386.1.

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 \$7,723 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.