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HOUSE BILL NO. 1823

Offered January 12, 2011

Prefiled January 11, 2011

A *BILL to amend and reenact § 18.2-370.3 of the Code of Virginia, relating to sex offenses prohibiting residing in proximity to children; penalty.*

Patron—Oder

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-370.3 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-370.3. Sex offenses prohibiting residing in proximity to children; penalty.

A. Every adult who is convicted of an offense occurring on or after July 1, 2006, where the offender is more than three years older than the victim, of one of the following qualifying offenses: (i) clause (iii) of subsection A of § 18.2-61, (ii) subdivision A 1 of § 18.2-67.1, or (iii) subdivision A 1 of § 18.2-67.2, shall be forever prohibited from residing within 500 feet of the premises of any place he knows or has reason to know is a child day center as defined in § 63.2-100, or a primary, secondary, or high school. A violation of this ~~section~~ *subsection* is a Class 6 felony. The provisions of this ~~section~~ *subsection* shall only apply if the qualifying offense was done in the commission of, or as a part of the same course of conduct as, or as part of a common scheme or plan as a violation of ~~(i)~~ (a) subsection A of § 18.2-47 or § 18.2-48, ~~(ii)~~ (b) § 18.2-89, 18.2-90, or 18.2-91, or ~~(iii)~~ (c) § 18.2-51.2.

B. An adult who is convicted of an offense as specified in subsection A of ~~this section~~ and has established a lawful residence shall not be in violation of ~~this section~~ *subsection A* if a child day center or a primary, secondary, or high school is established within 500 feet of his residence subsequent to his conviction.

C. Every adult who is convicted of an offense occurring on or after July 1, 2008, where the offender is more than three years older than the victim, of one of the following qualifying offenses: (i) clause (iii) of subsection A of § 18.2-61, (ii) subdivision A 1 of § 18.2-67.1, or (iii) subdivision A 1 of § 18.2-67.2, shall be forever prohibited from residing within 500 feet of the boundary line of any place he knows *or has reason to know* is a public park when such park ~~(i)~~ (a) is owned and operated by a county, city or town, ~~(ii)~~ (b) shares a boundary line with a primary, secondary, or high school and ~~(iii)~~ (c) is regularly used for school activities. A violation of this ~~section~~ *subsection* is a Class 6 felony. The provisions of this ~~section~~ *subsection* shall only apply if the qualifying offense was done in the commission of, or as a part of the same course of conduct as, or as part of a common scheme or plan as a violation of ~~(i)~~ (1) subsection A of § 18.2-47 or § 18.2-48, ~~(ii)~~ (2) § 18.2-89, 18.2-90, or 18.2-91, or ~~(iii)~~ (3) § 18.2-51.2.

D. An adult who is convicted of an offense as specified in subsection C and has established a lawful residence shall not be in violation of ~~this section~~ *subsection C* if a public park that (i) is owned and operated by a county, city or town, (ii) shares a boundary line with a primary, secondary, or high school, and (iii) is regularly used for school activities, is established within 500 feet of his residence subsequent to his conviction.

E. Every adult who is convicted of an offense occurring on or after July 1, 2011, where the offender is more than three years older than the victim, of one of the following qualifying offenses: (i) clause (iii) of subsection A of § 18.2-61, (ii) subdivision A 1 of § 18.2-67.1, or (iii) subdivision A 1 of § 18.2-67.2, shall be forever prohibited from residing within 500 feet of the premises of any place he knows or has reason to know is a playground, recreation center, athletic field or facility, or public pool. A violation of this *subsection* is a Class 6 felony. The provisions of this *subsection* shall only apply if the qualifying offense was done in the commission of, or as a part of the same course of conduct as, or as part of a common scheme or plan as a violation of (a) subsection A of § 18.2-47 or § 18.2-48, (b) § 18.2-89, 18.2-90, or 18.2-91, or (c) § 18.2-51.2.

F. An adult who is convicted of an offense as specified in subsection E and has established a lawful residence shall not be in violation of *subsection E* if a playground, recreation center, athletic field or facility, or public pool is established within 500 feet of his residence subsequent to his conviction.

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 cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 781 of the Acts of Assembly of 2009 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the

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59 necessary appropriation is \$0 for periods of commitment to the custody of the Department of
60 Juvenile Justice.