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## SENATE BILL NO. 440

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend the Code of Virginia by adding a section numbered 18.2-374.2:1, relating to electronic transmission of sexually explicit visual material by minors; penalties.*

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Patron—Surovell

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Referred to Committee on the Judiciary

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**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered 18.2-374.2:1 as follows:****§ 18.2-374.2:1. *Electronic transmission of sexually explicit visual material between minors; penalties.***

A. Any minor who knowingly transmits, distributes, publishes, or disseminates to another minor an electronically transmitted communication containing sexually explicit visual material of his own person is guilty of a Class 2 misdemeanor.

B. Any minor who knowingly possesses at least one but not more than 10 electronically transmitted communications containing sexually explicit visual material of another minor is guilty of a Class 2 misdemeanor.

C. Any minor who violates the provisions of subsection A or B shall be ordered to (i) participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the child and (ii) perform a mandatory minimum of 50 hours of community service. Such conditions and limitations may include the completion of a community-based program that addresses the consequences of transmitting, distributing, publishing, or disseminating sexually explicit visual material via an electronically transmitted communication and the restricted use of the Internet or computer, including an electronic communication device as defined in § 18.2-190.1.

D. Whenever any minor who has not previously been convicted of an offense under subsection A or B pleads guilty to or enters a plea of not guilty to a violation of subsection A or B, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused and the attorney for the Commonwealth, may defer further proceedings and place such minor on probation upon terms and conditions established by the court for a period not exceeding one year. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

E. Venue for prosecution under this section may lie in the jurisdiction where the unlawful act occurs or where any sexually explicit visual material of a minor associated with a violation of this section is produced, reproduced, found, stored, or possessed.

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