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HOUSE BILL NO. 2398

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations
on February 16, 2023)

(Patron Prior to Substitute—Delegate Bell)

A BILL to amend the Code of Virginia by adding a section numbered 18.2-59.1, relating to sexual extortion; penalty.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-59.1 as follows:

§ 18.2-59.1. Sexual extortion; penalty.

A. Any person who maliciously disseminates or sells, or maliciously threatens, in a writing, to disseminate or sell, a videographic or still image created by any means whatsoever that depicts the complaining witness or such complaining witness's family or household member, as defined in § 16.1-228, as totally nude, or in a state of undress so as to expose the genitals, pubic area, buttocks, or female breast with the intent to cause the complaining witness to engage in sexual intercourse, cunnilingus, fellatio, anilingus, anal intercourse, inanimate or animate object sexual penetration, or an act of sexual abuse, as defined in § 18.2-67.10, and thereby engages in sexual intercourse, cunnilingus, fellatio, anilingus, anal intercourse, inanimate or animate object sexual penetration, or an act of sexual abuse, as defined in § 18.2-67.10, is guilty of a Class 5 felony. However, any adult who violates this section with a person under the age of 18 is guilty of a felony punishable by confinement in a state correctional facility for a term of not less than one nor more than 20 years and by a fine of not more than \$100,000.

B. A prosecution pursuant to this section may be in either the county, city, or town in which the communication was made or received.

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 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.