

HOUSE BILL NO. 1027

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on _____)

(Patron Prior to Substitute—Delegate Walker)

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; exception.

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. As used in this 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, the Internet, or any telecommunications, wire, computer network, or radio communications system.

B. It is unlawful for any person to use a communications system, including computers or computer networks or bulletin boards, or any other electronic means for the purposes of procuring or promoting the use of a minor for any activity in violation of § 18.2-370 or 18.2-374.1. A violation of this subsection is a Class 6 felony.

C. It is unlawful for any person 18 years of age or older to use a communications system, including computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting, with lascivious intent, any person he knows or has reason to believe is a child younger than 15 years of age to knowingly and intentionally:

1. Expose his sexual or genital parts to any child to whom he is not legally married or propose that any such child expose his sexual or genital parts to such person;

2. Propose that any such child feel or fondle his own sexual or genital parts or the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child;

3. Propose to such child the performance of an act of sexual intercourse, anal intercourse, cunnilingus, fellatio, or anilingus or any act constituting an offense under § 18.2-361; or

4. Entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other place, for

31 any purposes set forth in the preceding subdivisions.

32 Any person who violates this subsection is guilty of a Class 5 felony. However, if the person is at least
33 seven years older than the child he knows or has reason to believe is less than 15 years of age, the person
34 shall be punished by a term of imprisonment of not less than five years nor more than 30 years in a state
35 correctional facility, five years of which shall be mandatory minimum term of imprisonment. Any person
36 who commits a second or subsequent violation of this subsection when the person is at least seven years older
37 than the child he knows or has reason to believe is less than 15 years of age shall be punished by a term of
38 imprisonment of not less than 10 years nor more than 40 years, 10 years of which shall be a mandatory
39 minimum term of imprisonment.

40 D. Any person who uses a communications system, including computers or computer networks or bulletin
41 boards, or any other electronic means, for the purposes of soliciting, with lascivious intent, any child he
42 knows or has reason to believe is at least 15 years of age but younger than 18 years of age to knowingly and
43 intentionally commit any of the activities listed in subsection C if the person is at least seven years older than
44 the child is guilty of a Class 5 felony. Any person who commits a second or subsequent violation of this
45 subsection shall be punished by a term of imprisonment of not less than one nor more than 20 years, one year
46 of which shall be a mandatory minimum term of imprisonment.

47 D1. Any person 18 years of age or older who uses a communications system, including computers or
48 computer networks or bulletin boards, or any other electronic means, with lascivious intent, to expose his
49 sexual or genital parts to any person he knows or has reason to know is a child to whom he is not legally
50 married and such child is 15 years of age or older is guilty of a Class 1 misdemeanor.

51 E. Any person 18 years of age or older who uses a communications system, including computers or
52 computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting any person
53 he knows or has reason to believe is a child younger than 18 years of age for (i) any activity in violation of
54 § 18.2-355 or 18.2-361, (ii) any activity in violation of § 18.2-374.1, or (iii) a violation of § 18.2-374.1:1 is
55 guilty of a Class 5 felony.

56 *F. The provisions of this section shall only apply when the person with whom the accused is*
57 *communicating in violation of this section is (i) a child within the age ranges prescribed by this section; (ii)*
58 *the parent or legal guardian of a child within the age ranges prescribed in this section posing as such child;*
59 *or (iii) a law-enforcement officer, while in the performance of his official duties, posing as (a) a child within*
60 *the age ranges prescribed in this section or (b) a parent or guardian of a child within the age ranges*

61 *prescribed in this section.*