

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 406

An Act to amend and reenact § 18.2-67.3 of the Code of Virginia, relating to what constitutes aggravated sexual battery; penalty.

[H 2247]

Approved March 21, 2005

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-67.3 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-67.3. Aggravated sexual battery; penalty.

A. An accused shall be guilty of aggravated sexual battery if he or she sexually abuses the complaining witness, and

1. The complaining witness is less than 13 years of age, or

2. The act is accomplished through the use of the complaining witness's mental incapacity *or physical helplessness*, or

3. The act is accomplished against the will of the complaining witness by force, threat or intimidation ~~or through the use of the complaining witness's physical helplessness~~, and

a. The complaining witness is at least 13 but less than 15 years of age, or

b. The accused causes serious bodily or mental injury to the complaining witness, or

c. The accused uses or threatens to use a dangerous weapon.

B. Aggravated sexual battery is 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.

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 and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.