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## SENATE BILL NO. 1170

Offered January 12, 2005

Prefiled January 12, 2005

*A BILL to amend and reenact §§ 18.2-67.3, 18.2-370 and 18.2-370.2 of the Code of Virginia, relating to victim age limitations in sexual acts involving minors; penalties.*

\_\_\_\_\_  
Patron—Stolle

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Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-67.3, 18.2-370 and 18.2-370.2 of the Code of Virginia are 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~~ 15 years of age, or

2. The act is accomplished through the use of the complaining witness's mental incapacity, 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.a.~~ The accused causes serious bodily or mental injury to the complaining witness, or

~~e.b.~~ 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.

§ 18.2-370. Taking indecent liberties with children; penalties.

A. Any person ~~eighteen~~ 18 years of age or over, who, with lascivious intent, shall knowingly and intentionally commit any of the following acts with any child under the age of ~~fourteen~~ 15 years shall be guilty of a Class 5 felony:

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

(2) ~~Repealed.~~

(3) Propose that any such child feel or fondle 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; or

(4) Propose to such child the performance of an act of sexual intercourse or any act constituting an offense under § 18.2-361; or

(5) Entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other place, for any of the purposes set forth in the preceding subdivisions of this section.

B. Any person ~~eighteen~~ 18 years of age or over who, with lascivious intent, knowingly and intentionally receives money, property, or any other remuneration for allowing, encouraging, or enticing any person under the age of ~~eighteen~~ 18 years to perform in or be a subject of sexually explicit visual material as defined in § 18.2-374.1 or who knowingly encourages such person to perform in or be a subject of sexually explicit material; shall be guilty of a Class 5 felony.

C. Any person who is convicted of a second or subsequent violation of this section shall be guilty of a Class 4 felony; provided that (i) the offenses were not part of a common act, transaction or scheme; (ii) the accused was at liberty as defined in § 53.1-151 between each conviction; and (iii) it is admitted, or found by the jury or judge before whom the person is tried, that the accused was previously convicted of a violation of this section.

§ 18.2-370.2. Sex offenses prohibiting proximity to children; penalty.

A. "Offense prohibiting proximity to children" means a violation or an attempt to commit a violation of (i) subsection A of § 18.2-47, clause (ii) or (iii) of § 18.2-48, subsection B of § 18.2-361, or subsection B of § 18.2-366, where the victim of one of the foregoing offenses was a minor, or (ii) subsection A (iii) of § 18.2-61, §§ 18.2-63, 18.2-64.1, subdivision A 1 of § 18.2-67.1, subdivision A 1 of § 18.2-67.2, or subdivision A 1 ~~or A 3 (a)~~ of § 18.2-67.3, or §§ 18.2-370, 18.2-370.1, clause (ii) of § 18.2-371, §§ 18.2-374.1, 18.2-374.1:1 or § 18.2-379.

B. Every adult who is convicted of an offense prohibiting proximity to children when the offense occurred on or after July 1, 2000, shall as part of his sentence be forever prohibited from loitering within 100 feet of the premises of any place he knows or has reason to know is a primary, secondary or high school. A violation of this section is punishable as a Class 6 felony.

INTRODUCED

SB1170

59 2. That the provisions of this act may result in a net increase in periods of imprisonment or  
60 commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot  
61 be determined for periods of imprisonment in state adult correctional facilities and \$0 for periods  
62 of commitment to the custody of the Department of Juvenile Justice.