

VIRGINIA ACTS OF ASSEMBLY -- 2007 SESSION

CHAPTER 463

An Act to amend and reenact § 9.1-902 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-67.4:2, relating to indecent liberties with children; penalty.

[H 2068]

Approved March 19, 2007

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-902 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-67.4:2 as follows:

§ 9.1-902. Offenses requiring registration.

A. For purposes of this chapter:

"Offense for which registration is required" means:

1. A violation or attempted violation of § 18.2-63, 18.2-64.1, former § 18.2-67.2:1, § 18.2-90 with the intent to commit rape, § 18.2-374.1 or subsection D of § 18.2-374.1:1; or a third or subsequent conviction of (i) § 18.2-67.4, 18.2-67.4:2, (ii) subsection C of § 18.2-67.5 or (iii) § 18.2-386.1;

If the offense was committed on or after July 1, 2006, (i) a violation or attempted violation of § 18.2-91 with the intent to commit any felony offense listed in this section; (ii) a violation or attempted violation of subsection A of § 18.2-374.1:1; or (iii) a felony violation under § 18.2-67.5:1.

2. Clause (iv) of subsection B of § 18.2-374.3 or where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, a violation or attempted violation of subsection A of § 18.2-47, clause (i) or (iii) of § 18.2-48, § 18.2-67.4, subsection C of § 18.2-67.5, § 18.2-361, or 18.2-366;

3. A violation of Chapter 117 (18 U.S.C. § 2421 et seq.) of Title 18 of the United States Code;

4. A "sexually violent offense";

5. "Murder"; or

6. Criminal homicide in conjunction with a violation of clause (i) of § 18.2-371 or § 18.2-371.1, when the offenses arise out of the same incident.

"Murder" means a violation of § 18.2-31 or 18.2-32 where the victim is (i) under 15 years of age or (ii) where the victim is at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section.

"Sexually violent offense" means a violation or attempted violation of:

1. Clause (ii) of § 18.2-48, § 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-67.3, § 18.2-67.4 where the perpetrator is 18 years of age or older and the victim is under the age of six, subsections A and B of § 18.2-67.5, § 18.2-370, or 18.2-370.1;

2. Sections 18.2-63, 18.2-64.1, former § 18.2-67.2:1, § 18.2-90 with the intent to commit rape or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, a violation or attempted violation of subsection A of § 18.2-47, § 18.2-67.4, subsection C of § 18.2-67.5, clause (i) or (iii) of § 18.2-48, § 18.2-361, 18.2-366, or 18.2-374.1. An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that person had been at liberty between such convictions or adjudications; or

3. If the offense was committed on or after July 1, 2006, a violation or attempted violation of § 18.2-91 with the intent to commit any felony offense listed in this section. An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that the person had been at liberty between such convictions or adjudications.

B. "Offense for which registration is required" and "sexually violent offense" shall also include any similar offense under the laws of (i) any foreign country or any political subdivision thereof, (ii) the United States or any political subdivision thereof and any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

C. Juveniles adjudicated delinquent shall not be required to register; however, where the offender is a juvenile over the age of 13 at the time of the offense who is tried as a juvenile and is adjudicated delinquent of any offense enumerated in subdivisions A 1 through A 4 on or after July 1, 2005, the court may, in its discretion and upon motion of the attorney for the Commonwealth, find that the circumstances of the offense require offender registration. In making its determination, the court shall consider all of the following factors that are relevant to the case: (i) the degree to which the delinquent act was committed with the use of force, threat or intimidation, (ii) the age and maturity of the complaining witness, (iii) the age and maturity of the offender, (iv) the difference in the ages of the

complaining witness and the offender, (v) the nature of the relationship between the complaining witness and the offender, (vi) the offender's prior criminal history, and (vii) any other aggravating or mitigating factors relevant to the case.

§ 18.2-67.4:2. Sexual abuse of a child under 15 years of age; penalty.

Any adult who, with lascivious intent, commits an act of sexual abuse, as defined in § 18.2-67.10, with any child 13 years of age or older but under 15 years of age is guilty of a Class 1 misdemeanor.