

070395348

HOUSE BILL NO. 2592

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact § 18.2-67.5:3 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-67.5:4, relating to punishment for subsequent convictions of sex crimes against minors; penalty.

Patrons—Janis, Athey, Cole, Cosgrove, Kilgore, Landes and Sherwood

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-67.5:3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-67.5:4 as follows:

§ 18.2-67.5:3. Punishment upon conviction of certain subsequent violent felony sexual assault.

A. ~~Any~~ Except as provided in § 18.2-67.5:4, any person convicted of more than one offense specified in subsection B, when such offenses were not part of a common act, transaction or scheme, and who has been at liberty as defined in § 53.1-151 between each conviction shall, upon conviction of the second or subsequent such offense, be sentenced to life imprisonment and shall not have all or any portion of the sentence suspended, provided it is admitted, or found by the jury or judge before whom he is tried, that he has been previously convicted of at least one of the specified offenses.

B. The provisions of subsection A shall apply to convictions for:

1. Rape in violation of § 18.2-61;
2. Forcible sodomy in violation of § 18.2-67.1;
3. Object sexual penetration in violation of § 18.2-67.2;
4. Abduction with intent to defile in violation of § 18.2-48; or
5. Conspiracy to commit any offense listed in subdivisions 1 through 4 pursuant to § 18.2-22.

C. For purposes of this section, prior convictions shall include:

(i) ~~adult~~ 1. Adult convictions for felonies under the laws of any state or the United States that are substantially similar to those listed in subsection B; and

(ii) ~~findings~~ 2. Findings of not innocent, adjudications or convictions in the case of a juvenile if the juvenile offense is substantially similar to those listed in subsection B, the offense would be a felony if committed by an adult in the Commonwealth and the offense was committed less than ~~twenty~~ 20 years before the second offense.

The Commonwealth shall notify the defendant in writing, at least ~~thirty~~ 30 days prior to trial, of its intention to seek punishment pursuant to this section.

§ 18.2-67.5:4. Violent sexual felonies against children under 13; second or subsequent offense; penalty.

A. When a person is convicted of an offense specified in subsection B and the victim of the offense is under the age of 13, and it is alleged in the warrant, indictment, or information on which he is convicted and admitted or found by the jury or judge before whom he is tried that he has been before convicted in the Commonwealth of Virginia or in another jurisdiction for any such offense or of any substantially similar offense, when the victim of such offense was under the age of 13 and when such offenses were not part of a common act, transaction, or scheme, and the person has been at liberty as defined in § 53.1-151 between each conviction, he is guilty of a violation of this section and shall be sentenced to a mandatory minimum term of life imprisonment.

B. The provisions of subsection A shall apply to convictions for:

1. Rape in violation of § 18.2-61;
2. Forcible sodomy in violation of § 18.2-67.1;
3. Object sexual penetration in violation of § 18.2-67.2;
4. Abduction with intent to defile in violation of § 18.2-48; or
5. Conspiracy to commit any offense listed in subdivisions 1 through 4 pursuant to § 18.2-22.

C. For purposes of this section, prior convictions shall include:

1. Adult convictions for felonies under the laws of any state or the United States that are substantially similar to those listed in subsection B; and

2. Findings of not innocent, adjudications, or convictions in the case of a juvenile if the juvenile offense is substantially similar to those listed in subsection B and the offense would be a felony if committed by an adult in the Commonwealth.

The Commonwealth shall notify the defendant in writing at least 30 days prior to trial of its

59 *intention to seek punishment pursuant to this section.*

60 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
61 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0**
62 **for periods of imprisonment in state adult correctional facilities and is \$0 for periods of**
63 **commitment to the custody of the Department of Juvenile Justice.**