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SENATE BILL NO. 1649

Offered January 9, 2019

A *BILL to amend and reenact §§ 18.2-64.2 and 19.2-8 of the Code of Virginia, relating to carnal knowledge; bail bondsmen; penalty.*

Patron—Chafin

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That §§ 18.2-64.2 and 19.2-8 of the Code of Virginia are amended and reenacted as follows:****§ 18.2-64.2. Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender; penalty.**

An accused is guilty of carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial defendant or posttrial offender if he is an employee or contractual employee of, or a volunteer with, a state or local correctional facility or regional jail, the Department of Corrections, the Department of Juvenile Justice, a secure facility or detention home, as defined in § 16.1-228, a state or local court services unit, as defined in § 16.1-235, a local community-based probation services agency or a pretrial services agency; is in a position of authority over the inmate, probationer, parolee, detainee, or a pretrial defendant or posttrial offender; knows that the inmate, probationer, parolee, detainee, or pretrial defendant or posttrial offender is under the jurisdiction of the state or local correctional facility, a regional jail, the Department of Corrections, the Department of Juvenile Justice, a secure facility or detention home, as defined in § 16.1-228, a state or local court services unit, as defined in § 16.1-235, a local community-based probation services agency, or a pretrial services agency; and carnally knows, without the use of force, threat or intimidation (i) an inmate who has been committed to jail or convicted and sentenced to confinement in a state or local correctional facility or regional jail or (ii) a probationer, parolee, detainee, or a pretrial defendant or posttrial offender under the jurisdiction of the Department of Corrections, the Department of Juvenile Justice, a secure facility or detention home, as defined in § 16.1-228, a state or local court services unit, as defined in § 16.1-235, a local community-based probation services agency, a pretrial services agency, a local or regional jail for the purposes of imprisonment, a work program or any other parole/probationary or pretrial services program or agency. Such offense is a Class 6 felony.

An accused is guilty of carnal knowledge of a pretrial defendant or posttrial offender if he (a) is an owner or employee of the bail bond company that posted the pretrial defendant's or posttrial offender's bond, (b) has the authority to revoke the pretrial defendant's or posttrial offender's bond, and (c) carnally knows, without use of force, threat, or intimidation, a pretrial defendant or posttrial offender. Such offense is a Class 4 ~~misdemeanor~~ 6 felony.

For the purposes of this section, "carnal knowledge" includes the acts of sexual intercourse, cunnilingus, fellatio, anilingus, anal intercourse and animate or inanimate object sexual penetration.

§ 19.2-8. Limitation of prosecutions.

A prosecution for a misdemeanor, or any pecuniary fine, forfeiture, penalty or amercement, shall be commenced within one year next after there was cause therefor, except that a prosecution for petit larceny may be commenced within five years, and for an attempt to produce abortion, within two years after commission of the offense.

A prosecution for any misdemeanor violation of § 54.1-3904 shall be commenced within two years of the discovery of the offense.

A prosecution for violation of laws governing the placement of children for adoption without a license pursuant to § 63.2-1701 shall be commenced within one year from the date of the filing of the petition for adoption.

A prosecution for making a false statement or representation of a material fact knowing it to be false or knowingly failing to disclose a material fact, to obtain or increase any benefit or other payment under the Virginia Unemployment Compensation Act (§ 60.2-100 et seq.) shall be commenced within three years next after the commission of the offense.

A prosecution for any violation of § 10.1-1320, 62.1-44.32 (b), 62.1-194.1, or Article 11 (§ 62.1-44.34:14 et seq.) of Chapter 3.1 of Title 62.1 that involves the discharge, dumping or emission of any toxic substance as defined in § 32.1-239 shall be commenced within three years next after the commission of the offense.

Prosecution of Building Code violations under § 36-106 shall commence within one year of discovery of the offense by the building official, provided that such discovery occurs within two years

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59 of the date of initial occupancy or use after construction of the building or structure, or the issuance of a
60 certificate of use and occupancy for the building or structure, whichever is later. However, prosecutions
61 under § 36-106 relating to the maintenance of existing buildings or structures as contained in the
62 Uniform Statewide Building Code shall commence within one year of the issuance of a notice of
63 violation for the offense by the building official.

64 Prosecution of any misdemeanor violation of § 54.1-111 shall commence within one year of the
65 discovery of the offense by the complainant, but in no case later than five years from occurrence of the
66 offense.

67 Prosecution of any misdemeanor violation of any professional licensure requirement imposed by a
68 locality shall commence within one year of the discovery of the offense by the complainant, but in no
69 case later than five years from occurrence of the offense.

70 Prosecution of nonfelonious offenses which constitute malfeasance in office shall commence within
71 two years next after the commission of the offense.

72 Prosecution of any violation of § 55-79.87, 55-79.88, 55-79.89, 55-79.90, 55-79.93, 55-79.94,
73 55-79.95, 55-79.103, or any rule adopted under or order issued pursuant to § 55-79.98, shall commence
74 within three years next after the commission of the offense.

75 Prosecution of illegal sales or purchases of wild birds, wild animals and freshwater fish under
76 § 29.1-553 shall commence within three years after commission of the offense.

77 Prosecution of violations under Title 58.1 for offenses involving false or fraudulent statements,
78 documents or returns, or for the offense of willfully attempting in any manner to evade or defeat any
79 tax or the payment thereof, or for the offense of willfully failing to pay any tax, or willfully failing to
80 make any return at the time or times required by law or regulations shall commence within three years
81 next after the commission of the offense, unless a longer period is otherwise prescribed.

82 Prosecution of violations of subsection A or B of § 3.2-6570 shall commence within five years of the
83 commission of the offense, except violations regarding agricultural animals shall commence within one
84 year of the commission of the offense.

85 A prosecution for a violation of § 18.2-386.1 shall be commenced within five years of the
86 commission of the offense.

87 A prosecution for any violation of the Campaign Finance Disclosure Act, Chapter 9.3 (§ 24.2-945 et
88 seq.) of Title 24.2, shall commence within one year of the discovery of the offense but in no case more
89 than three years after the date of the commission of the offense.

90 A prosecution of a crime that is punishable as a misdemeanor pursuant to the Virginia Computer
91 Crimes Act (§ 18.2-152.1 et seq.) or pursuant to § 18.2-186.3 for identity theft shall be commenced
92 before the earlier of (i) five years after the commission of the last act in the course of conduct
93 constituting a violation of the article or (ii) one year after the existence of the illegal act and the identity
94 of the offender are discovered by the Commonwealth, by the owner, or by anyone else who is damaged
95 by such violation.

96 A prosecution of a misdemeanor under § ~~18.2-64.2~~, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, or
97 18.2-370.6 where the victim is a minor at the time of the offense shall be commenced no later than one
98 year after the victim reaches majority.

99 A prosecution for a violation of § 18.2-260.1 shall be commenced within three years of the
100 commission of the offense.

101 Nothing in this section shall be construed to apply to any person fleeing from justice or concealing
102 himself within or without the Commonwealth to avoid arrest or be construed to limit the time within
103 which any prosecution may be commenced for desertion of a spouse or child or for neglect or refusal or
104 failure to provide for the support and maintenance of a spouse or child.

105 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
106 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**
107 **necessary appropriation cannot be determined for periods of imprisonment in state adult**
108 **correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2018, Special Session I,**
109 **requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of**
110 **\$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**
111 **appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile**
112 **Justice.**