

# VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

## CHAPTER 1003

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

[S 42]

Approved April 9, 2020

**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~~ *is* 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 offense is committed by a parent, step-parent, grandparent, or step-grandparent and the complaining witness is at least 13 but less than 18 years of age; or
4. The act is accomplished against the will of the complaining witness by force, threat or intimidation, 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; or

5. *The offense is not a recognized form of treatment in the profession, and is committed, without the express consent of the patient, by (i) a massage therapist, or a person purporting to be a massage therapist, during an actual or purported practice of massage therapy, as those terms are defined in § 54.1-3000; (ii) a person practicing or purporting to practice the healing arts, during an actual or purported practice of the healing arts, as those terms are defined in §§ 54.1-2900 and 54.1-2903; or (iii) a physical therapist, or a person purporting to be a physical therapist, during an actual or purported practice of physical therapy, as those terms are defined in § 54.1-3473.*

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 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**