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HOUSE BILL NO. 346

Offered January 15, 1998

A BILL to amend and reenact § 18.2-67.4 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-64.2, relating to sexual offenses against prisoners; penalty.

Patrons—Howell and Murphy

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-67.4 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 18.2-64.2 as follows:

§ 18.2-64.2. Carnal knowledge of an inmate; parolee, probationer, or pre- or post-trial offender.

An accused shall be guilty of carnal knowledge of an inmate, parolee, probationer, or pre- or post-trial offender if he or she is an employee or contractual employee of, or a volunteer with, a state or local correctional facility or regional jail, the Department of Corrections, a local community corrections program or a pre-trial program; is in a position of authority over the inmate, probationer, parolee, or a pre- or post-trial offender; knows that the inmate, probationer, parolee, or pre- or post-trial offender is under the jurisdiction of the state or local correctional facility, a regional jail, the Department of Corrections, a local community corrections program, or a pre-trial program; and carnally knows, without the use of force, (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, or a pre- or post-trial offender under the jurisdiction of the Department of Corrections, a local community corrections program, a pre-trial program, a local or regional jail for the purposes of imprisonment, a work program or any other parole/probationary or pre-trial program. Such offense is a Class 6 felony.

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

§ 18.2-67.4. Sexual battery.

A. An accused shall be guilty of sexual battery if he or she sexually abuses (i) the complaining witness against the will of the complaining witness, by force, threat, intimidation or ruse, or through the use of the complaining witness's mental incapacity or physical helplessness or (ii) an inmate who has been committed to jail or convicted and sentenced to confinement in a state or local correctional facility or regional jail, and the accused is an employee or contractual employee of, or a volunteer with, the state or local correctional facility or regional jail; is in a position of authority over the inmate; and knows that the inmate is under the jurisdiction of the state or local correctional facility or regional jail, or (iii) a probationer, parolee, or a pre- or post-trial offender under the jurisdiction of the Department of Corrections, a local community corrections program, a pre-trial program, a local or regional jail for the purposes of imprisonment, a work program or any other parole/probationary or pre-trial program and the accused is an employee or contractual employee of, or a volunteer with, the Department of Corrections, a local community corrections program, a pre-trial program or a local or regional jail; is in a position of authority over an offender; and knows that the offender is under the jurisdiction of the Department of Corrections, a local community corrections program, a pre-trial program or a local or regional jail.

B. Sexual battery is a Class 1 misdemeanor.

2. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$62,500.

INTRODUCED

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