

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 294

An Act 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.

[H 346]

Approved March 22, 1999

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 pretrial or posttrial offender; penalty.

An accused shall be guilty of carnal knowledge of an inmate, parolee, probationer, or pretrial or posttrial 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 pretrial program; is in a position of authority over the inmate, probationer, parolee, or a pretrial or posttrial offender; knows that the inmate, probationer, parolee, or pretrial or posttrial 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 pretrial program; 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, or a pretrial or posttrial offender under the jurisdiction of the Department of Corrections, a local community corrections program, a pretrial program, a local or regional jail for the purposes of imprisonment, a work program or any other parole/probationary or pretrial 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 or 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 pretrial or posttrial offender under the jurisdiction of the Department of Corrections, a local community corrections program, a pretrial program, a local or regional jail for the purposes of imprisonment, a work program or any other parole/probationary or pretrial 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 pretrial 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 pretrial 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.