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HOUSE BILL NO. 1338

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact § 18.2-67.4 of the Code of Virginia, relating to punishment for sexual battery; penalty.

Patrons—Bell, Albo, Athey, Callahan, Cosgrove, Iaquinto, Jones, S.C., Landes, Lingamfelter, Marshall, D.W., O'Bannon, Sherwood, Suit, Welch and Wright

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 as follows:

§ 18.2-67.4. Sexual battery.

A. An accused ~~shall be~~ *is* guilty of sexual battery if he ~~or she~~ sexually abuses, as defined in § 18.2-67.10, (i) the complaining witness against the will of the complaining witness, by force, threat, intimidation, *surprise*, 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-based probation program, a pretrial services program, a local or regional jail for the purposes of imprisonment, a work program or any other parole/probationary or pretrial services program and the accused is an employee or contractual employee of, or a volunteer with, the Department of Corrections, a local community-based probation program, a pretrial services 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-based probation program, a pretrial services 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 or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

INTRODUCED

HB1338