

20200286D

## HOUSE BILL NO. 5045

Offered August 18, 2020

Prefiled August 17, 2020

*A BILL to amend and reenact § 18.2-64.2 of the Code of Virginia, relating to carnal knowledge of an inmate, parolee, probationer, arrestee, detainee, or pretrial defendant or posttrial offender; local or state law-enforcement officer; penalty.*

Patrons—Delaney, Convirs-Fowler, Hurst, Murphy, Adams, D.M., Bell, Carr, Filler-Corn, Gooditis, Helmer, Kory, Levine, Lopez, Plum, Price, Watts and Willett

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-64.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-64.2. Carnal knowledge of an inmate, parolee, probationer, arrestee detainee, or pretrial defendant or posttrial offender; penalty.**

An accused is guilty of carnal knowledge of an inmate, parolee, probationer, *arrestee*, detainee, or pretrial defendant or posttrial offender if he is *a law-enforcement officer as defined in § 9.1-101* or 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, *arrestee*, detainee, or a pretrial defendant or posttrial offender; knows that the inmate, probationer, parolee, *arrestee*, detainee, or pretrial defendant or posttrial offender is *in the custody of a private, local, or state law-enforcement agency* or under the jurisdiction of ~~the~~ a state or local correctional facility, a *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; 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, *arrestee*, detainee, or a pretrial defendant or posttrial offender *in the custody of a private, local, or state law-enforcement agency* or 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 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.

**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 1289 of the Acts of Assembly of 2020 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.**

INTRODUCED

HB5045