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HOUSE BILL NO. 434

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary

on _____)

(Patron Prior to Substitute--Delegate Sewell)

A BILL to amend and reenact § 18.2-67.10 of the Code of Virginia, relating to criminal sexual assault; definition of intimate parts; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-67.10 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-67.10. General definitions.

As used in this article:

1. "Complaining witness" means the person alleged to have been subjected to rape, forcible sodomy, inanimate or animate object sexual penetration, marital sexual assault, aggravated sexual battery, or sexual battery.

2. "Intimate parts" means the genitalia, anus, groin, breast, or buttocks of any person, or the chest of a child under the age of 15.

3. "Mental incapacity" means that condition of the complaining witness existing at the time of an offense under this article which prevents the complaining witness from understanding the nature or consequences of the sexual act involved in such offense and about which the accused knew or should have known.

4. "Physical helplessness" means unconsciousness or any other condition existing at the time of an offense under this article which otherwise rendered the complaining witness physically unable to communicate an unwillingness to act and about which the accused knew or should have known.

5. The complaining witness's "prior sexual conduct" means any sexual conduct on the part of the complaining witness which took place before the conclusion of the trial, excluding the conduct involved in the offense alleged under this article.

