

Virginia

WOMEN IN PRISON: 2,681 (12/03)¹

Custodial Sexual Misconduct

Custodial Sexual Misconduct – Statute

§18.2-64.2ⁱ – Carnal knowledge of an inmate; parolee, probationer, or pretrial or post-trial offender

§ 18.2-67.4ⁱⁱ – Sexual batteryⁱⁱⁱ

Virginia covers custodial sexual misconduct with two provisions in the Criminal Code pertaining to Offenses Against a Person.

Does the law impose a criminal penalty on the inmate?	No	The law does not penalize the inmate.
Does the statute cover all relevant forms of sexual abuse?	Yes	The law covers all forms of sexual abuse.
Does the law allow an officer to claim an inmate consented to the sexual act(s) to avoid prosecution?	No	§18.2-64.2 expressly states that the act was done consensually. §18.2-67.4 is not concerned with consent.
Does the statute cover all custodians and staff in contact with inmates?	No	The law covers a broad range of actors, but requires that they be in a position of authority over the person in custody.
Does the statute cover all places where an inmate might be abused?	Yes	The law covers all places where an inmate might be abused.
Is the penalty a felony?	Yes	Violation of carnal knowledge is a Class 6 felony. Violation of sexual battery is a Class 1 misdemeanor.

Custodial Sexual Misconduct – Allegations and Incidents

Indictments/Convictions (answer to AI letter requesting information) ²	The Virginia Attorney General’s Office reported that it does not compile statistics on prosecutions or convictions under the state’s CSM law. ³
Incidents reported in select media since January 2000	- Pocahontas Correctional Center: A former Virginia DOC officer was charged with carnal knowledge of a female inmate. The woman reportedly had been incarcerated for over ten years. She is pregnant and alleges that the officer is the father. Reportedly the officer supervised her work crew, and began having sex with her in his office in exchange for money and other favors. A DOC spokesperson said another officer was also being investigated in connection with an alleged relationship with a female inmate at Pocahontas. (<i>Richmond Times Dispatch</i> , 12/08/05)

ⁱ §18.2-64.2 was amended in 2001 by c. 385, which added “Detainee” to the list of protected persons and inserted “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” in three places.

ⁱⁱ §18.2-67.4 was amended in 2000 by c.832, which inserted “as defined in §18.2-67.10” near the beginning of subsection A. A second 2000 amendment by c. 1040 substituted “local community-based probation program” for “local community corrections program” and inserted “services” following “pretrial” throughout section A.

ⁱⁱⁱ The text of the Virginia statutes is reprinted at the end of this section

	<ul style="list-style-type: none"> - Fluvanna Correctional Center for Women: The Virginia Supreme Court ruled that state prison inmate, Paula Billups, may proceed with her lawsuits against the states Department of Corrections, investigators who worked at the prison and an employee who allegedly took advantage of her sexually. According to the lawsuit, in 2001, Billups complained to prison officials that Cameron Carter, an employee at the prison, forced her to engage in sexual activity by threatening her with false reports of misconduct. Billups alleges in her lawsuit that defendants learned that Carter had used his position in the kitchen to harass female prisoners before Billups made her complaint. (<i>AP State & Local Wire, 11/26/04</i>) - Pamunkey Regional Jail, Hanover County: A correctional officer, Anderson N. Willoughby, was charged with two counts of having carnal knowledge of a female inmate at the jail in September and October. Jail officials said he was “immediately terminated.” (<i>The Richmond Times-Dispatch, 11/16/01</i>) - Danville Jail: Sheriff’s deputy Martin Riggins pleaded guilty to having sex with an inmate. (<i>The Richmond Times-Dispatch, 07/14/01</i>) - A former sheriff’s deputy, convicted of having inappropriate sexual contact with a female prisoner in his custody, was given a five-year prison sentence. He was charged with carnal knowledge of the inmate he was escorting to and from the Portsmouth Courthouse. (<i>The Virginia-Pilot, 06/9/01</i>) - Parole: A former state probation and parole officer, Arthur Spencer Brown Jr, pleaded guilty yesterday to having sexual relations with a woman under his supervision. Brown was convicted of having carnal knowledge of the woman on at least two occasions while he was supervising her probation. (<i>The Richmond Times Dispatch, 01/24/01</i>) - Fluvanna Correctional Center for Women (FCCW): In 1999 the Virginia Department of Corrections (DOC) conducted an internal review of 44 complaints of sexual assault and fraternization between prisoners and staff at the Fluvanna Correctional Center for Women, all since the prison opened in April 1998. Even though 13 employees had been fired or resigned due to sex abuse allegations, the DOC concluded that there was no pattern of sexual abuse. FCCW prisoner Bobinette Fearce told the Associated Press that the number of reported cases is the “tip of the iceberg in this little cesspool of seductions.” FCCW prisoner Yolanda Gross told the AP “If we speak out other officers agitate you, write you tickets.” (<i>Prison Legal News, 04/00</i>) - Henrico County Sheriff’s Dept.: Deputy Reginald Dale was charged with having sex with a female inmate. He pleaded guilty to the reduced charge of assault and was sentenced to 12 months suspended sentence and a \$1,000 fine (\$850 suspended). (<i>The Richmond Times Dispatch 03/01/00</i>).
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Custodial Sexual Misconduct – Policies, Procedures and Practices of Guarding Specific to Women

AI did not receive a response from the Virginia Department of Corrections to its 2000, 2002 or 2005 surveys. Information from other sources is included where available.

Is the current Department of Corrections policy on custodial sexual misconduct language explicit?	Yes	The policy includes direct and specific language about the sexual nature of the behaviors prohibited. ⁴
Allow cross-gender pat-down searches?		
What is the percentage of female officers in relation to male officers?		

Restrictions on the duties of male guards?		
Staff training on sexual misconduct?		
Inform inmates of agency policies and reporting procedures on sexual misconduct?		

Custodial Sexual Misconduct - Policies and Procedures Guiding Official Response

AI did not receive a response from the Virginia Department of Corrections to its surveys. Information from other sources is included where available.

Is medical help available for the victim of alleged sexual abuse?		Not known. AI has received no response to our inquiry from the Virginia DOC.
Are immediate mental health services available for the victim of alleged sexual abuse?		
Is counseling available for the victim of alleged sexual abuse?		
Is a rape kit taken?		
Are there special procedures for investigating allegations of sexual misconduct?		
Is there a system for reporting allegations of custodial sexual misconduct within the DOC?		
Is there a system for reporting allegations of custodial sexual misconduct directly to a body external to the DOC?		
Is the investigation external?		
If there is an external investigation, how is it triggered?		
Is there an independent body, such as a Corrections Ombudsman, with independent oversight of correctional facilities and the DOC?		
Is there a system in place to track investigations, indictments and convictions for custodial sexual misconduct?		
Are special measures taken to shield alleged victims from retaliation?		
If so, do the measures include solitary confinement or lock-down of the inmate?		

Custodial Sexual Misconduct – Pending Legislative Proposals

None

Pregnancy in Custody

Pregnancy - Statute

Legislation banning shackling in the third trimester or during labor	No	Virginia has no legislation limiting the use of shackles on pregnant inmates.
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Pregnancy - Policies, Procedures and Practices

AI did not receive a response from the Virginia Department of Corrections to its surveys. Information from other sources is included where available.

Policy on use of restraints in third trimester		Not known. AI has received no response to our inquiry from the Virginia DOC.
Restraints during transport		See above.
Restraints during labor		See above.
Officer in delivery room		See above.

Contact information

VIRGINIA DEPARTMENT OF CORRECTIONS

Director Gene M. Johnson 6900 Atmore Drive Richmond, VA 23225 Mailing address: P. O. Box 26963, Richmond, VA 23261 Phone: (804) 674-3000	Home page: http://www.vadoc.state.va.us/ Email: directorsoffice@vadoc.state.va.us
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VIRGINIA DEPARTMENT OF CORRECTIONS FACILITIES FOR WOMEN

Pocahontas Correctional Unit <i>Female inmates:</i> 239 (12/04) ⁵ Superintendent: Tammy C. Estep 6900 Courthouse Road Chesterfield, Virginia 23832 Phone: (804) 796-4277 Security Level: Level 1 high (female) Homepage: http://www.vadoc.state.va.us/facilities/institutions/pocahontas.htm	Fluvanna Correctional Center for Women <i>Female inmates:</i> 1165 (12/04) ⁶ Warden: Barbara J. Wheeler P. O. Box 1000 Troy, Virginia 22974 Phone: (804) 984-3700 Security Level: Level 3 (female) Homepage: http://www.vadoc.state.va.us/facilities/institutions/fluvanna.htm	Virginia Correctional Center for Women <i>Female inmates:</i> 553 (12/04) ⁷ Warden: Wendy S. Hobbs P. O. Box 1 Goochland, Virginia 23063 Phone: (804) 784-3582 Security Level: Level 2 (female) Homepage: http://www.vadoc.state.va.us/facilities/institutions/vccw.htm
Brunswick Work Center for Women <i>Female inmates:</i> 198 (03/03) ⁸ Warden: H. Randolph Powell 1147 Planters Road Lawrenceville, VA 23868 Phone: (434) 848-4131 Security Level: Level 1 (female) Homepage: http://www.vadoc.state.va.us/facilities/institutions/brunswick.htm		

VIRGINIA EXECUTIVE

Governor Mark R Warner [D] Patrick Henry Building, 3rd Floor 1111 East Broad Street Richmond, Virginia 23219 Phone: (804) 786-2211 Fax: (804) 371-6351	Homepage: http://www.governor.state.va.us/ Elected: 2002
Attorney General Judith W. Jagdamann 900 East Main Street Richmond, VA 23219 Phone: (804) 786-2071 Fax: (804) 786-1991	Homepage: http://www.oag.state.va.us/ Elected: 2004

VIRGINIA LEGISLATIVE INFORMATION

Legislative Session: The General Assembly convenes each year on the second Wednesday in January. In even-numbered years, the session is held for 60 days. In odd-numbered years, the session is held for 30 days. Sessions may be extended by a two-thirds vote of both houses. The Governor may convene a special session. Senate: 40 members, 4 year terms House: 100 members, 2 year terms	Legislature home page: http://legis.state.va.us Legislative information: http://legis.state.va.us/lis.htm and http://legis.state.va.us/vaonline/v.htm Bill search: http://leg1.state.va.us/001/srb.htm or http://leg1.state.va.us/001/bil.htm Bill information phone number: (804) 786-3838
Senate General Assembly Building 910 Capitol Street, P.O. Box 396 Richmond, Virginia 23218-0396	Senate Home Page: http://senate.state.va.us/welcome.htm
House of Representatives General Assembly Building P.O. Box 406 Richmond, Virginia 23218	Home Page: http://www.legis.state.wv.us/ http://hod.state.va.us/welcome.htm

WOMEN IN PRISON - NGO RESOURCES

The organizations listed are not endorsed by or affiliated with Amnesty International.

<p>Virginia-CURE P.O. Box 19453 Alexandria, VA 22320-9453 Phone: 703/765-6549; Fax: 703/765-6549 Email: info@vacure.org Web: www.vacure.org</p>
<p>ACLU of Virginia 530 East Main Street, Suite 310 Richmond, VA 23219 Phone: 804.644.8022; Fax: 804-649.2733 E-mail: acluva@acluva.org Website: www.acluva.org</p>
<p>Family and Corrections Network 32 Oak Grove Road Palmyra, VA 22963 Phone: (804) 589-3036 Website: www.fcnetwork.org.</p>
<p>Virginia Organizing Project 703 Concord Avenue Charlottesville, VA 22903-5208 Phone: (804) 984-4033; Fax: (434) 984-2803 Website: www.virginia-organizing.org</p>
<p>Mental Health Association of Virginia 530 East Main Street, Suite 707 Richmond, VA 23219 Phone: (804) 225-5591 Website: www.mhav.org</p>
<p>Offender Aid and Restoration of Richmond One North 3rd Street, Suite 200 Richmond, VA 23219 Phone: (804) 643-2746; Fax: (804) 643-1187 Website: www.oarric.org</p>
<p>Virginia CARES 145 Campbell Avenue, Suite 555 Roanoke, VA 24011 Phone: (540) 342-9344; Fax: 540-342-9427 Website: www.vacares.com</p>
<p>Assisting Families of Inmates 1 N.5th St, Suite 400 Richmond VA 23219 Phone: (804) 643-2401; Fax: (804) 643-2464 Email: family@afoi.org Website: www.afoi.org</p>

Virginia's Custodial Sexual Misconduct Statute

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

An accused shall be guilty of carnal knowledge of an inmate, parolee, probationer, detainee, 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, 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 program or a pretrial services program; is in a position of authority over the inmate, probationer, parolee, detainee, or a pretrial or posttrial offender; knows that the inmate, probationer, parolee, detainee, or pretrial or posttrial offender is under the jurisdiction of the state or local correctional facility, a 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 program, or a pretrial services 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, detainee, or a pretrial or posttrial offender 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 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. 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, as defined in § 18.2-67.10,

...

(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.

¹Bureau of Justice Statistics, *Prisoners in 2003*, NCJ205335, 11/2004, available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/p03.pdf>, as per 01/27/06.

²The information does not reflect prosecutions or convictions under rape statutes.

³Letter from Alan Katz, Senior Assistant Attorney General, Virginia Attorney General's Office, 06/18/02; Letter from Greer D. Saunders, Director of Domestic Violence Initiatives, Virginia Attorney General's Office, 07/10/02; Email from G. Michael Favale, Assistant Attorney General, Virginia Attorney General's Office, 08/25/05.

⁴US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000.

⁵Virginia Department of Corrections (DOC), *Resources: Facts and Figures, Monthly Population Summaries*, 12/2004, available at <http://www.vadoc.state.va.us/offenders/default.htm>, as per 01/27/06.

⁶Virginia DOC, *Resources: Facts and Figures, Monthly Population Summaries*, 12/2004, available at <http://www.vadoc.state.va.us/offenders/default.htm>, as per 01/27/06.

⁷Virginia DOC, *Resources: Facts and Figures, Monthly Population Summaries*, 03/2003, available at <http://www.vadoc.state.va.us/resources/statistics/default.htm>, as per 01/27/06.

⁸Virginia DOC, *Resources: Facts and Figures, Monthly Population Summaries*, 03/2003, available at <http://www.vadoc.state.va.us/resources/statistics/default.htm>, as per 01/27/06.