

26103645D

1 **HOUSE BILL NO. 1215**

2 Offered January 14, 2026

3 Prefiled January 14, 2026

4 *A BILL to amend and reenact § 18.2-67.7 of the Code of Virginia, relating to admission of evidence;*
5 *evidentiary hearing; excluded persons.*

6 Patron—Oates

7 Referred to Committee for Courts of Justice

8 **Be it enacted by the General Assembly of Virginia:**9 **1. That § 18.2-67.7 of the Code of Virginia is amended and reenacted as follows:**10 **§ 18.2-67.7. Admission of evidence (Supreme Court Rule 2:412 derived from this section).**11 A. In prosecutions under this article, or under clause (iii) or (iv) of § 18.2-48, 18.2-370, 18.2-370.01, or
12 18.2-370.1, general reputation or opinion evidence of the complaining witness's unchaste character or prior
13 sexual conduct shall not be admitted. Unless the complaining witness voluntarily agrees otherwise, evidence
14 of specific instances of his or her prior sexual conduct shall be admitted only if it is relevant and is:15 1. Evidence offered to provide an alternative explanation for physical evidence of the offense charged
16 which is introduced by the prosecution, limited to evidence designed to explain the presence of semen,
17 pregnancy, disease, or physical injury to the complaining witness's intimate parts; or18 2. Evidence of sexual conduct between the complaining witness and the accused offered to support a
19 contention that the alleged offense was not accomplished by force, threat or intimidation or through the use of
20 the complaining witness's mental incapacity or physical helplessness, provided that the sexual conduct
21 occurred within a period of time reasonably proximate to the offense charged under the circumstances of this
22 case; or23 3. Evidence offered to rebut evidence of the complaining witness's prior sexual conduct introduced by the
24 prosecution.25 B. Nothing contained in this section shall prohibit the accused from presenting evidence relevant to show
26 that the complaining witness had a motive to fabricate the charge against the accused. If such evidence relates
27 to the past sexual conduct of the complaining witness with a person other than the accused, it shall not be
28 admitted and may not be referred to at any preliminary hearing or trial unless the party offering same files a
29 written notice generally describing the evidence prior to the introduction of any evidence, or the opening
30 statement of either counsel, whichever first occurs, at the preliminary hearing or trial at which the admission
31 of the evidence may be sought.32 C. Evidence described in subsections A and B of this section shall not be admitted and may not be
33 referred to at any preliminary hearing or trial until the court first determines the admissibility of that evidence
34 at an evidentiary hearing to be held before the evidence is introduced at such preliminary hearing or trial. The
35 court shall exclude from the evidentiary hearing all persons except the accused, the complaining witness,
36 other necessary witnesses, and required court personnel, and no more than two persons whose presence, in
37 the judgment of the court, would be supportive of the complaining witness and would not impair the conduct
38 of a fair hearing or pose a substantial risk of influencing or affecting the content of the testimony. In such
39 case, the judge shall admonish such support persons to not prompt, communicate with, or influence the
40 complaining witness in any way. A court shall not be precluded from exercising its discretion to remove a
41 support person from the courtroom if it believes such support person is prompting, communicating with, or
42 influencing the complaining witness. If the court determines that the evidence meets the requirements of
43 subsections A and B of this section, it shall be admissible before the judge or jury trying the case in the
44 ordinary course of the preliminary hearing or trial. If the court initially determines that the evidence is
45 inadmissible, but new information is discovered during the course of the preliminary hearing or trial which
46 may make such evidence admissible, the court shall determine in an evidentiary hearing whether such
47 evidence is admissible.

INTRODUCED

HB1215