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HOUSE BILL NO. 2551

Offered January 10, 2007

Prefiled January 9, 2007

A BILL to amend and reenact § 18.2-513 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 4 of Title 18.2 an article numbered 10, consisting of sections numbered 18.2-76.3 through 18.2-76.17; and by adding in Chapter 22.2 of Title 19.2 a section numbered 19.2-386.32, relating to the Human Anti-Trafficking Act; to create provisions for prevention of trafficking and protection of victims; penalties.

Patrons—Ebbin, Bulova, Plum, Scott, J.M. and Waddell; Senator: Ticer

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-513 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 4 of Title 18.2 an article numbered 10, consisting of sections numbered 18.2-76.3 through 18.2-76.17, and by adding in Chapter 22.2 of Title 19.2 a section numbered 19.2-386.32 as follows:

Article 10.

Human Anti-Trafficking Act.

§ 18.2-76.3. Definitions.

"Commercial sex act" means any sex act on account of which anything of value is given, promised to, or received, directly or indirectly, by any person.

"Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of his personal services or those of a person under his control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined or if the principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred.

"Extortion" is to be given its ordinary meaning pursuant to § 18.2-59.

"Financial harm" includes credit extortion, entering into or enforcing a contract for the payment of interest at a rate that exceeds the maximum rate allowed by applicable statute, and entering into or performing an agreement of employment upon which no action may be brought or maintained.

"Labor" means work of economic or financial value.

"Minor" refers to any person less than 18 years of age.

"Person" includes an individual, corporation, partnership, association, a municipal corporation, or any other legal entity.

"Services" means an ongoing relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor.

"Sex act" means any touching of another person for the purpose of gratifying sexual desire of any person. It includes touching of the person as well as touching by the person, whether directly or through clothing.

"Sexually explicit performance" means an act or show, intended to arouse, satisfy the sexual desires of, or appeal to, the prurient interests of patrons or viewers, whether live or public, private, photographed, recorded, or videotaped.

"Victim" means any person, whether a U.S. citizen or foreign national, who has been subjected to the crime of trafficking in persons, sexual servitude of a minor, or involuntary servitude.

§ 18.2-76.4. Trafficking in persons.

A. Any person who knowingly recruits, entices, solicits, isolates, harbors, transports, or provides, or so attempts, another person knowing that the person will be subject to crimes under subsection B or C is guilty of a Class 4 felony.

B. Any person who knowingly recruits, entices, solicits, isolates, harbors, transports, provides any minor, or so attempts, for the purposes of commercial sex acts or sexually explicit performance, or subjects any minor, or so attempts, through any means is guilty of a Class 2 felony.

C. Any person who knowingly subjects a person to commercial sex acts or sexually explicit performance, or labor or services, or so attempts, through use of any of the listed means is guilty of a Class 2 felony:

1. Causing or threatening to cause serious harm to any person;
2. Physically restraining or threatening to physically restrain another person;
3. Abusing or threatening to abuse the law or legal process;

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59 4. Knowingly destroying, concealing, removing, confiscating or possessing any actual or purported
60 passport or other immigration document, or any other actual or purported government identification
61 document, of another person;

62 5. Extortion;

63 6. Deception or fraud;

64 7. Debt bondage;

65 8. Causing or threatening to cause financial harm to any person;

66 9. Facilitating or controlling a victim's access to an addictive controlled substance; or

67 10. Using any scheme, plan, or pattern intended to cause any persons to believe that, if the person
68 did not perform such labor, services, acts or performances, that person or another person would suffer
69 serious harm or physical restraint.

70 D. Any person who knowingly benefits, financially or by receiving anything of value, from
71 participation in an act described in subsection A, B or C is guilty of a Class 4 felony.

72 E. If the violation of this article involves abduction or an attempt to abduct, aggravated sexual
73 assault or the attempt to commit aggravated sexual assault, or an attempt to kill, or if death results, the
74 defendant shall be imprisoned for any terms of years or life.

75 The following shall be additional sentencing considerations within statutory maximums.

76 1. If, pursuant to a violation of this article, a victim suffered bodily injury, the sentence may be
77 enhanced as follows:

78 a. Bodily injury, an additional three years of imprisonment;

79 b. Serious bodily injury, an additional seven years of imprisonment;

80 c. Permanent or life-threatening bodily injury, an additional 10 years of imprisonment; and

81 d. If death results, defendant shall be sentenced pursuant to the murder provisions of Article 1
82 (§ 18.2-30 et seq.) of Chapter 4 of this title.

83 2. In determining sentences within statutory maximums, the sentencing court should take into account
84 the time in which the victim was subject to the crime of subsection C with increased penalties for cases
85 in which the victim was held for between 180 days and one year, and further increased penalties for
86 cases in which the victim was held for more than one year.

87 3. In determining sentences within statutory maximums, the sentencing court should take into account
88 the number of victims, and may provide for substantially increased sentences in cases involving more
89 than two victims.

90 § 18.2-76.5. Criminal liability of business entities.

91 A. Any business entity, including a corporation, partnership, association, government body, municipal
92 corporation or any other legal entity, that knowingly aids or participates in the trafficking in persons
93 under § 18.2-76.4 shall be criminally liable for the offense and shall be subject to a fine or loss of
94 business license in the Commonwealth, or both.

95 B. If a business entity is convicted of violating any section of this article the court may when
96 appropriate:

97 1. Order its dissolution or reorganization;

98 2. Order the suspension or revocation of any license, permit, or prior approval granted to it by a
99 state or local government agency;

100 3. Order the surrender of its charter if it is organized under the Virginia law or the revocation of its
101 certificate to conduct business in the Commonwealth if it is not organized under the Virginia law; or

102 4. Order a fine not exceeding the greater of \$50,000 or an amount that is three times the economic
103 benefit realized by the defendant as a result of the offense. The maximum penalty shall be doubled with
104 respect to both fine and imprisonment for any subsequent conviction of the same person.

105 § 18.2-76.6. No victim liability for criminal activity.

106 A. Any plea of guilty entered under any provision of this article by an offender shall automatically
107 entitle the victim of trafficking in persons to all benefits, rights, and compensation under this article,
108 notwithstanding existing laws.

109 B. A victim of trafficking in persons is not criminally liable for prostitution, any commercial sex act
110 or illegal sexually explicit performance committed as a direct result of, or incident or related to, being
111 trafficked. A victim of trafficking in persons is not criminally liable for other criminal offenses was
112 compelled or coerced to commit while a victim of trafficking in persons.

113 C. In a prosecution for violations of this article, evidence of a victim's past sexual behavior is
114 inadmissible for the purpose of proving that the victim engaged in other sexual behavior, or to prove
115 the victim's sexual predisposition.

116 § 18.2-76.7. Age of consent and mistake as to age are not defenses to trafficking.

117 A. Age of consent to sex, legal age of marriage, or other discretionary age is not a defense to a
118 criminal violation under this article.

119 B. Mistake as to the victim's age is not a defense to a criminal violation under this article.

120 C. Victim's connection by blood or marriage to a defendant in the case or to anyone involved in

121 trafficking of the victim is not a defense to a criminal violation under this article.

122 D. The initial consent of or permission by a trafficking victim or anyone else on the victim's behalf
123 to commercial sex acts or sexually explicit performance, or labor or services is not a defense to a
124 criminal violation under this article.

125 § 18.2-76.8. Restitution.

126 A. A person convicted of a criminal violation under this article shall be ordered to pay restitution to
127 the victim as provided in § 19.2-305.1 et seq. for the following:

128 1. Costs of medical and psychological treatment, including physical and occupational therapy and
129 rehabilitation, at the court's discretion;

130 2. Costs of necessary transportation, temporary housing, and child care, at the court's discretion;

131 3. Reasonable attorney fees and other costs of representation including victim advocate fees;

132 4. The greater of:

133 a. The gross income or value to the defendant of the victim's commercial sex acts or sexually explicit
134 performance, or labor or services, or

135 b. The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of
136 the Fair Labor Standards Act (29 U.S.C. 201 et seq.) or the Virginia Minimum Wage Act (§ 40.1-28.8 et
137 seq.);

138 5. Return of property, costs of damage to property, or full value of property if destroyed or damaged
139 beyond repair;

140 6. Compensation for emotional distress, pain, and suffering;

141 7. Expenses incurred by a victim and any household members or other family members in relocating
142 away from the defendant or his associates, including, but not limited to, deposits for utilities and
143 telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and
144 personal items. Expenses incurred pursuant to this section shall be verified by law enforcement to be
145 necessary for the personal safety of the victim or household or family members, or by a mental health
146 treatment provider to be necessary for the emotional well-being of the victim; and

147 8. Any other compensable losses suffered by the victim.

148 B. The return of the victim to his home country or other absence of the victim from the jurisdiction
149 shall not prejudice the victim's right to receive restitution.

150 C. If the victim dies as a result of being trafficked, a surviving spouse of the victim is eligible for
151 restitution. If no surviving spouse exists, restitution shall be paid to the victim's children and their
152 descendants. If there be none such, any such restitution collected shall be deposited to the Criminal
153 Injuries Compensation Fund pursuant to § 19.2-305.1. Any person named in this provision may not
154 receive any funds from restitution if he benefited or engaged in criminal conduct of this article.

155 § 18.2-76.9. Civil liability.

156 A. An action for injunctive relief or civil damages or both shall lie for any person who is a victim of
157 human trafficking.

158 B. Any aggrieved party who prevails in an action brought under this section shall be entitled to
159 damages, including punitive damages, and, in the discretion of the court, costs of litigation and
160 reasonable attorney fees. Treble damages shall be awarded on proof of actual damages where
161 defendant's acts were willful and malicious.

162 C. A defendant is estopped to assert a defense of the statute of limitations when the expiration of the
163 statute is due to conduct by the defendant inducing the plaintiff to delay the filing of the action or
164 placing the plaintiff under duress.

165 § 18.2-76.10. State Plan for Prevention of Trafficking in Persons.

166 The Governor shall establish an interagency task force to develop and implement a State Plan for
167 the Prevention of Trafficking in Persons.

168 A. The task force shall meet at least annually and should address all aspects of human trafficking,
169 including the recruitment, abduction, transport, harboring, transfer, sale, or receipt of persons, whether
170 U.S. citizens or foreign nationals, within state, national, or across international borders by any means,
171 to place persons in situations of slavery or slavery-like conditions.

172 B. The Governor shall appoint the members of the task force, which shall include, at a minimum:

173 1. The Attorney General or his designee;

174 2. The Secretary of Public Safety or his designee;

175 3. A representative from the Department of Labor and Industry;

176 4. A representative from the Virginia Association of Chiefs of Police;

177 5. A representative from the Virginia Sheriffs' Association;

178 6. The Superintendent of the State Police or his designee;

179 7. A representative from the State Department of Health or a local health department;

180 8. A representative from the Department of Social Services;

181 9. A representative from the Virginia Association of Commonwealth's Attorneys;

182 10. Representatives from relevant federal law-enforcement agencies, including the U.S. Attorney's
183 offices, Federal Bureau of Investigation, and Immigration and Customs Enforcement; and

184 11. Representatives from public, community, and nongovernmental organizations working with issues
185 related to trafficking or with victims of trafficking, including those representing communities
186 disproportionately affected by trafficking, those providing services to victims of violence, children or
187 runaways, and academic researchers with knowledge of subjects relevant to prevention or punishment of
188 trafficking.

189 C. The task force shall carry out the following activities either directly or via one or more of its
190 constituent agencies as appropriate:

191 1. Developing the State Plan for the Prevention of Trafficking in Persons;

192 2. Coordinating the implementation of the State Plan for the Prevention of Trafficking in Persons;

193 3. Working with existing mechanisms and coordinate to enhance the collection and sharing of
194 trafficking data among government agencies, which data collection shall respect the privacy of victims
195 of trafficking;

196 4. Working with existing mechanisms and coordinate to enhance the sharing of information between
197 agencies for the purposes of detecting individuals or organizations engaged in trafficking;

198 5. Establishing policies to enable state government to work more effectively with nongovernmental,
199 community and business organizations to prevent trafficking and provide assistance to U.S. citizen and
200 foreign national victims;

201 6. Reviewing the existing services and facilities available to meet trafficking victims' needs and
202 recommend ways that services might be better coordinated, including but not limited to health services
203 including mental health, housing, education and job training, English as a second language classes,
204 interpreting services, legal and immigration services, and victim compensation;

205 7. Evaluating various approaches used by state and local governments to increase public awareness
206 of the trafficking in persons, including U.S. citizen and foreign national victims of trafficking, and make
207 recommendations regarding ways in which public awareness of trafficking can be increased in the
208 Commonwealth; and

209 8. Submitting an annual report of its findings and recommendations to the Governor, the Speaker of
210 the House of Delegates and the President of the Senate on or before December 15 of each calendar
211 year.

212 D. For each state initiative for the prevention of trafficking, including but not limited to those listed
213 in subsection C and § 18.2-76.11, the Commonwealth shall seek out and enlist the cooperation and
214 assistance of non-governmental organizations, especially those specializing in trafficking in persons,
215 those representing diverse communities disproportionately affected by trafficking, agencies devoted to
216 child services and runaway services, and academic researchers dedicated to the subject of trafficking.

217 § 18.2-76.11. Collection and publication of data.

218 The Department of Criminal Justice Services shall, in cooperation with the State Police and local
219 law-enforcement authorities, collect and periodically publish statistical data on trafficking. The
220 Department of Criminal Justice Services shall elicit the cooperation and assistance of other government
221 agencies, nongovernmental organizations, and other elements of civil society as appropriate to assist in
222 the data collection required in this article. Such data shall include, but shall not be limited to:

223 1. The number of investigations, arrests, prosecutions, and successful convictions of traffickers and
224 those committing trafficking-related crimes (pimping, pandering, procuring, maintaining a brothel, child
225 pornography, visa fraud, document fraud, and other crimes related to trafficking);

226 2. Statistics on the number of victims, including nationality, age, and method of recruitment, and city,
227 state and country of origin, etc.;

228 3. The estimated number and demographic characteristics of persons engaged in the criminal acts in
229 this article, as well as those persons who purchase or receive commercial sex acts or sexually explicit
230 performances, or labor or services, performed by victims of trafficking in persons;

231 4. Trafficking routes and patterns (states or country of origin, transit states or countries);

232 5. The method of transportation (car, boat, plane, foot), if any transportation took place; and

233 6. Social and economic factors that contribute to and foster the demand for all forms of exploitation
234 of persons that lead to trafficking.

235 § 18.2-76.12. Law-enforcement training.

236 The Department of Criminal Justice Services shall provide and strengthen training for law
237 enforcement, prosecutors, and other relevant officials in addressing trafficking in persons. The
238 Department of Criminal Justice Services shall seek the input from the Interagency Task Force on
239 Trafficking, nongovernmental organizations, and other relevant organizations in the preparation and
240 presentation of such training. The training shall focus on:

241 (i) Methods used in identifying U.S. citizen and foreign national victims of trafficking, including
242 preliminary interview techniques and appropriate questioning methods;

243 (ii) Methods for prosecuting traffickers;

244 (iii) Methods for protecting the rights of victims, taking into account the need to consider human
 245 rights and special needs of women and children victims, and that victims should be treated as victims
 246 rather than criminals;

247 (iv) Methods for promoting the safety of victims, including, for example, the training of police to
 248 recognize U.S. citizen and foreign national victims of trafficking quickly; and

249 (v) Methods of increasing effective collaboration with nongovernmental organizations and other
 250 relevant social service organizations in the course of a trafficking case.

251 § 18.2-76.13. Public awareness programs.

252 A. The Department of Criminal Justice Services in cooperation with appropriate nongovernmental
 253 organizations shall prepare public awareness programs designed to educate potential victims of
 254 trafficking in persons and their families of the risks of victimization. Such public awareness programs
 255 shall include, but shall not be limited to:

256 1. Information about the risks of becoming a victim, including information about common recruitment
 257 techniques, use of debt bondage, and other coercive tactics, risk of maltreatment, rape, exposure to
 258 HIV/AIDS and other sexually transmitted diseases, and psychological harm related to victimization in
 259 trafficking cases;

260 2. Information about the risks of engaging in commercial sex and possible punishment;

261 3. Information about victims' rights in Virginia;

262 4. Methods for reporting suspected recruitment activities; and

263 5. Information on hotlines and available victim's services.

264 B. The Department of Criminal Justice Services in cooperation with other appropriate government
 265 agencies and appropriate nongovernmental organizations or other elements of civil society shall prepare
 266 and disseminate public awareness materials to educate the public on the extent of trafficking in persons,
 267 both U.S. citizens and foreign nationals, within the United States, and to discourage the demand that
 268 fosters the exploitation of persons and that leads to trafficking.

269 Such materials may include information on the impact of trafficking on individual victims, whether
 270 U.S. citizens or foreign nationals, aggregate information on trafficking worldwide and domestically, as
 271 well as warnings of the potential for criminal consequences for taking part in trafficking. Such materials
 272 may include, as appropriate, pamphlets, brochures, posters, advertisements in mass media, and any
 273 other appropriate methods.

274 Materials may include information on the impact of trafficking on individual victims. However, any
 275 information on the experiences of individual victims shall preserve the privacy of the victim and the
 276 victim's family.

277 C. All public awareness programs shall be evaluated periodically to ensure their effectiveness.

278 § 18.2-76.14. Grants to certain entities.

279 That the Commonwealth, subject to the availability of appropriations, shall make grants to units of
 280 local government, Indian tribes, and nonprofit, nongovernmental victims' service organizations to
 281 develop, expand, or strengthen victim service programs for victims of trafficking, whether U.S. citizens
 282 or foreign nationals; to carry out the purposes of §§ 18.2-76.10 through 18.2-76.14 for the prevention of
 283 trafficking; and to carry out the purposes of §§ 18.2-76.15 through 18.2-76.17 for victim protection.

284 § 18.2-76.15. Victim's rights.

285 A. Standards for working conditions pursuant to Title 40.1 shall apply equally to persons with or
 286 without the legal right to work in the United States. The Department of Labor and Industry shall
 287 investigate complaints of unlawful working conditions without regard to the immigration status of
 288 complainants and without regard to the nature of the work or services involved.

289 B. Investigative, prosecutorial, and other appropriate authorities shall take all steps necessary to
 290 identify victims of trafficking, both U.S. citizen and foreign national victims, including interviewing all
 291 persons arrested on charges of prostitution. Once victims are identified, these authorities shall provide
 292 reasonable protection to victims of trafficking to prevent recapture by the traffickers and their
 293 associates, secure the victim and the victim's family, if they reside in the United States, from threats,
 294 reprisals, or intimidation by the traffickers and their associates, and ensure the victim has an
 295 opportunity to consult with a victim advocate or other appropriate persons to develop a safety plan.

296 C. Victims of trafficking in persons, whether U.S. citizens or foreign nationals, who are witnesses or
 297 potential witnesses, and their family members are eligible for applicable witness relocation and
 298 protection programs for victims of organized criminal activity or other serious offenses, if it is
 299 determined that an offense involving a crime of violence directed at the witness or potential witness is
 300 likely to be committed. The programs may include:

301 1. Relocation;

302 2. New identity and documents establishing such identity;

303 3. New residence;

304 4. Employment or work permits; or

305 5. Protection of confidentiality of identity and location.
306 D. Victims of trafficking in persons are entitled to forms of compensation under the State Criminal
307 Injuries Compensation Fund.
308 E. In a prosecution for violation of the Human Anti-Trafficking Act, the identity of the victim and the
309 victim's family shall be kept confidential by ensuring that names and identifying information of the
310 victim and victim's family are not released to the public, including by the defendant.
311 F. The Department of Criminal Justice Services shall inform victims of trafficking, in a language
312 they can understand, of their legal rights and the progress of relevant court and administrative
313 proceedings, as appropriate, including but not limited to progress in the prosecution of the criminal
314 offenders; information on convicted persons' prison release dates; the procedure for repatriating a
315 victim to his country of citizenship or lawful residence; and procedures for seeking legal immigration
316 status.
317 G. The Department of Criminal Justice Services shall provide an opportunity to a victim of
318 trafficking, if the victim desires it, to present the victim's views and concerns at appropriate stages of
319 criminal proceedings against traffickers, in a manner not prejudicial to the rights of the defendant. An
320 interpreter who speaks a language the victim understands should be made available to the victim during
321 the course of legal proceedings.
322 H.1. By September 1, 2007, the Commonwealth shall develop plans, in consultation with
323 nongovernmental organizations and other elements of civil society, for the provision of appropriate
324 services, from governmental and nongovernmental sources, for victims of trafficking, whether U.S.
325 citizens or foreign nationals, and any dependents accompanying the victims, or parents or guardians of
326 minor victims, including, but not limited to:
327 a. Appropriate housing, taking into account the person's status as a victim of crime and including
328 safe conditions for sleeping, food and personal hygiene;
329 b. Psychological counseling in a language the victim can understand;
330 c. Medical assistance in a language the victim can understand;
331 d. Childcare;
332 e. Other material assistance as appropriate;
333 f. Employment, educational, language, and training opportunities; and
334 g. Legal assistance in a language the victim can understand.
335 2. Victims of trafficking in persons and their accompanying dependent children shall be entitled to
336 receive social service benefits in the same manner as refugees.
337 3. Residence in shelters or other facilities established under this article shall be voluntary, and
338 victims may decline to stay in shelters.
339 4. Victims shall have the option to communicate with and receive visits from family, friends,
340 attorneys, and advocates.
341 5. Whenever possible, victims of trafficking shall not be housed in prisons or other detention
342 facilities for accused or convicted criminals. Child victims of trafficking shall not be housed in prisons
343 or other detention facilities for accused or convicted criminals or juvenile delinquents under any
344 circumstances.
345 6. The governmental service providers described in this article shall take into account the age,
346 gender, and special needs of victims and accompanying dependent children in formulating plans to
347 provide services to them and in delivering such services.
348 7. Plans developed in accordance with this article shall be submitted for approval to appropriate
349 state authorities, which shall also undertake periodic reviews of the plans and their implementation to
350 ensure compliance with the requirements Human Anti-Trafficking Act and to ensure that all victims are
351 treated with respect for their human rights and dignity.
352 I. The victim protection services defined in the Human Anti-Trafficking Act shall be provided to
353 trafficking victims who are children in a manner that is in a child's best interests and appropriate to a
354 child's situation. Child trafficking victims shall be provided with appropriate services, which may include
355 an explanation of their rights, privacy, housing, care, and age-appropriate support specified in this
356 article. Special programs should be developed to accommodate child witnesses including, but not limited
357 to:
358 1. Testimony of minor conducted outside court setting or by video;
359 2. All testimony and court proceedings take place with parent, legal guardian or foster parent
360 present, if the child so desires;
361 3. Whenever safe and possible, children should be reunited with family members, whether within or
362 outside the United States;
363 4. Special mental health and medical care tailored to the child's needs; and
364 5. Upon resettlement in a new country, child victims of trafficking should be guaranteed education
365 that matches or exceeds the general standard of education in the country.
366 § 18.2-76.16. Confidentiality.

367 A. A trafficking victim, whether or not a party to the action, has a privilege to refuse to disclose,
 368 and to prevent another from disclosing, a confidential communication between the victim and a human
 369 trafficking caseworker if the privilege is claimed by any of the following persons:

370 1. The holder of the privilege;

371 2. A person who is authorized to claim the privilege by the holder of the privilege;

372 3. The person who was the human trafficking caseworker at the time of the confidential
 373 communication. However, that person may not claim the privilege if there is no holder of the privilege
 374 in existence or if he is otherwise instructed by a person authorized to permit disclosure. The human
 375 trafficking caseworker who received or made a communication subject to the privilege granted by the
 376 Human Anti-Trafficking Act shall claim the privilege whenever he is present when the communication is
 377 sought to be disclosed and he is authorized to claim the privilege under this article.

378 B. A human trafficking caseworker shall inform a victim of any applicable limitations on
 379 confidentiality of communications between the victim and the caseworker. This information may be given
 380 orally.

381 C. As used in this article, "human trafficking caseworker" means a person who is employed by any
 382 organization whether financially compensated or not, for the purpose of rendering advice or assistance
 383 to victims of human trafficking, who has received specialized training in the counseling of human
 384 trafficking victims, and who meets one of the following requirements:

385 1. Holds a master's degree or higher in counseling or a related field; or has one year of counseling
 386 experience, at least six months of which is in the counseling of human trafficking victims; or

387 2. Has at least 40 hours of training as specified in this article and is supervised by an individual
 388 who qualifies as a counselor under this article or by a psychotherapist. The training, supervised by a
 389 person qualified under this enactment, shall include, but need not be limited to, the following areas:
 390 history of human trafficking, civil and criminal law as it relates to human trafficking, societal attitudes
 391 towards human trafficking, peer counseling techniques, housing, public assistance and other financial
 392 resources available to meet the financial needs of human trafficking victims, and referral services
 393 available to meet the financial needs of human trafficking victims, and referral services available to
 394 human trafficking victims. A portion of this training must include an explanation of privileged
 395 communication.

396 D. As used in this article, "confidential communication" means information transmitted between the
 397 victim and the caseworker in the course of their relationship and in confidence by a means which, so
 398 far as the victim is aware, discloses the information to no third persons other than those who are
 399 present to further the interests of the victim in the consultation or those to whom disclosures are
 400 reasonably necessary for the transmission of the information or an accomplishment of the purposes for
 401 which the human trafficking counselor is consulted. It includes all information regarding the facts and
 402 circumstances involving all incidences of human trafficking.

403 E. As used in this article, "holder of the privilege" means the victim when he has no guardian or
 404 conservator, or a guardian or conservator of the victim when the victim has a guardian or conservator.

405 § 18.2-76.17. Penalty for disclosure of location of victims.

406 Any person who maliciously or with gross negligence publishes, disseminates, or otherwise discloses
 407 the location of any trafficking victim, any trafficking shelter or domestic violence shelter or any place
 408 designated as a trafficking shelter or domestic violence shelter, without the authorization of that
 409 trafficking shelter or domestic violence shelter, is guilty of a Class 1 misdemeanor.

410 1. For purposes of this article, "domestic violence shelter" means a confidential location which
 411 provides housing for victims of sexual assault, spousal abuse, or both, and their families.

412 2. For purposes of this article, "trafficking shelter" means a confidential location, which provides
 413 housing for victims of human trafficking.

414 § 18.2-513. Definitions.

415 As used in this chapter, the term:

416 "Criminal street gang" shall be as defined in § 18.2-46.1.

417 "Enterprise" includes any of the following: sole proprietorship, partnership, corporation, business
 418 trust, criminal street gang; or other group of three or more individuals associated for the purpose of
 419 criminal activity.

420 "Proceeds" shall be as defined in § 18.2-246.2.

421 "Racketeering activity" means to commit, attempt to commit, conspire to commit, or to solicit,
 422 coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1
 423 (§ 18.2-46.1 et seq.) of Chapter 4 of this title, § 18.2-460; a felony offense of §§ 10.1-1455, 18.2-31,
 424 18.2-32, 18.2-32.1, 18.2-33, 18.2-35, Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4 of this title,
 425 §§ 18.2-47, 18.2-48, 18.2-48.1, 18.2-49, 18.2-51, 18.2-51.2, 18.2-52, 18.2-53, 18.2-55, 18.2-58,
 426 18.2-76.4, 18.2-76.5, 18.2-77, 18.2-79, 18.2-80, 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, 18.2-95,
 427 Article 4 (§ 18.2-111 et seq.) of Chapter 5 of this title, Article 1 (§ 18.2-168 et seq.) of Chapter 6 of

428 this title, §§ 18.2-178, 18.2-186, Article 6 (§ 18.2-191 et seq.) of Chapter 6 of this title, Article 9
429 (§ 18.2-246.1 et seq.) of Chapter 6 of this title, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title,
430 §§ 18.2-279, 18.2-286.1, 18.2-289, 18.2-300, 18.2-308.2, 18.2-308.2:1, 18.2-328, 18.2-355, 18.2-357,
431 18.2-369, 18.2-374.1, Article 8 (§ 18.2-433.1 et seq.) of Chapter 9 of this title, Article 1 (§ 18.2-434 et
432 seq.) of Chapter 10 of this title, Article 2 (§ 18.2-438 et seq.) of Chapter 10 of this title, Article 3
433 (§ 18.2-446 et seq.) of Chapter 10 of this title, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of this
434 title, §§ 18.2-516, 32.1-314, or § 58.1-1017; or any substantially similar offenses under the laws of any
435 other state, the District of Columbia, the United States or its territories.

436 § 19.2-386.32. *Seizure and forfeiture of property used in connection with human trafficking.*

437 A. *All property, including, but not limited to, money, valuables, real property, and vehicles, of*
438 *persons convicted of § 18.2-76.4 that was used or intended to be used, or was obtained in the course of*
439 *the crime of human trafficking, or benefits gained from the proceeds of such crime, shall be subject to*
440 *lawful seizure by a law-enforcement officer and shall be subject to forfeiture to the Commonwealth*
441 *pursuant to Chapter 22 (§ 19.2-369 et seq.) of this title by order of the court in which a conviction*
442 *under § 18.2-76.4 is obtained, according to the procedures contained in Chapter 22.1 (§ 19.2-386.1 et*
443 *seq.) of this title, applied mutatis mutandis.*

444 B. *Notwithstanding the provisions of § 19.2-381, any assets seized shall first be used to pay*
445 *restitution to trafficking victims and subsequently any damages awarded to victims in the civil action.*

446 C. *A forfeiture under this section shall not extinguish the rights of any person without knowledge of*
447 *the illegal use of the property who (i) is the lawful owner or (ii) has a valid and perfected lien on the*
448 *property.*

449 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
450 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
451 **be determined for periods of imprisonment in state adult correctional facilities and cannot be**
452 **determined for periods of commitment to the custody of the Department of Juvenile Justice.**