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HOUSE BILL NO. 716

Offered January 8, 2014

Prefiled January 7, 2014

A *BILL to amend and reenact §§ 17.1-805, 18.2-46.1, 18.2-67.7, 18.2-346, 18.2-513, 19.2-11.2, 19.2-215.1, 19.2-305.1, and 19.2-386.32 of the Code of Virginia and to amend the Code of Virginia by adding in Article 8 of Chapter 2 of Title 2.2 a section numbered 2.2-224.2, by adding a section numbered 8.01-42.4, by adding in Article 1 of Chapter 1 of Title 9.1 a section numbered 9.1-116.2, by adding in Article 3 of Chapter 4 of Title 18.2 a section numbered 18.2-50.3, and by adding in Chapter 1.1 of Title 19.2 a section numbered 19.2-11.5, relating to trafficking in persons; penalties.*

Patrons—McClellan and Watts

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 17.1-805, 18.2-46.1, 18.2-67.7, 18.2-346, 18.2-513, 19.2-11.2, 19.2-215.1, 19.2-305.1, and 19.2-386.32 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 8 of Chapter 2 of Title 2.2 a section numbered 2.2-224.2, by adding a section numbered 8.01-42.4, by adding in Article 1 of Chapter 1 of Title 9.1 a section numbered 9.1-116.2, by adding in Article 3 of Chapter 4 of Title 18.2 a section numbered 18.2-50.3, and by adding in Chapter 1.1 of Title 19.2 a section numbered 19.2-11.5 as follows:

§ 2.2-224.2. Secretary of Public Safety to convene an anti-trafficking committee.

The Secretary of Public Safety, in collaboration with other Cabinet Secretaries, shall convene an Anti-Human Trafficking Coordinating Committee (the Committee) composed of representatives of the Departments of Agriculture and Consumer Services, Alcoholic Beverage Control, Behavioral Health and Developmental Services, Criminal Justice Services, Education, Health, Health Professions Social Services, State Police, Professional and Occupational Regulation, and Transportation and the Virginia Employment Commission and the Office of the Attorney General. Other agencies and parties with interest and expertise may be invited to participate in the work of the Committee. The Committee shall meet regularly to review and coordinate the agencies' work to identify and implement additional actions and strategies to further strengthen the Commonwealth's responses to human trafficking, including whether state agencies can broaden the availability of information and materials related to human trafficking via their websites, and to examine areas of public access to determine whether posting notices regarding the National Runaway Safeline and the National Human Trafficking Hotline would provide useful information to the public, and if so, to post such notices. The Committee shall review existing funding programs for barriers that may prohibit human trafficking victims from accessing services, including emergency and transitional housing, mental health and substance abuse, victim advocacy, and transportation assistance, and shall seek potential solutions to any such barriers. The Committee shall annually report by December 1 to the Governor on its activities, accomplishments, and recommendations.

§ 8.01-42.4. Civil action for trafficking in persons.

A. As used in this section:

"Compensatory damages" includes damages for all of the defendant's acts prohibited by § 18.2-50.3.

"Victim" means a person who was subjected to conduct that constituted trafficking in persons under § 18.2-50.3, regardless of whether the perpetrator is identified, apprehended, prosecuted, or convicted.

B. A victim has a civil cause of action against an individual who engaged in conduct that is prohibited under § 18.2-50.3, whether or not the individual has been charged or convicted for the alleged violation, for the compensatory damages incurred by the victim as a result of that conduct, in addition to the costs for bringing the action. If compensatory damages are awarded, a victim may also be awarded punitive damages.

C. No action shall be commenced under this section more than five years after the later of the date on which the victim (i) no longer was subject to trafficking in persons or (ii) attained 18 years of age.

§ 9.1-116.2. Virginia Prevention of Human Trafficking Victim Fund; purpose; guidelines.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Prevention of Human Trafficking Victim Fund, referred to in this section as "the Fund." The fund shall be established on the books of the Comptroller. All moneys accruing to the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

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59 *Moneys in the Fund shall be used solely for the purposes of supporting victim services and the*
60 *prosecution of human trafficking cases. Expenditures and disbursements from the Fund shall be made by*
61 *the State Treasurer on warrants issued by the Comptroller.*

62 *B. The Fund shall be administered by the Department of Criminal Justice Services and the*
63 *Department shall adopt guidelines, the purpose of which shall be to make funds available to (i) local*
64 *attorneys for the Commonwealth for the purpose of funding the cost of additional attorneys or to further*
65 *dedicate existing resources to prosecute felonies and misdemeanors involving human trafficking and (ii)*
66 *law-enforcement authorities or appropriate programs, including civil legal assistance, to assist in*
67 *protecting and providing necessary services to victims of human trafficking.*

68 *C. The Department shall establish a grant procedure to govern funds awarded for this purpose.*

69 **§ 17.1-805. Adoption of initial discretionary sentencing guideline midpoints.**

70 A. The Commission shall adopt an initial set of discretionary felony sentencing guidelines which
71 shall become effective on January 1, 1995. The initial recommended sentencing range for each felony
72 offense shall be determined first, by computing the actual time-served distribution for similarly situated
73 offenders, in terms of their conviction offense and prior criminal history, released from incarceration
74 during the base period of calendar years 1988 through 1992, increased by 13.4 percent, and second, by
75 eliminating from this range the upper and lower quartiles. The midpoint of each initial recommended
76 sentencing range shall be the median time served for the middle two quartiles and subject to the
77 following additional enhancements:

78 1. The midpoint of the initial recommended sentencing range for first degree murder, second degree
79 murder, rape in violation of § 18.2-61, forcible sodomy, object sexual penetration, and aggravated sexual
80 battery, shall be further increased by (i) 125 percent in cases in which the defendant has no previous
81 conviction of a violent felony offense; (ii) 300 percent in cases in which the defendant has previously
82 been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years;
83 or (iii) 500 percent in cases in which the defendant has previously been convicted of a violent felony
84 offense punishable by a maximum punishment of 40 years or more, except that the recommended
85 sentence for a defendant convicted of first degree murder who has previously been convicted of a
86 violent felony offense punishable by a maximum term of imprisonment of 40 years or more shall be
87 imprisonment for life;

88 2. The midpoint of the initial recommended sentencing range for voluntary manslaughter, robbery,
89 aggravated malicious wounding, malicious wounding, and any burglary of a dwelling house or statutory
90 burglary of a dwelling house or any burglary committed while armed with a deadly weapon or any
91 statutory burglary committed while armed with a deadly weapon shall be further increased by (i) 100
92 percent in cases in which the defendant has no previous conviction of a violent felony offense, (ii) 300
93 percent in cases in which the defendant has previously been convicted of a violent felony offense
94 punishable by a maximum term of imprisonment of less than 40 years, or (iii) 500 percent in cases in
95 which the defendant has previously been convicted of a violent felony offense punishable by a
96 maximum term of imprisonment of 40 years or more;

97 3. The midpoint of the initial recommended sentencing range for manufacturing, selling, giving or
98 distributing, or possessing with the intent to manufacture, sell, give or distribute a Schedule I or II
99 controlled substance shall be increased by (i) 200 percent in cases in which the defendant has previously
100 been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years
101 or (ii) 400 percent in cases in which the defendant has previously been convicted of a violent felony
102 offense punishable by a maximum term of imprisonment of 40 years or more; and

103 4. The midpoint of the initial recommended sentencing range for felony offenses not specified in
104 subdivision 1, 2, or 3 shall be increased by 100 percent in cases in which the defendant has previously
105 been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years,
106 and by 300 percent in cases in which the defendant has previously been convicted of a violent felony
107 offense punishable by a maximum term of imprisonment of 40 years or more.

108 B. For purposes of this chapter, previous convictions shall include prior adult convictions and
109 juvenile convictions and adjudications of delinquency based on an offense which would have been at the
110 time of conviction a felony if committed by an adult under the laws of any state, the District of
111 Columbia, the United States or its territories.

112 C. For purposes of this chapter, violent felony offenses shall include any felony violation of
113 § 16.1-253.2; solicitation to commit murder under § 18.2-29; any violation of § 18.2-31, 18.2-32,
114 18.2-32.1, 18.2-32.2, 18.2-33, or 18.2-35; any violation of subsection B of § 18.2-36.1; any violation of
115 § 18.2-40 or 18.2-41; any violation of clause (c)(i) or (ii) of subsection B of § 18.2-46.3; any violation
116 of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any Class 5 felony violation of § 18.2-47; any felony violation
117 of § 18.2-48, 18.2-48.1, or 18.2-49; any violation of § 18.2-50.3, 18.2-51, 18.2-51.1, 18.2-51.2,
118 18.2-51.3, 18.2-51.4, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, or 18.2-55;
119 any violation of subsection B of § 18.2-57; any felony violation of § 18.2-57.2; any violation of
120 § 18.2-58 or 18.2-58.1; any felony violation of § 18.2-60.1, 18.2-60.3, or 18.2-60.4; any violation of

§ 18.2-61, 18.2-64.1, 18.2-67.1, 18.2-67.2, former § 18.2-67.2:1, 18.2-67.3, 18.2-67.5, or 18.2-67.5:1 involving a third conviction of either sexual battery in violation of § 18.2-67.4 or attempted sexual battery in violation of subsection C of § 18.2-67.5; any Class 4 felony violation of § 18.2-63; any violation of subsection A of § 18.2-67.4:1; any violation of subsection A of § 18.2-77; any Class 3 felony violation of § 18.2-79; any Class 3 felony violation of § 18.2-80; any violation of § 18.2-85, 18.2-89, 18.2-90, 18.2-91, 18.2-92, or 18.2-93; any felony violation of § 18.2-152.7; any Class 4 felony violation of § 18.2-153; any Class 4 felony violation of § 18.2-154; any Class 4 felony violation of § 18.2-155; any felony violation of § 18.2-162; any violation of § 18.2-279 involving an occupied dwelling; any felony violation of subsection A or B of § 18.2-280; any violation of § 18.2-281; any felony violation of subsection A of § 18.2-282; any felony violation of § 18.2-282.1; any violation of § 18.2-286.1, 18.2-287.2, 18.2-289, or 18.2-290; any violation of subsection A of § 18.2-300; any felony violation of subsection C of § 18.2-308.1 or 18.2-308.2; any violation of § 18.2-308.2:1 or subsection M or N of § 18.2-308.2:2; any violation of § 18.2-308.3 or 18.2-312; any violation of subdivision (2) or (3) of § 18.2-355; any violation of former § 18.2-358; any violation of subsection B of § 18.2-361; any violation of subsection B of § 18.2-366; any violation of § 18.2-368, 18.2-370, or 18.2-370.1; any violation of subsection A of § 18.2-371.1; any felony violation of § 18.2-369 resulting in serious bodily injury or disease; any violation of § 18.2-374.1; any felony violation of § 18.2-374.1:1; any violation of § 18.2-374.3 or 18.2-374.4; any second or subsequent offense under §§ 18.2-379 and 18.2-381; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or 18.2-433.2; any felony violation of § 18.2-460, 18.2-474.1, or 18.2-477.1; any violation of § 18.2-477, 18.2-478, 18.2-480, 18.2-481, or 18.2-485; any violation of § 37.2-917; any violation of § 52-48; any violation of § 53.1-203; or any conspiracy or attempt to commit any offense specified in this subsection, and any substantially similar offense under the laws of any state, the District of Columbia, the United States or its territories.

§ 18.2-46.1. Definitions.

As used in this article unless the context requires otherwise or it is otherwise provided:

"Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-46.3, 18.2-50.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55, 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-89, 18.2-90, 18.2-95, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, 18.2-355, 18.2-356, or 18.2-357; (iii) a felony violation of § 18.2-60.3 or 18.2-248.1:1; (iv) a felony violation of § 18.2-248 or of 18.2-248.1 or a conspiracy to commit a felony violation of § 18.2-248 or 18.2-248.1; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

§ 18.2-50.3. Trafficking in persons for forced labor or sexual servitude; penalties.

A. For purposes of this section:

"Coercion" means:

1. The use or threat of force against, abduction of, serious harm to, or physical restraint of, an individual;

2. The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraint of, an individual;

3. The abuse or threatened abuse of law or legal process;

4. Controlling or threatening to control an individual's access to a controlled substance as defined in the Drug Control Act (§ 54.1-3400 et seq.);

5. The destruction or taking of or threatened destruction or taking of an individual's passport, immigration document, or other governmental identification, or other property;

6. The use of debt bondage;

7. The use of an individual's physical or mental impairment when the impairment has a substantial adverse effect on the individual's cognitive or volitional function; or

8. The commission of criminal fraud.

"Commercial sexual activity" means the promise, offer, or receipt of anything of value by a person in

182 exchange for sexual intercourse, cunnilingus, anilingus, fellatio, anal intercourse, inanimate or animate
183 object sexual penetration, or feeling or fondling the sexual or genital parts of any person.

184 "Debt bondage" means inducing an individual to provide:

- 185 1. Commercial sexual activity in payment toward or satisfaction of a real or purported debt; or
186 2. Labor or services in payment toward or satisfaction of a real or purported debt if:
187 a. The reasonable value of the labor or services is not applied toward the liquidation of the debt; or
188 b. The length of the labor or services is not limited and the nature of the labor or services is not
189 defined.

190 "Serious harm" means harm, whether physical or nonphysical, including psychological, economic, or
191 reputational, to an individual that would compel a reasonable individual of the same background and in
192 the same circumstances to perform or continue to perform labor or services or commercial sexual
193 activity to avoid incurring the harm.

194 B. Any person who knowingly uses coercion to compel an individual to provide labor or services is
195 guilty of forced labor, a Class 4 felony. However, where the victim of the offense is a minor, the offense
196 is a Class 3 felony.

197 C. Any person who knowingly maintains or makes available a minor for the purpose of engaging the
198 minor in commercial sexual activity is guilty of sexual servitude of a minor, a Class 3 felony. It is not a
199 defense to prosecution under this subsection that the minor consented to the commercial sexual activity
200 or that the defendant believed the minor was an adult.

201 D. Any person who knowingly uses coercion or deception to compel an adult to engage in
202 commercial sexual activity is guilty of sexual servitude, a Class 4 felony.

203 E. Any person who knowingly recruits, transports, harbors, receives, provides, obtains, isolates,
204 maintains, or entices an individual in furtherance of forced labor or sexual servitude is guilty of a Class
205 4 felony. However, where the victim of the offense is a minor, the offense is a Class 3 felony.

206 **§ 18.2-67.7. Admission of evidence (Supreme Court Rule 2:412 derived from this section).**

207 A. In prosecutions under this article, or under clause (iii) or (iv) of § 18.2-48 or § 18.2-50.3,
208 18.2-356, 18.2-370, 18.2-370.01, or 18.2-370.1, general reputation or opinion evidence of the
209 complaining witness's unchaste character or prior sexual conduct shall not be admitted. Unless the
210 complaining witness voluntarily agrees otherwise, evidence of specific instances of his or her prior
211 sexual conduct shall be admitted only if it is relevant and is:

212 1. Evidence offered to provide an alternative explanation for physical evidence of the offense charged
213 which is introduced by the prosecution, limited to evidence designed to explain the presence of semen,
214 pregnancy, disease, or physical injury to the complaining witness's intimate parts; or

215 2. Evidence of sexual conduct between the complaining witness and the accused offered to support a
216 contention that the alleged offense was not accomplished by force, threat or intimidation or through the
217 use of the complaining witness's mental incapacity or physical helplessness, provided that the sexual
218 conduct occurred within a period of time reasonably proximate to the offense charged under the
219 circumstances of this case; or

220 3. Evidence offered to rebut evidence of the complaining witness's prior sexual conduct introduced
221 by the prosecution.

222 B. Nothing contained in this section shall prohibit the accused from presenting evidence relevant to
223 show that the complaining witness had a motive to fabricate the charge against the accused. If such
224 evidence relates to the past sexual conduct of the complaining witness with a person other than the
225 accused, it shall not be admitted and may not be referred to at any preliminary hearing or trial unless
226 the party offering same files a written notice generally describing the evidence prior to the introduction
227 of any evidence, or the opening statement of either counsel, whichever first occurs, at the preliminary
228 hearing or trial at which the admission of the evidence may be sought.

229 C. Evidence described in subsections A and B of this section shall not be admitted and may not be
230 referred to at any preliminary hearing or trial until the court first determines the admissibility of that
231 evidence at an evidentiary hearing to be held before the evidence is introduced at such preliminary
232 hearing or trial. The court shall exclude from the evidentiary hearing all persons except the accused, the
233 complaining witness, other necessary witnesses, and required court personnel. If the court determines
234 that the evidence meets the requirements of subsections A and B of this section, it shall be admissible
235 before the judge or jury trying the case in the ordinary course of the preliminary hearing or trial. If the
236 court initially determines that the evidence is inadmissible, but new information is discovered during the
237 course of the preliminary hearing or trial which may make such evidence admissible, the court shall
238 determine in an evidentiary hearing whether such evidence is admissible.

239 **§ 18.2-346. Prostitution; commercial sexual conduct; commercial exploitation of a minor;
240 penalties.**

241 A. Any person who, for money or its equivalent, (i) commits adultery, fornication, or any act in
242 violation of § 18.2-361 or (ii) offers to commit adultery, fornication, or any act in violation of
243 § 18.2-361 and thereafter does any substantial act in furtherance thereof is guilty of prostitution, which

is punishable as a Class 1 misdemeanor. *It is an affirmative defense to prosecution under this subsection that the person engaged in prostitution as a direct result of being a victim of sexual servitude under § 18.2-50.3.*

B. Any person who offers money or its equivalent to another for the purpose of engaging in sexual acts as enumerated in subsection A and thereafter does any substantial act in furtherance thereof is guilty of solicitation of prostitution, which is punishable as a Class 1 misdemeanor. However, any person who solicits prostitution from a minor (i) 16 years of age or older is guilty of a Class 6 felony or (ii) younger than 16 years of age is guilty of a Class 5 felony.

C. *In any delinquency proceeding under subsection A involving a minor where (i) the minor expresses a willingness to participate in specialized services for those engaged in commercial sexual conduct and (ii) the proceeding is the minor's first offense under subsection A, the court shall substitute a petition for a child in need of services for the delinquency petition and may order specialized services for the child. Such specialized services may include, but are not limited to, specialized housing, case management, integrated mental health and chemical dependency, educational assistance, and any other available programs or services that, in the opinion of the court, may be best suited to the needs of the minor. In any delinquency proceeding involving a minor's second or subsequent offense under subsection A, the court has the discretion to substitute a petition for a child in need of services for the delinquency petition and to order specialized services for the child. In any instance where the court substitutes a petition for a child in need of services, the court shall dismiss the delinquency petition against the minor.*

§ 18.2-513. Definitions.

As used in this chapter, ~~the term~~ *unless the context requires a different meaning:*

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

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

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

"Racketeering activity" means to commit, attempt to commit, conspire to commit, or to solicit, coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1 (§ 18.2-46.1 et seq.) of Chapter 4 of this title, § 18.2-460; a felony offense of §§ 3.2-4212, 3.2-4219, 10.1-1455, 18.2-31, 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, §§ 18.2-47, 18.2-48, 18.2-48.1, 18.2-49, 18.2-50.3, 18.2-51, 18.2-51.2, 18.2-52, 18.2-53, 18.2-55, 18.2-58, 18.2-59, 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, Article 4 (§ 18.2-111 et seq.) of Chapter 5 of this title, Article 1 (§ 18.2-168 et seq.) of Chapter 6 of this title, §§ 18.2-178, 18.2-186, Article 6 (§ 18.2-191 et seq.) of Chapter 6 of this title, Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of this title, § 18.2-246.13, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title, §§ 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, 18.2-348, 18.2-355, 18.2-356, 18.2-357, 18.2-368, 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 seq.) of Chapter 10 of this title, Article 2 (§ 18.2-438 et seq.) of Chapter 10 of this title, Article 3 (§ 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 title, § 3.2-6571, 18.2-516, 32.1-314, 58.1-1008.2, 58.1-1017, or 58.1-1017.1; or any substantially similar offenses under the laws of any other state, the District of Columbia, the United States or its territories.

§ 19.2-11.2. Crime victim's right to nondisclosure of certain information; exceptions; testimonial privilege.

Upon request of any witness in a criminal prosecution under § 18.2-46.2 ~~or~~, 18.2-46.3, *or 18.2-50.3*, or any crime victim, neither a law-enforcement agency, the attorney for the Commonwealth, the counsel for a defendant, a court nor the Department of Corrections, nor any employee of any of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the witness or victim or a member of the witness' or victim's family, except to the extent that disclosure is (i) of the site of the crime, (ii) required by law or Rules of the Supreme Court, (iii) necessary for law-enforcement purposes or preparation for court proceedings, or (iv) permitted by the court for good cause.

Except with the written consent of the victim, a law-enforcement agency may not disclose to the public information which directly or indirectly identifies the victim of a crime involving any sexual assault, sexual abuse ~~or~~, family abuse, *forced labor, or sexual servitude*, except to the extent that disclosure is (i) of the site of the crime, (ii) required by law, (iii) necessary for law-enforcement purposes, or (iv) permitted by the court for good cause. In addition, at the request of the victim to the Court of Appeals of Virginia or the Supreme Court of Virginia hearing, on or after July 1, 2007, the case of a crime involving any sexual assault or sexual abuse, no appellate decision shall contain the first or last name of the victim. *At the request of the victim to the Court of Appeals of Virginia or the*

Supreme Court of Virginia hearing, on or after July 1, 2014, the case of a crime involving forced labor, or sexual servitude, no appellate decision shall contain the first or last name of the victim.

Nothing herein shall limit the right to examine witnesses in a court of law or otherwise affect the conduct of any criminal proceeding.

§ 19.2-11.5. Victims of human trafficking; law-enforcement protocol.

A. On request from an individual whom a law-enforcement officer reasonably believes is a victim of § 18.2-50.3 or a criminal offense required for the individual to qualify for a nonimmigrant T or U visa under 8 U.S.C. § 1101(a)(15)(T) or 8 U.S.C. § 1101(a)(15)(U), or for continued presence under 22 U.S.C. § 7105(c)(3), the law-enforcement officer, as soon as practicable after receiving the request, shall complete, sign, and give to the individual the Form I-914B or Form I-918B provided by the U.S. Citizenship and Immigration Services on its website and ask a federal law-enforcement officer to request continued presence.

B. If the law-enforcement agency determines that an individual does not meet the requirements for the agency to comply with subsection A, the agency shall inform the individual of the reason and that the individual may make another request under subsection A and submit additional evidence satisfying the requirements.

§ 19.2-215.1. Functions of a multijurisdiction grand jury.

The functions of a multijurisdiction grand jury are:

1. To investigate any condition that involves or tends to promote criminal violations of:

a. Title 10.1 for which punishment as a felony is authorized;

b. § 13.1-520;

c. §§ 18.2-47 and, 18.2-48, and 18.2-50.3;

d. §§ 18.2-111 and 18.2-112;

e. Article 6 (§ 18.2-59 et seq.) of Chapter 4 of Title 18.2;

f. Article 7.1 (§ 18.2-152.1 et seq.) of Chapter 5 of Title 18.2;

g. Article 1 (§ 18.2-247 et seq.) and Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2;

h. Article 1 (§ 18.2-325 et seq.) and Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2,

Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 or any other provision prohibiting, limiting, regulating, or otherwise affecting gaming or gambling activity;

i. § 18.2-434, when violations occur before a multijurisdiction grand jury;

j. Article 2 (§ 18.2-438 et seq.) and Article 3 (§ 18.2-446 et seq.) of Chapter 10 of Title 18.2;

k. § 18.2-460 for which punishment as a felony is authorized;

l. Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of Title 18.2;

m. Article 1 (§ 32.1-310 et seq.) of Chapter 9 of Title 32.1;

n. Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1;

o. Article 9 (§ 3.2-6570 et seq.) of Chapter 65 of Title 3.2;

p. Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

q. Article 2.1 (§ 18.2-46.1 et seq.) and Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4 of Title 18.2;

r. Article 5 (§ 18.2-186 et seq.) and Article 6 (§ 18.2-191 et seq.) of Chapter 6 of Title 18.2;

s. Chapter 6.1 (§ 59.1-92.1 et seq.) of Title 59.1;

t. § 18.2-178 where the violation involves insurance fraud;

u. § 18.2-356;

v. Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2;

w. Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2;

x. Malicious felonious assault and malicious bodily wounding under Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;

y. Article 5 (§ 18.2-58 et seq.) of Chapter 4 of Title 18.2;

z. Felonious sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

aa. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony violation of § 18.2-79;

bb. Chapter 13 (§ 18.2-512 et seq.) of Title 18.2; and

cc. Any other provision of law when such condition is discovered in the course of an investigation that a multijurisdiction grand jury is otherwise authorized to undertake and to investigate any condition that involves or tends to promote any attempt, solicitation or conspiracy to violate the laws enumerated in this section.

2. To report evidence of any criminal offense enumerated in subdivision 1 and for which a court reporter has recorded all oral testimony as provided by § 19.2-215.9 to the attorney for the Commonwealth or United States attorney of any jurisdiction where such offense could be prosecuted or investigated and, when appropriate, to the Attorney General.

3. To consider bills of indictment prepared by a special counsel to determine whether there is sufficient probable cause to return each such indictment as a "true bill." Only bills of indictment which allege an offense enumerated in subdivision 1 may be submitted to a multijurisdiction grand jury.

4. The provisions of this section shall not abrogate the authority of an attorney for the Commonwealth in a particular jurisdiction to determine the course of a prosecution in that jurisdiction.

§ 19.2-305.1. Restitution for property damage or loss; community service.

A. Notwithstanding any other provision of law, no person convicted of a crime in violation of any provision in Title 18.2, which resulted in property damage or loss, shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or loss, or shall be compelled to perform community services, or both, or shall submit a plan for doing that which appears to the court to be feasible under the circumstances.

B. Notwithstanding any other provision of law, any person who, on or after July 1, 1995, commits, and is convicted of, a crime in violation of any provision in Title 18.2 shall make at least partial restitution for any property damage or loss caused by the crime or for any medical expenses or expenses directly related to funeral or burial incurred by the victim or his estate as a result of the crime, may be compelled to perform community services and, if the court so orders, shall submit a plan for doing that which appears to be feasible to the court under the circumstances.

B1. Notwithstanding any other provision of law, any person, who on or after July 1, 2005 commits and is convicted of a crime in violation of § 18.2-248 involving the manufacture of any controlled substance, may be ordered, upon presentation of suitable evidence of such costs, by the court to reimburse the Commonwealth or the locality for the costs incurred by the jurisdiction, as the case may be, for the removal and remediation associated with the illegal manufacture of any controlled substance by the defendant.

C. At or before the time of sentencing, the court shall receive and consider any plan for making restitution submitted by the defendant. The plan shall include the defendant's home address, place of employment and address, social security number and bank information. If the court finds such plan to be reasonable and practical under the circumstances, it may consider probation or suspension of whatever portion of the sentence that it deems appropriate. By order of the court incorporating the defendant's plan or a reasonable and practical plan devised by the court, the defendant shall make restitution while he is free on probation or work release or following his release from confinement. Additionally, the court may order that the defendant make restitution during his confinement, if feasible, based upon both his earning capacity and net worth as determined by the court at sentencing.

D. At the time of sentencing, the court shall determine the amount to be repaid by the defendant and the terms and conditions thereof. If community service work is ordered, the court shall determine the terms and conditions upon which such work shall be performed. The court shall include such findings in the judgment order. The order shall specify that sums paid under such order shall be paid to the clerk, who shall disburse such sums as the court may, by order, direct. Any court desiring to participate in the Setoff Debt Collection Act (§§ 58.1-520 through 58.1-535) for the purpose of collecting fines or costs or providing restitution shall, at the time of sentencing, obtain the social security number of each defendant.

E. Unreasonable failure to execute the plan by the defendant shall result in revocation of the probation or imposition of the suspended sentence. A hearing shall be held in accordance with the provisions of this Code relating to revocation of probation or imposition of a suspended sentence before either such action is taken.

E1. A defendant convicted of an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3 shall be ordered to pay mandatory restitution to the victim of the offense in an amount as determined by the court. For purposes of this subsection, "victim" means a person who is depicted in a still or videographic image involved in an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

The Commonwealth shall make reasonable efforts to notify victims of offenses under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

E2. A defendant convicted of an offense under § 18.2-50.3 shall be ordered to pay mandatory restitution to the victim of the offense in an amount equal to the greatest of the following, with no reduction for expenses the defendant incurred to maintain the victim: (i) the gross income to the defendant for, or the value to the defendant of, the victim's labor or services or sexual activity; (ii) the amount the defendant contracted to pay the victim; or (iii) the value of the victim's labor or services or sexual activity, calculated under the minimum-wage and overtime provisions of the Fair Labor Standards Act (29 U.S.C. § 201 et seq.), whichever is higher, even if the provisions of the Act do not apply to the victim's labor or services or sexual activity.

F. If restitution is ordered to be paid by the defendant to the victim of a crime and the victim can no longer be located or identified, the clerk shall deposit any such restitution collected to the Criminal Injuries Compensation Fund for the benefit of crime victims. The administrator shall reserve a sum sufficient in the Fund from which he shall make prompt payment to the victim for any proper claims. Before making the deposit he shall record the name, last known address and amount of restitution due each victim appearing from the clerk's report to be entitled to restitution.

428 G. If restitution pursuant to § 19.2-305 or this section is ordered to be paid by the defendant to the
429 victim of a crime or other entity, and the Criminal Injuries Compensation Fund has made any payments
430 to or on behalf of the victim for any loss, damage, or expenses included in the restitution order, then
431 upon presentation by the Fund of a written request that sets forth the amount of payments made by the
432 Fund to the victim or on the victim's behalf, the entity collecting restitution shall pay to the Fund as
433 much of the restitution collected as will reimburse the Fund for its payments made to the victim or on
434 the victim's behalf.

435 **§ 19.2-386.32. Seizure and forfeiture of property used in connection with the abduction of**
436 **children; trafficking of persons.**

437 All moneys and other property, real and personal, owned by a person and used to further the
438 abduction of a child in violation of § 18.2-47, 18.2-48, or 18.2-48.1 *or trafficking in persons in violation*
439 *of § 18.2-50.3* are subject to lawful seizure by a law-enforcement officer and are subject to forfeiture to
440 the Commonwealth pursuant to Chapter 22.1 (§ 19.2-386.1 et seq.) by order of the court in which a
441 conviction under § 18.2-47, 18.2-48, ~~or~~ 18.2-48.1, *or 18.2-50.3* is obtained.

442 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
443 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
444 **be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter**
445 **806 of the Acts of Assembly of 2013 requires the Virginia Criminal Sentencing Commission to**
446 **assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the**
447 **necessary appropriation cannot be determined for periods of commitment to the custody of the**
448 **Department of Juvenile Justice.**