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SENATE BILL NO. 1188

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 3, 2015)

(Patrons Prior to Substitute—Senators Obenshain and Edwards [SB 710])

A *BILL to amend and reenact §§ 9.1-902, 17.1-805, 18.2-356, 18.2-357, 18.2-513, 19.2-215.1, and 19.2-386.35 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-357.1, relating to commercial sex trafficking; penalties.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-902, 17.1-805, 18.2-356, 18.2-357, 18.2-513, 19.2-215.1, and 19.2-386.35 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-357.1 as follows:

§ 9.1-902. Offenses requiring registration.

A. For purposes of this chapter:

"Offense for which registration is required" includes:

1. Any offense listed in subsection B;

2. Criminal homicide;

3. Murder;

4. A sexually violent offense;

5. Any offense similar to those listed in subdivisions 1 through 4 under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof; and

6. Any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

B. The offenses included under this subsection include any violation of, attempted violation of, or conspiracy to violate:

1. § 18.2-63; unless registration is required pursuant to subdivision E 1; § 18.2-64.1; former § 18.2-67.2:1; § 18.2-90 with the intent to commit rape; former § 18.1-88 with the intent to commit rape; any felony violation of § 18.2-346; any violation of subdivision (4) of § 18.2-355; *any violation of subsection B or D of § 18.2-357.1*; subsection B or C of § 18.2-374.1:1; former subsection D of § 18.2-374.1:1 as it was in effect from July 1, 1994, through June 30, 2007; former clause (iv) of subsection B of § 18.2-374.3 as it was in effect on June 30, 2007; ~~or~~ subsection B, C, or D of § 18.2-374.3; or a third or subsequent conviction of (i) § 18.2-67.4, (ii) § 18.2-67.4:2, (iii) subsection C of § 18.2-67.5, or (iv) § 18.2-386.1.

If the offense was committed on or after July 1, 2006, § 18.2-91 with the intent to commit any felony offense listed in this section; subsection A of § 18.2-374.1:1; or a felony under § 18.2-67.5:1.

2. Where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection A of § 18.2-47, clause (i) of § 18.2-48, § 18.2-67.4, subsection C of § 18.2-67.5, § 18.2-361, § 18.2-366, or a felony violation of former § 18.1-191.

3. § 18.2-370.6.

C. "Criminal homicide" means a homicide in conjunction with a violation of, attempted violation of, or conspiracy to violate clause (i) of § 18.2-371 or § 18.2-371.1, when the offenses arise out of the same incident.

D. "Murder" means a violation of, attempted violation of, or conspiracy to violate § 18.2-31 or § 18.2-32 where the victim is (i) under 15 years of age or (ii) where the victim is at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section or a violation of former § 18.1-21 where the victim is (a) under 15 years of age or (b) at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section.

E. "Sexually violent offense" means a violation of, attempted violation of, or conspiracy to violate:

1. Clause (ii) and (iii) of § 18.2-48, former § 18.1-38 with the intent to defile or, for the purpose of concubinage or prostitution, a felony violation of subdivision (2) or (3) of former § 18.1-39 that involves assisting or aiding in such an abduction, § 18.2-61, former § 18.1-44 when such act is accomplished against the complaining witness's will, by force, or through the use of the complaining witness's mental incapacity or physical helplessness, or if the victim is under 13 years of age, subsection A of § 18.2-63 where the perpetrator is more than five years older than the victim, § 18.2-67.1, § 18.2-67.2, § 18.2-67.3, former § 18.1-215 when the complaining witness is under 13 years of age, § 18.2-67.4 where the perpetrator is 18 years of age or older and the victim is under the age of six, subsections A and B of § 18.2-67.5, § 18.2-370, subdivision (1), (2), or (4) of former § 18.1-213, former § 18.1-214, ~~or~~ § 18.2-370.1, or § 18.2-374.1; or

2. § 18.2-63, § 18.2-64.1, former § 18.2-67.2:1, § 18.2-90 with the intent to commit rape or, where

the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection A of § 18.2-47, § 18.2-67.4, subsection C of § 18.2-67.5, clause (i) of § 18.2-48, § 18.2-361, § 18.2-366, or subsection C of § 18.2-374.1:1. An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that person had been at liberty between such convictions or adjudications;

3. If the offense was committed on or after July 1, 2006, § 18.2-91 with the intent to commit any felony offense listed in this section. An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that the person had been at liberty between such convictions or adjudications; or

4. Chapter 117 (18 U.S.C. § 2421 et seq.) of Title 18 of the United States Code or sex trafficking (as described in § 1591 of Title 18, U.S.C.).

F. "Any offense listed in subsection B," "criminal homicide" as defined in this section, "murder" as defined in this section, and "sexually violent offense" as defined in this section includes (i) any similar offense under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof or (ii) any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

G. Juveniles adjudicated delinquent shall not be required to register; however, where the offender is a juvenile over the age of 13 at the time of the offense who is tried as a juvenile and is adjudicated delinquent on or after July 1, 2005, of any offense for which registration is required, the court may, in its discretion and upon motion of the attorney for the Commonwealth, find that the circumstances of the offense require offender registration. In making its determination, the court shall consider all of the following factors that are relevant to the case: (i) the degree to which the delinquent act was committed with the use of force, threat or intimidation, (ii) the age and maturity of the complaining witness, (iii) the age and maturity of the offender, (iv) the difference in the ages of the complaining witness and the offender, (v) the nature of the relationship between the complaining witness and the offender, (vi) the offender's prior criminal history, and (vii) any other aggravating or mitigating factors relevant to the case. The attorney for the Commonwealth may file such a motion at any time during which the offender is within the jurisdiction of the court for the offense that is the basis for such motion. Prior to any hearing on such motion, the court shall appoint a qualified and competent attorney-at-law to represent the offender unless an attorney has been retained and appears on behalf of the offender or counsel has already been appointed.

H. Prior to entering judgment of conviction of an offense for which registration is required if the victim of the offense was a minor, physically helpless, or mentally incapacitated, when the indictment, warrant, or information does not allege that the victim of the offense was a minor, physically helpless, or mentally incapacitated, the court shall determine by a preponderance of the evidence whether the victim of the offense was a minor, physically helpless, or mentally incapacitated, as defined in § 18.2-67.10, and shall also determine the age of the victim at the time of the offense if it determines the victim to be a minor. When such a determination is required, the court shall advise the defendant of its determination and of the defendant's right to make a motion to withdraw a plea of guilty or nolo contendere pursuant to § 19.2-296. If the court grants the defendant's motion to withdraw his plea of guilty or of nolo contendere, his case shall be heard by another judge, unless the parties agree otherwise. Failure to make such determination or so advise the defendant does not otherwise invalidate the underlying conviction.

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

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

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

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

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

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

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

C. For purposes of this chapter, violent felony offenses shall include any felony violation of § 16.1-253.2; solicitation to commit murder under § 18.2-29; any violation of § 18.2-31, 18.2-32, 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 § 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 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 of § 18.2-48, 18.2-48.1, or 18.2-49; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 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; any violation of subsection B of § 18.2-57; any felony violation of § 18.2-57.2; any violation of § 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 § 18.2-357.1; 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.

Article 3.

~~Sexual Offenses~~ *Commercial Sex Trafficking, Prostitution, Etc.*

§ 18.2-356. Receiving money for procuring person; penalties.

183 Any person who receives any money or other valuable thing for or on account of (i) procuring for or
184 placing in a house of prostitution or elsewhere any person for the purpose of causing such person to
185 engage in unlawful sexual intercourse, anal intercourse, cunnilingus, fellatio, or anilingus or any act in
186 violation of § 18.2-361 or (ii) causing any person to engage in forced labor or services, concubinage,
187 prostitution, or the manufacture of any obscene material or child pornography is guilty of a Class 4
188 felony. *Any person who violates clause (i) or (ii) with a person under the age of 18 is guilty of a Class*
189 *3 felony.*

190 **§ 18.2-357. Receiving money from earnings of male or female prostitute; penalties.**

191 Any person who shall knowingly receive any money or other valuable thing from the earnings of any
192 male or female engaged in prostitution, except for a consideration deemed good and valuable in law,
193 shall be guilty of pandering, punishable as a Class 4 felony. *Any person who violates this section by*
194 *receiving money or other valuable thing from a person under the age of 18 is guilty of a Class 3 felony.*

195 **§ 18.2-357.1. Commercial sex trafficking; penalties.**

196 A. *Any person who solicits, invites, recruits, encourages, or otherwise causes or attempts to cause a*
197 *person to actively participate in prostitution in violation of subsection A of § 18.2-346 with any third*
198 *party with the intent that the person who is solicited, invited, recruited, or encouraged will later pay or*
199 *give any earnings received from any act of prostitution to any other person, resulting in a violation of*
200 *§ 18.2-357, is guilty of a Class 6 felony.*

201 B. *Any person 18 years of age or older who solicits, invites, recruits, encourages, or otherwise*
202 *causes or attempts to cause a minor to actively participate in prostitution in violation of subsection A of*
203 *§ 18.2-346 with any third party with the intent that the minor will later pay or give any earnings*
204 *received from any act of prostitution to any other person, resulting in a violation of § 18.2-357, is guilty*
205 *of a Class 5 felony.*

206 C. *Any person who violates subsection A and (i) uses force against the individual or the individual's*
207 *family or household member or (ii) threatens force against the individual or the individual's family or*
208 *household member, which threat would place any person in reasonable apprehension of death or bodily*
209 *injury, is guilty of a Class 4 felony.*

210 D. *Any person who violates subsection B and (i) uses force against the minor or the minor's family*
211 *or household member or (ii) threatens force against the minor or the minor's family or household*
212 *member, which threat would place any person in reasonable apprehension of death or bodily injury, is*
213 *guilty of a Class 3 felony.*

214 E. *For the purposes of this section, "family or household member" has the same meaning as in*
215 *§ 16.1-228.*

216 **§ 18.2-513. Definitions.**

217 As used in this chapter, the term:

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

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

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

223 "Racketeering activity" means to commit, attempt to commit, conspire to commit, or to solicit,
224 coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1
225 (§ 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,
226 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
227 of this title, §§ 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,
228 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
229 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,
230 §§ 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
231 seq.) of Chapter 6 of this title, § 18.2-246.13, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title,
232 §§ 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,
233 18.2-356, 18.2-357, 18.2-357.1, 18.2-368, 18.2-369, 18.2-374.1, Article 8 (§ 18.2-433.1 et seq.) of
234 Chapter 9 of this title, Article 1 (§ 18.2-434 et seq.) of Chapter 10 of this title, Article 2 (§ 18.2-438 et
235 seq.) of Chapter 10 of this title, Article 3 (§ 18.2-446 et seq.) of Chapter 10 of this title, Article 1.1
236 (§ 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,
237 or 58.1-1017.1; or any substantially similar offenses under the laws of any other state, the District of
238 Columbia, the United States or its territories.

239 **§ 19.2-215.1. Functions of a multijurisdiction grand jury.**

240 The functions of a multijurisdiction grand jury are:

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

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

243 b. § 13.1-520;

244 c. §§ 18.2-47 and 18.2-48;

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. § 18.2-346 for which punishment as a felony is authorized or § 18.2-355, 18.2-356, 18.2-357, or
 18.2-357.1;
 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;
 cc. § 18.2-246.14 and Chapter 10 (§ 58.1-1000 et seq.) of Title 58.1; and
 dd. 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, or to the chief law-enforcement officer of any jurisdiction where such offense could be
 prosecuted or investigated, or to a sworn investigator designated pursuant to § 19.2-215.6, or, 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.
§ 19.2-386.35. Seizure of property used in connection with certain offenses.
 All money, equipment, motor vehicles, and other personal and real property of any kind or character
 together with any interest or profits derived from the investment of such proceeds or other property that
 (i) was used in connection with the commission of, or in an attempt to commit, a violation of subsection
 B of § 18.2-47, § 18.2-48 or 18.2-59, subsection B of § 18.2-346, or § 18.2-347, 18.2-348, 18.2-349,
 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, 40.1-29, 40.1-100.2, or 40.1-103; (ii) is traceable to the
 proceeds of some form of activity that violates subsection B of § 18.2-47, § 18.2-48 or 18.2-59,
 subsection B of § 18.2-346, or § 18.2-347, 18.2-348, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 40.1-29,
 40.1-100.2, or 40.1-103; or (iii) was used to or intended to be used to promote some form of activity
 that violates subsection B of § 18.2-47, § 18.2-48 or 18.2-59, subsection B of § 18.2-346, or § 18.2-347,
 18.2-348, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 40.1-29, 40.1-100.2, or 40.1-103 is subject to lawful
 seizure by a law-enforcement officer and subject to forfeiture to the Commonwealth pursuant to Chapter
 22.1 (§ 19.2-386.1 et seq.). Any forfeiture action under this section shall be stayed until conviction, and
 property eligible for forfeiture pursuant to this section shall be forfeited only upon the entry of a final
 judgment of conviction for an offense listed in this section; if no such judgment is entered, all property

306 seized pursuant to this section shall be released from seizure.

307 Real property shall not be subject to seizure unless the minimum prescribed punishment for the
308 violation is a term of imprisonment of not less than five years.

309 All seizures and forfeitures under this section shall be governed by Chapter 22.1 (§ 19.2-386.1 et
310 seq.), and the procedures specified therein shall apply, mutatis mutandis, to all forfeitures under this
311 section.

312 2. That the provisions of this act may result in a net increase in periods of imprisonment or
313 commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot
314 be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter
315 2 of the Acts of Assembly of 2014, Special Session I, requires the Virginia Criminal Sentencing
316 Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated
317 amount of the necessary appropriation cannot be determined for periods of commitment to the
318 custody of the Department of Juvenile Justice.

319 3. That the provisions of this act shall not become effective unless an appropriation effectuating
320 the purposes of this act is included in a general appropriation act passed in 2015 by the General
321 Assembly that becomes law.