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HOUSE BILL NO. 2470

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 1, 2019)

(Patron Prior to Substitute—Delegate Gilbert)

A BILL to amend and reenact §§ 18.2-355 through 18.2-357.1 of the Code of Virginia, relating to prostitution and human trafficking related crimes; minors; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-355 through 18.2-357.1 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-355. Taking, detaining, etc., person for prostitution, etc., or consenting thereto; human trafficking; penalties.

Any person who:

(1) For purposes of prostitution or unlawful sexual intercourse, takes any person into, or persuades, encourages or causes any person to enter, a bawdy place, or takes or causes such person to be taken to any place against his or her will for such purposes; or

(2) Takes or detains a person against his or her will with the intent to compel such person, by force, threats, persuasions, menace or duress, to marry him or her or to marry any other person, or to be defiled; or

(3) Being parent, guardian, legal custodian or one standing in loco parentis of a person, consents to such person being taken or detained by any person for the purpose of prostitution or unlawful sexual intercourse; or

(4) For purposes of prostitution, takes any minor into, or persuades, encourages, or causes any minor to enter, a bawdy place, or takes or causes such person to be taken to any place for such purposes; is guilty of pandering.

A violation of subdivision (1), (2), or (3) is punishable as a Class 4 felony. A violation of subdivision (4) where the minor is 15 years of age or older at the time of the offense is punishable as a Class 3 felony. A violation of subdivision (4) where the minor is younger than 15 years of age at the time of the offense is punishable as a Class 2 felony, and upon conviction, the sentence of such convicted person shall include a mandatory minimum term of imprisonment of 25 years to be served consecutively with any other sentence.

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

Any person who receives any money or other valuable thing for or on account of (i) procuring for or placing in a house of prostitution or elsewhere any person for the purpose of causing such person to engage in unlawful sexual intercourse, anal intercourse, cunnilingus, fellatio, or anilingus or any act in violation of § 18.2-361 or (ii) causing any person to engage in forced labor or services, concubinage, prostitution, or the manufacture of any obscene material or child pornography is guilty of a Class 4 felony. Any person who violates clause (i) or (ii) with a person under the age of 18 minor who is 15 years of age or older is guilty of a Class 3 felony. Any person who violates clause (i) or (ii) with a minor who is younger than 15 years of age is guilty of a Class 2 felony, and upon conviction, the sentence of such person shall include a mandatory minimum term of imprisonment of 25 years to be served consecutively with any other sentence.

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

Any person who shall knowingly receive any money or other valuable thing from the earnings of any male or female engaged in prostitution, except for a consideration deemed good and valuable in law, shall be is guilty of pandering, punishable as a Class 4 felony. Any person who violates this section by receiving money or other valuable thing from a person under the age of 18 minor who is 15 years of age or older is guilty of a Class 3 felony. Any person who violates this section by receiving money or other valuable thing from a minor who is younger than 15 years of age is guilty of a Class 2 felony, and the punishment shall include a mandatory minimum term of imprisonment of 25 years to be served consecutively with any other sentence

§ 18.2-357.1. Commercial sex trafficking; penalties.

A. Any person who, with the intent to receive money or other valuable thing or to assist another in receiving money or other valuable thing from the earnings of a person from prostitution or unlawful sexual intercourse in violation of subsection A of § 18.2-346, solicits, invites, recruits, encourages, or otherwise causes or attempts to cause a person to violate subsection A of § 18.2-346 is guilty of a Class 5 felony.

B. Any person who violates subsection A through the use of force, intimidation, or deception is guilty of a Class 4 felony.

60 C. Any adult who violates subsection A with a ~~person under the age of 18~~ *minor who is 15 years of*
61 *age or older* is guilty of a Class 3 felony. *Any adult who violates subsection A with a minor who is*
62 *younger than 15 years of age is guilty of a Class 2 felony, and the punishment shall include a*
63 *mandatory minimum term of imprisonment of 25 years to be served consecutively with any other*
64 *sentence.*

65 2. That the provisions of this act may result in a net increase in periods of imprisonment or
66 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the
67 necessary appropriation cannot be determined for periods of imprisonment in state adult
68 correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2018, Special Session I,
69 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of
70 \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
71 appropriation cannot be determined for periods of commitment to the custody of the Department
72 of Juvenile Justice.