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HOUSE BILL NO. 418

Offered January 11, 2006

Prefiled January 6, 2006

A *BILL 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 18.2-76.6, creating the Human Anti-Trafficking Act; penalties.*

Patron—Bulova

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. 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 18.2-76.6 as follows:

*Article 10.**Human Anti-Trafficking Act.**§ 18.2-76.3. Definitions:*

"Blackmail" is to be given its ordinary meaning and includes, but is not limited to, a threat to expose any secret tending to subject any person to hatred, contempt, or ridicule.

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

"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.

"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.

"Sexually explicit performance" means a live or public act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons.

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

§ 18.2-76.4. Trafficking in persons; penalties.

A. Any person who knowingly recruits, entices, harbors, transports, provides, or obtains another person for the purposes of commercial sex acts or sexually explicit performance, or labor or services through use of any of the following means, is guilty of a Class 5 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;

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

5. Blackmail;

6. Causing or threatening to cause financial harm to any person; or

7. Facilitating or controlling a victim's access to an addictive controlled substance.

B. Any person who knowingly recruits, entices, transports, provides, obtains, or harbors, or so attempts, any person under 18 years of age for the purposes of commercial sex acts or sexually explicit performance through any means is guilty of a Class 4 felony.

C. Any person who knowingly benefits, financially or by receiving anything of value, from participation in an act described in subsection A or B is guilty of a Class 5 felony.

§ 18.2-76.5. Criminal liability of business entities.

Any business entity that knowingly aids or participates in the trafficking of persons shall be liable for any criminal offense under this Article.

§ 18.2-76.6. Civil liability.

An individual who is a victim of trafficking may bring a civil action in the appropriate state court for damages suffered as a result of being a victim of human trafficking. The court may award actual damages, punitive damages, reasonable attorney fees, and other litigation costs reasonably incurred.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for

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59 periods of commitment to the custody of the Department of Juvenile Justice.