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HOUSE BILL NO. 994

Offered January 8, 2014

Prefiled January 8, 2014

A *BILL to amend the Code of Virginia by adding in Article 3 of Chapter 4 of Title 18.2 a section numbered 18.2-50.3; human trafficking; penalties.*

Patrons—Comstock, Anderson, Byron, Dance, DeSteph, Fowler, Garrett, Head, McClellan, Peace, Ramadan, Rust, Simon and Yancey

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 Article 3 of Chapter 4 of Title 18.2 a section numbered 18.2-50.3 as follows:

§ 18.2-50.3. Human trafficking; 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 exchange for sexual intercourse, cunnilingus, anilingus, fellatio, anal intercourse, inanimate or animate object sexual penetration, or feeling or fondling the sexual or genital parts of any person.

"Debt bondage" means inducing an individual to provide:

1. Commercial sexual activity in payment toward or satisfaction of a real or purported debt; or

2. Labor or services in payment toward or satisfaction of a real or purported debt if:

a. The reasonable value of the labor or services is not applied toward the liquidation of the debt; or

b. The length of the labor or services is not limited and the nature of the labor or services is not defined.

"Human trafficking" includes any offense under this section.

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

B. Any person who knowingly uses coercion or fraud to compel an individual to provide labor or services, except where such conduct is permissible under federal law or the law of the Commonwealth other than this act is guilty of forced labor, a Class 3 felony. However, where the victim of the offense is a minor, the offense is a Class 2 felony.

C. Any person who knowingly maintains or makes available a minor for the purpose of engaging the minor in commercial sexual activity is guilty of sexual servitude of a minor, a Class 2 felony. It is not a defense to prosecution under this subsection that the minor consented to the commercial sexual activity or that the defendant believed the minor was an adult.

D. Any person who knowingly uses coercion or deception to compel an adult to engage in commercial sexual activity is guilty of sexual servitude, a Class 3 felony.

E. Any person who knowingly recruits, transports, harbors, receives, provides, obtains, isolates, maintains, or entices an individual in furtherance of forced labor or sexual servitude is guilty of a Class 3 felony. However, where the victim of the offense is a minor, the offense is a Class 2 felony.

INTRODUCED

HB994

58 *F. Any person who is guilty of forced labor, sexual servitude or knowingly recruiting, transporting,*
59 *harboring, receiving, providing, obtaining, isolating, maintaining, or enticing an individual in*
60 *furtherance of forced labor or sexual servitude is guilty of human trafficking.*
61 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
62 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
63 **be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter**
64 **806 of the Acts of Assembly of 2013 requires the Virginia Criminal Sentencing Commission to**
65 **assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the**
66 **necessary appropriation cannot be determined for periods of commitment to the custody of the**
67 **Department of Juvenile Justice.**