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HOUSE BILL NO. 2234

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on January 27, 2021)

(Patron Prior to Substitute—Delegate Brewer)

A BILL to amend the Code of Virginia by adding in Article 3 of Chapter 8 of Title 18.2 a section numbered 18.2-361.1, relating to victims of sex trafficking; affirmative defense to prosecution for certain offenses.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 8 of Title 18.2 a section numbered 18.2-361.1 as follows:

§ 18.2-361.1. Victims of sex trafficking; affirmative defense.

A. For the purposes of this section, "victim of sex trafficking" means any person who engaged in a violation of § 18.2-346 or 18.2-347 as a direct result of being solicited, invited, recruited, encouraged, forced, intimidated, or deceived by another to engage in acts of prostitution or unlawful sexual intercourse, as described in subsection A of § 18.2-346.

B. It is an affirmative defense to prosecution of a violation of § 18.2-346 or 18.2-347 if at the time of the offense leading to such charge, such person was a victim of sex trafficking and (i) was coerced to engage in the offense through the use of force or intimidation of another; (ii) such offense was committed as part of a commercial sex trafficking scheme; or (iii) such offense was committed at the direction of an operator of a commercial sex trafficking scheme.

C. A victim of sex trafficking may raise an affirmative defense pursuant to this section regardless of whether any other person has been arrested for, prosecuted for, charged with, or convicted of an offense.