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HOUSE BILL NO. 1213

Offered January 18, 2022

A BILL to amend and reenact §§ 18.2-357.1 and 63.2-1506.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 16.1-260.1, relating to minor victims of sex trafficking; arrest and prosecution; services.

Patrons—Glass and Williams Graves

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-357.1 and 63.2-1506.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 16.1-260.1 as follows:

§ 16.1-260.1. Arrest and prosecution of minor victims of sex trafficking.

A. Notwithstanding any other provision of law, no minor shall be subject to arrest, delinquency charges, or prosecution for (i) a status offense, (ii) an act that would be a misdemeanor if committed by an adult, or (iii) an act that would be a felony if committed by an adult other than a violent juvenile felony if the minor (a) is a victim of sex trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7102 et seq.) and in the federal Justice for Victims of Trafficking Act of 2015 (P.L. 114-22) and (b) committed such offense 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 for money or its equivalent, as described in § 18.2-346, regardless of whether any other person has been charged or convicted of an offense related to the sex trafficking of such minor.

B. A minor immune from arrest, delinquency charges, or prosecution pursuant to this section shall be referred to the Department of Social Services for an assessment and services pursuant to § 63.2-1506.1.

C. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later determined that the minor arrested was immune from arrest, delinquency charges, and prosecution under this section.

§ 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 § 18.2-346, solicits, invites, recruits, encourages, or otherwise causes or attempts to cause a person to violate § 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.

C. Any adult who violates subsection A with a person under 18 years of age is guilty of a Class 3 felony. It is not a defense to a violation of this subsection that the person under 18 years of age consented to any acts prohibited by this section or § 18.2-346.

D. Each violation of this section constitutes a separate and distinct felony.

§ 63.2-1506.1. Human trafficking assessments by local departments.

A. If a report or complaint is based upon information and allegations that a child is a victim of sex trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7102 et seq.) and in the federal Justice for Victims of Trafficking Act of 2015 (P.L. 114-22), the local department shall conduct a human trafficking assessment, unless at any time during the human trafficking assessment the local department determines that an investigation or family assessment is required pursuant to § 63.2-1505 or 63.2-1506.

B. A human trafficking assessment requires the collection of information necessary to determine:

1. The immediate safety needs of the child;
2. The protective and rehabilitative services needs of the child and the child's family that will deter abuse and neglect; and
3. Risk of future harm to the child.

C. When a local department responds to the report or complaint by conducting a human trafficking assessment, the local department may:

1. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and the child's family;
2. Petition the court for services deemed necessary; or
3. Commence an immediate investigation or family assessment, if at any time during the human

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59 trafficking assessment the local department determines that an investigation or family assessment is
60 required pursuant to § 63.2-1505 or 63.2-1506.

61 D. In the event that the parents or guardians of the child reside in a jurisdiction other than that in
62 which the report or complaint was received, the local department that received the report or complaint
63 and the local department where the child resides with his parents or guardians shall work jointly to
64 complete the human trafficking assessment.

65 E. Reports or complaints for which a human trafficking assessment is completed shall not be entered
66 into the central registry contained in § 63.2-1515.

67 F. The local department or departments shall notify the Child Protective Services Unit within the
68 Department in writing whenever such a human trafficking assessment is conducted.

69 G. When conducting a human trafficking assessment pursuant to this section, the local department
70 may interview the alleged child victim or his siblings without the consent and outside the presence of
71 such child's or siblings' parent, guardian, legal custodian, or other person standing in loco parentis, or
72 school personnel.

73 *H. The local department shall refer any child suspected or determined to be a victim of sex*
74 *trafficking to an available victim assistance organization that provides comprehensive trauma-informed*
75 *services designed to alleviate the adverse effects of trafficking and victimization and to aid in the child's*
76 *healing, including assistance with case management, placement, access to educational and legal*
77 *services, and mental health services.*