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HOUSE BILL NO. 1150

Offered January 14, 2022

A BILL to amend and reenact §§ 18.2-346.01, 18.2-348, 18.2-349, and 18.2-355 through 18.2-357.1 of the Code of Virginia, relating to commercial sex trafficking, prostitution, etc.; mistake of age defense.

Patrons—Mundon King (By Request), Maldonado, Avoli, Clark, Kory, McQuinn, Plum, Scott, D.L., Shin, Simonds and Watts

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-346.01, 18.2-348, 18.2-349, and 18.2-355 through 18.2-357.1 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-346.01. Prostitution; solicitation; commercial exploitation of a minor; penalties.

Any person who offers money or its equivalent to another for the purpose of engaging in sexual acts enumerated in § 18.2-346 and thereafter does any substantial act in furtherance thereof is guilty of solicitation of prostitution, which is punishable as a Class 1 misdemeanor. However, any person who solicits prostitution from a minor (i) 16 years of age or older is guilty of a Class 6 felony or (ii) younger than 16 years of age is guilty of a Class 5 felony. *In a prosecution under this section involving solicitation of prostitution from a minor, the defendant's ignorance of the victim's age, the victim's misrepresentation of his age, or the defendant's belief that the victim was an adult shall not be raised as a defense.*

§ 18.2-348. Aiding prostitution or illicit sexual intercourse, etc.; penalty.

It is unlawful for any person or any officer, employee, or agent of any firm, association, or corporation with knowledge of, or good reason to believe, the immoral purpose of such visit, to take or transport or assist in taking or transporting, or offer to take or transport on foot or in any way, any person to a place, whether within or outside any building or structure, used or to be used for the purpose of lewdness, assignation, or prostitution within the Commonwealth or to procure or assist in procuring for the purpose of illicit sexual intercourse, anal intercourse, cunnilingus, fellatio, or anilingus or any act violative of § 18.2-361, or touching of the unclothed genitals or anus of another person with the intent to sexually arouse or gratify, or to give any information or direction to any person with intent to enable such person to commit an act of prostitution. A violation of this section is a Class 1 misdemeanor. However, any adult who violates this section with a person under the age of 18 is guilty of a Class 6 felony. *In a prosecution of an adult violating this section with a person under the age of 18, the defendant's ignorance of the victim's age, the victim's misrepresentation of his age, or the defendant's belief that the victim was an adult shall not be raised as a defense.*

§ 18.2-349. Using vehicles to promote prostitution or unlawful sexual intercourse; penalty.

It is unlawful for any owner or chauffeur of any vehicle, with knowledge or reason to believe the same is to be used for such purpose, to use the same or to allow the same to be used for the purpose of prostitution or unlawful sexual intercourse or to aid or promote such prostitution or unlawful sexual intercourse by the use of any such vehicle. A violation of this section is a Class 1 misdemeanor. However, any adult who violates this section by using a vehicle or allowing a vehicle to be used for or to aid or promote prostitution or unlawful sexual intercourse with a person under the age of 18 is guilty of a Class 6 felony. *In a prosecution of an adult who violates this section with a person under the age of 18, the defendant's ignorance of the victim's age, the victim's misrepresentation of his age, or the defendant's belief that the victim was an adult shall not be raised as a defense.*

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

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

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58 to enter, a bawdy place, or takes or causes such person to be taken to any place for such purposes; is
59 guilty of pandering.

60 A violation of subdivision (1), (2), or (3) is punishable as a Class 4 felony. A violation of
61 subdivision (4) is punishable as a Class 3 felony. *In a prosecution under this section involving a minor*
62 *victim, the defendant's ignorance of the victim's age, the victim's misrepresentation of his age, or the*
63 *defendant's belief that the victim was an adult shall not be raised as a defense.*

64 **§ 18.2-356. Receiving money for procuring person; penalties.**

65 Any person who receives any money or other valuable thing for or on account of (i) procuring for or
66 placing in a house of prostitution or elsewhere any person for the purpose of causing such person to
67 engage in unlawful sexual intercourse, anal intercourse, cunnilingus, fellatio, or anilingus or any act in
68 violation of § 18.2-361, or touching of the unclothed genitals or anus of another person with the intent
69 to sexually arouse or gratify, or (ii) causing any person to engage in forced labor or services,
70 concubinage, prostitution, or the manufacture of any obscene material or child pornography is guilty of a
71 Class 4 felony. Any person who violates clause (i) or (ii) with a person under the age of 18 is guilty of a
72 Class 3 felony. *In a prosecution of an adult who violates this section with a person under the age of*
73 *18, the defendant's ignorance of the victim's age, the victim's misrepresentation of his age, or the*
74 *defendant's belief that the victim was an adult shall not be raised as a defense.*

75 **§ 18.2-357. Receiving money from earnings of male or female prostitute; penalties.**

76 Any person who shall knowingly receive any money or other valuable thing from the earnings of any
77 male or female engaged in prostitution, except for a consideration deemed good and valuable in law,
78 shall be guilty of pandering, punishable as a Class 4 felony. Any person who violates this section by
79 receiving money or other valuable thing from a person under the age of 18 is guilty of a Class 3 felony.
80 *In a prosecution of an adult who violates this section by receiving money or other valuable thing from a*
81 *person under the age of 18, the defendant's ignorance of the victim's age, the victim's misrepresentation*
82 *of his age, or the defendant's belief that the victim was an adult shall not be raised as a defense.*

83 **§ 18.2-357.1. Commercial sex trafficking; penalties.**

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

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

90 C. Any adult who violates subsection A with a person under 18 years of age is guilty of a Class 3
91 felony. *In a prosecution under this subsection, the defendant's ignorance of the victim's age, the victim's*
92 *misrepresentation of his age, or the defendant's belief that the victim was an adult shall not be raised as*
93 *a defense.*

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