

Virginia State Report State Ratings 2014

The Polaris annual state ratings process tracks the presence or absence of 10 categories of state statutes that Polaris believes are critical to a comprehensive anti-trafficking legal framework. It is important to note that these 10 categories are not exhaustive of all the important legislation that helps combat human trafficking in a given state. Moreover, the ratings do not assess the effectiveness or implementation of these laws, nor the anti-trafficking efforts of task forces, law enforcement, prosecutors, judges, service providers, and advocates in the state. The purpose of the annual state ratings process is to document laws on the books, to motivate legislators and policy advocates, and to focus the attention of states on the statutes that still need to be enacted in order to achieve a strong anti-trafficking legal framework.

Rating: Tier One (green)

Total Points: 7

Credited Categories: 1 Sex Trafficking; 2 Labor Trafficking; 3(a) Asset Forfeiture; 3(b) Investigative Tools; 4(a) Training for Law Enforcement; 5 No Requirement of Force, Fraud, or Coercion for Minor Victims of Sex Trafficking; and 6 Posting of a Hotline.

Categories Still Needed: 4(b) Human Trafficking Task Force; 7 Safe Harbor for Minors; Victim Assistance; 9 Civil Remedy; and 10 Vacating Convictions.

Category By Category Break-Down:

Category 1: Sex Trafficking Statute

§ 18.2-48. Abduction with intent to extort money or for immoral purpose.

Abduction (i) of any person with the intent to extort money or pecuniary benefit, (ii) of any person with intent to defile such person, (iii) of any child under sixteen years of age for the purpose of concubinage or prostitution, (iv) of any person for the purpose of prostitution, or (v) of any minor for the purpose of manufacturing child pornography shall be punishable as a Class 2 felony. If the sentence imposed for a violation of (ii), (iii), (iv), or (v) includes a term of confinement less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years. This suspended sentence shall be suspended for the remainder of the defendant's life subject to revocation by the court.

SB 14 (2014)

§ 18.2-356. Receiving money for procuring person.

Any person who receives any money or other valuable thing for or on account of (i) procuring for or placing in a house of prostitution or elsewhere any person for the purpose of causing such person to engage in unlawful sexual intercourse, anal intercourse, cunnilingus, fellatio, or anilingus or any act in violation of § 18.2-361 or (ii) causing any person to engage in forced labor or services, concubinage, prostitution, or the manufacture of any obscene material or child pornography is guilty of a Class 4 felony.



Category 2: Labor Trafficking Statute

§ 18.2-47. Abduction and kidnapping defined; punishment.

A. Any person who, by force, intimidation or deception, and without legal justification or excuse, seizes, takes, transports, detains or secretes another person with the intent to deprive such other person of his personal liberty or to withhold or conceal him from any person, authority or institution lawfully entitled to his charge, shall be deemed guilty of "abduction."

B. Any person who, by force, intimidation or deception, and without legal justification or excuse, seizes, takes, transports, detains or secretes another person with the intent to subject him to forced labor or services shall be deemed guilty of "abduction." For purposes of this subsection, the term "intimidation" shall include destroying, concealing, confiscating, withholding, or threatening to withhold a passport, immigration document, or other governmental identification or threatening to report another as being illegally present in the United States.

§ 18.2-356. Receiving money for procuring person.

Any person who receives any money or other valuable thing for or on account of (i) procuring for or placing in a house of prostitution or elsewhere any person for the purpose of causing such person to engage in unlawful sexual intercourse or any act in violation of § 18.2-361 or (ii) causing any person to engage in forced labor or services, concubinage, prostitution, or the manufacture of any obscene material or child pornography shall be guilty of a Class 4 felony.

Category 3(a): Asset Forfeiture

HB 660 (2014)

§ 19.2-386.35. Seizure of property used in connection with certain offenses.

1. That the code of Virginia is amended by adding in chapter 22.2 of title 19.2 a section numbered 19.2-386.35 as follows:

Section 19.2-386.35. Seizure of property used in connection with certain offenses.

All money, equipment, motor vehicles, and other personal and real property of any kind or character together with any interest or profits derived from the investment of such proceeds or other property that (i) was used in connection with the commission of, or in an attempt to commit, a violation of subsection b of section 18.2-47, section 18.2-48 or 18.2-59, subsection b of section 18.2-346, or section 18.2-347, 18.2-348, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 40.1-29, 40.1-100.2, or 40.1-103; (ii) is traceable to the proceeds of some form of activity that violates subsection b of section 18.2-47, section 18.2-48 or 18.2-59, subsection b of section 18.2-346, or section 18.2-347, 18.2-348, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 40.1-29, 40.1-100.2, or 40.1-103; or (iii) was used to or intended to be used to promote some form of activity that violates subsection b of section 18.2-47, section 18.2-48 or 18.2-59, subsection b of section 18.2-346, or section 18.2-347, 18.2-348, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 40.1-29, 40.1-100.2, or 40.1-103 is subject to lawful seizure by a law-enforcement officer and subject to forfeiture to the commonwealth pursuant to chapter 22.1 (section 19.2-386.1 et seq.). Any forfeiture action under this section shall be stayed until conviction, and property eligible for forfeiture pursuant to this section shall be forfeited only upon the entry of a final judgment of conviction for an offense listed in this section; if no such judgment is entered, all property seized pursuant to this section shall be released from seizure.

Real property shall not be subject to seizure unless the minimum prescribed punishment for the violation is a term of imprisonment of not less than five years.

All seizures and forfeitures under this section shall be governed by chapter 22.1 (section 19.2-386.1 et seq.), and the procedures specified therein shall apply, mutatis mutandis, to all forfeitures under this section.



Category 3(b): Investigative Tools

§ 18.2-513. Definitions.

"Racketeering activity" means to commit, attempt to commit, conspire to commit, or to solicit, coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1 (§ 18.2-46.1 et seq.) of Chapter 4 of this title, § 18.2-460; a felony offense of §§ 3.2-4212, 3.2-4219, 10.1-1455, 18.2-31, 18.2-32, 18.2-32.1, 18.2-33, 18.2-35, Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4 of this title, §§ 18.2-47, 18.2-48, 18.2-48.1, 18.2-49, 18.2-51, 18.2-51.2, 18.2-52, 18.2-53, 18.2-55, 18.2-58, 18.2-59, 18.2-77, 18.2-79, 18.2-80, 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, 18.2-95, Article 4 (§ 18.2-111 et seq.) of Chapter 5 of this title, Article 1 (§ 18.2-168 et seq.) of Chapter 6 of this title, §§ 18.2-178, 18.2-186, Article 6 (§ 18.2-191 et seq.) of Chapter 6 of this title, Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of this title, § 18.2-246.13, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title, §§ 18.2-279, 18.2-286.1, 18.2-289, 18.2-300, 18.2-308.2, 18.2-308.2:1, 18.2-328, 18.2-348, 18.2-355, 18.2-356, 18.2-357, 18.2-368, 18.2-369, 18.2-374.1, Article 8 (§ 18.2-433.1 et seq.) of Chapter 9 of this title, Article 1 (§ 18.2-434 et seq.) of Chapter 10 of this title, Article 2 (§ 18.2-438 et seq.) of Chapter 10 of this title, Article 3 (§ 18.2-446 et seq.) of Chapter 10 of this title, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of this title, § 3.2-6571, 18.2-516, 32.1-314, 58.1-1008.2, or 58.1-1017; or any substantially similar offenses under the laws of any other state, the District of Columbia, the United States or its territories.

Category 4(a): Training for Law Enforcement

§ 9.1-102. Powers and duties of the Board and the Department

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

55. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human trafficking offenses using the common law and existing criminal statutes in the Code of Virginia

Category 4(b): Human Trafficking Task Force

None.

Category 5: No Requirement of Force, Fraud, or Coercion for Sex Trafficking of Minors

Yes. See § 18.2-356.

Category 6: Posting of a Human Trafficking Hotline

§ 40.1-11.3. Human trafficking hotline; posted notice required; civil penalty

A. Any employer who (i) operates a business that provides entertainment commonly called stripteasing or topless entertaining or entertainment that has employees who are not clad above or below the waist and (ii) fails to post notice of the existence of a human trafficking hotline to alert potential human trafficking victims of the availability of assistance, is subject to a civil penalty of \$500 payable to the Literary Fund. The notice required by this section shall be posted in the same location where other employee notices required by state or federal law are posted.



The provisions of this subsection shall not apply to businesses providing entertainment in theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

B. The Department shall (i) determine the content of the notice which shall include the National Human Trafficking Resource Center Hotline, (ii) the size of the notice, (iii) determine the languages in which the notice is to be posted, and (iv) publish the notice size and notice languages, and make the notice available in each of those languages, on the website of the Department and by any other means of publication the Department deems appropriate. The Department is not otherwise required to produce or distribute the notice.

§ 40.1-11.3. Human trafficking hotline; posted notice required; civil penalty

B. Any employer who (i) operates a truck stop and (ii) fails to post notice of the existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking of the availability to report crimes or gain assistance, which failure is not cured within 72 hours following notification to the employer of such failure by the Department, is subject to a civil penalty of \$100 per truck stop. Civil penalties under this subsection shall be assessed by the Department and paid to the Literary Fund, provided that no civil penalty shall be assessed under this subsection prior to January 1, 2014. The notice required by this subsection shall be posted in the same location where other employee notices required by state or federal law are posted. As used in this subsection, "truck stop" means a facility that is capable of fueling a qualified highway vehicle that bears an IFTA identification marker as those terms are defined in § 58.1-2700.

Category 7: Safe Harbor

None.

Category 8: Victim Assistance

None.

Category 9: Civil Remedy

None.

Category 10: Vacating Convictions

None.

If you would like assistance in enacting laws to fill in the gaps, please contact the Polaris Policy Program at policy@polarisproject.org.