

Human Trafficking can be prosecuted under Virginia Law through going after accessories (§ 18.2-18) or conspirators (§ 18.2-22) to abduction and kidnaping (§ 18.2-47).

Virginia law and a long history of Virginia court cases take abduction very seriously.

Abduction rests on someone being taken or held against their will. This doesn't have to be by force – it can be by intimidation or by deception. And, In 2009, Delegate Ebbin's bill expanded "intimidation" to include taking or threatening to withhold a passport or immigration document or to report someone as being in the United States illegally.

Abduction does not have to involve taking the person somewhere. Holding the person by force, intimidation, or deception is abduction – *Simms v. Commonwealth*, 2 Va. App. 614, 346 S.E.2d 734 (1986)

As originally drafted, Delegate Hugo's and Delegate Watts' bills attempted to go after the network of human trafficking by expanding the wording of Virginia's abduction statute to include "recruits," "entices," "solicits," "provides," "purchases," or "obtains by any means."

A list of these related activities are not in the final bill for good reason: They are all fully covered under case law decisions using Virginia's well-established accessories (§ 18.2-18) and conspirators (§ 18.2-22) statutes. **Anyone who participates in any way to bring about an abduction is as guilty as the person who actually holds the person.**

The punishment for abduction – or participating in an abduction as an accessory or conspirator – as it relates to most human trafficking is 20 years to life. Furthermore, in current law, if the abduction involves the intent to prostitute a child under 16, put them in a forced marriage, or the intent to sexually molest any victim, confinement of less than life in prison must include 40 years of active probation upon release.

The 2011 General Assembly not only added abduction of any one under 18 for the purpose of manufacturing child pornography but the same 40 years of active probation upon release for anything less than serving a life sentence will apply as it will for abduction for prostitution in the clarified language.

The facts of human trafficking that elevate it to crime punishable by 20 to life are the intent to get pecuniary benefit (which is related to almost all human trafficking), or the intent to subject a person of any age to sexual acts, or the intent to use a child under sixteen years for the purpose of concubinage, or the intent to use anyone for the purposes of prostitution, or the intent to use a minor in the manufacture of child pornography. It is important to note that, as under existing Virginia law, prosecution only has prove "intent" or "purpose" not whether the act was actually carried out.

In addition, to the degree that a person cannot be prosecuted as an accessory to abduction, the 2011 General Assembly also dealt with another predatory part of human trafficking: indentured servitude. Anyone who is found guilty of taking money for or who benefits from making anyone engage in forced labor or services, concubinage, prostitution, or the manufacture of any obscene material or child pornography can be sentenced to 2 to 10 years in prison and fined up to \$100,000.