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SENATE BILL NO. 197

Offered January 10, 2024

Prefiled January 8, 2024

A BILL to amend and reenact § 2.2-511 of the Code of Virginia, relating to Attorney General; instituting or conducting criminal prosecutions for violations of criminal sexual assault and commercial sex trafficking committed against children.

Patrons—Diggs and Craig; Delegate: Green

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-511 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-511. Criminal cases.

A. Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving (i) violations of the Alcoholic Beverage Control Act (§ 4.1-100 et seq.), (ii) violation of laws relating to elections and the electoral process as provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state bureau, institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws involving child pornography and sexually explicit visual material involving children, or violations of criminal sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 or commercial sex trafficking under Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2 when such crimes are committed against children, (vii) the practice of law without being duly authorized or licensed or the illegal practice of law, (viii) violations of § 3.2-4212 or 58.1-1008.2, (ix) with the concurrence of the local attorney for the Commonwealth, violations of the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), (x) with the concurrence of the local attorney for the Commonwealth, violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), (xi) with the concurrence of the local attorney for the Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law listed in clause (x) of this subsection, (xii) with the concurrence of the local attorney for the Commonwealth, criminal violations by Medicaid providers or their employees in the course of doing business, or violations of Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, in which cases the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may institute proceedings by information, presentment or indictment, as appropriate, and conduct the same, (xiii) with the concurrence of the local attorney for the Commonwealth, violations of Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2, (xiv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of §§ 18.2-186.3 and 18.2-186.4, (xv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of § 18.2-46.2, 18.2-46.3, or 18.2-46.5 when such violations are committed on the grounds of a state correctional facility, and (xvi) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2.

In all other criminal cases in the circuit courts, except where the law provides otherwise, the authority of the Attorney General to appear or participate in the proceedings shall attach when the appellate court receives the record after a notice of appeal has been filed with the clerk of the circuit court noting an appeal to the Court of Appeals or the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in which the Commonwealth is a party or is directly interested, the Attorney General shall appear and represent the Commonwealth upon receipt of the record in the appellate court, unless, and with the consent of the Attorney General, the attorney for the Commonwealth who prosecuted the underlying criminal case files a notice of appearance to represent the Commonwealth in any such appeal. However, in an appeal regarding bail, bond, or recognizance pursuant to Article 1 (§ 19.2-119 et seq.) of Chapter 9 of Title 19.2 or subsection B of § 19.2-398, the attorney for the Commonwealth who prosecuted the underlying criminal case shall continue to represent the Commonwealth on appeal.

B. The Attorney General shall, upon request of a person who was the victim of a crime and subject to such reasonable procedures as the Attorney General may require, ensure that such person is given notice of the filing, of the date, time and place and of the disposition of any appeal or habeas corpus proceeding involving the cases in which such person was a victim. For the purposes of this section, a victim is an individual who has suffered physical, psychological or economic harm as a direct result of the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim; or a spouse, child, parent or legal

59 guardian of a victim of a homicide. Nothing in this subsection shall confer upon any person a right to appeal
60 or modify any decision in a criminal, appellate or habeas corpus proceeding; abridge any right guaranteed by
61 law; or create any cause of action for damages against the Commonwealth or any of its political subdivisions,
62 the Attorney General or any of his employees or agents, any other officer, employee or agent of the
63 Commonwealth or any of its political subdivisions, or any officer of the court.