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HOUSE BILL NO. 859

Offered January 10, 2024

Prefiled January 9, 2024

A BILL to amend and reenact §§ 9.1-138, 9.1-139, 9.1-140, 9.1-144, 9.1-149, 18.2-60.3, and 18.2-60.5 of the Code of Virginia, relating to human trafficking investigators; licensing by the Department of Criminal Justice Services.

Patrons—Williams, Delaney, Simonds, Ballard, Cordoza, Earley, Higgins, Leftwich, Lovejoy, McNamara, Milde, Oates, Owen, Runion, Tata, Taylor, Walker, Webert, Wiley and Zehr

Referred to Committee on Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-138, 9.1-139, 9.1-140, 9.1-144, 9.1-149, 18.2-60.3, and 18.2-60.5 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-138. Definitions.

In addition to the definitions set forth in § 9.1-101, as used in this article, unless the context requires a different meaning:

"Alarm respondent" means an individual who responds to the signal of an alarm for the purpose of detecting an intrusion of the home, business or property of the end user.

"Armed" means a private security registrant who carries or has immediate access to a firearm in the performance of his duties.

"Armed security officer" means a natural person employed to (i) safeguard and protect persons and property or (ii) deter theft, loss, or concealment of any tangible or intangible personal property on the premises he is contracted to protect, and who carries or has access to a firearm in the performance of his duties.

"Armored car personnel" means persons who transport or offer to transport under armed security from one place to another, money, negotiable instruments or other valuables in a specially equipped motor vehicle with a high degree of security and certainty of delivery.

"Business advertising material" means display advertisements in telephone directories, letterhead, business cards, local newspaper advertising, contracts, and any electronic medium, including the Internet, social media, and digital advertising.

"Central station dispatcher" means an individual who monitors burglar alarm signal devices, burglar alarms or any other electrical, mechanical or electronic device used (i) to prevent or detect burglary, theft, shoplifting, pilferage or similar losses; (ii) to prevent or detect intrusion; or (iii) primarily to summon aid for other emergencies.

"Certification" means the method of regulation indicating that qualified persons have met the minimum requirements as private security services training schools, private security services instructors, compliance agents, or certified detector canine handler examiners.

"Compliance agent" means an individual who owns or is employed by a licensed private security services business to ensure the compliance of the private security services business with this title.

"Computer or digital forensic services" means the use of highly specialized expertise for the recovery, authentication, and analysis of electronic data or computer usage.

"Courier" means any armed person who transports or offers to transport from one place to another documents or other papers, negotiable or nonnegotiable instruments, or other small items of value that require expeditious services.

"Detector canine" means any dog that detects drugs or explosives.

"Detector canine handler" means any individual who uses a detector canine in the performance of private security duties.

"Detector canine handler examiner" means any individual who examines the proficiency and reliability of detector canines and detector canine handlers in the detection of drugs or explosives.

"Detector canine team" means the detector canine handler and his detector canine performing private security duties.

"Electronic security business" means any person who engages in the business of or undertakes to (i) install, service, maintain, design or consult in the design of any electronic security equipment to an end user; (ii) respond to or cause a response to electronic security equipment for an end user; or (iii) have access to confidential information concerning the design, extent, status, password, contact list, or location of an end user's electronic security equipment.

"Electronic security employee" means an individual who is employed by an electronic security business in

58 any capacity which may give him access to information concerning the design, extent, status, password,
59 contact list, or location of an end user's electronic security equipment.

60 "Electronic security equipment" means (i) electronic or mechanical alarm signaling devices including
61 burglar alarms or holdup alarms used to safeguard and protect persons and property; or (ii) cameras used to
62 detect intrusions, concealment or theft, to safeguard and protect persons and property. This shall not include
63 tags, labels, and other devices that are attached or affixed to items offered for sale, library books, and other
64 protected articles as part of an electronic article surveillance and theft detection and deterrence system.

65 "Electronic security sales representative" means an individual who sells electronic security equipment on
66 behalf of an electronic security business to the end user.

67 "Electronic security technician" means an individual who installs, services, maintains or repairs electronic
68 security equipment.

69 "Electronic security technician's assistant" means an individual who works as a laborer under the
70 supervision of the electronic security technician in the course of his normal duties, but who may not make
71 connections to any electronic security equipment.

72 "Employed" means to be in an employer/employee relationship where the employee is providing work in
73 exchange for compensation and the employer directly controls the employee's conduct and pays some taxes
74 on behalf of the employee. The term "employed" shall not be construed to include independent contractors.

75 "End user" means any person who purchases or leases electronic security equipment for use in that
76 person's home or business.

77 "Firearms training verification" means the verification of successful completion of either initial or
78 retraining requirements for handgun or shotgun training, or both.

79 "General public" means individuals who have access to areas open to all and not restricted to any
80 particular class of the community.

81 "*Human trafficking investigator*" means a private investigator who is GSA compliant and engages in the
82 business of, or accepts employment to make, investigations to obtain information on sex trafficking or severe
83 forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7101 *et*
84 *seq.*) and in the federal Justice for Victims of Trafficking Act of 2015 (P.L. 114-22).

85 "Key cutting" means making duplicate keys from an existing key and includes no other locksmith
86 services.

87 "License number" means the official number issued to a private security services business licensed by the
88 Department.

89 "Locksmith" means any individual that performs locksmith services, or advertises or represents to the
90 general public that the individual is a locksmith even if the specific term locksmith is substituted with any
91 other term by which a reasonable person could construe that the individual possesses special skills relating to
92 locks or locking devices, including use of the words lock technician, lockman, safe technician, safeman,
93 boxman, unlocking technician, lock installer, lock opener, physical security technician or similar descriptions.

94 "Locksmith services" mean selling, servicing, rebuilding, repairing, rekeying, repinning, changing the
95 combination to an electronic or mechanical locking device; programming either keys to a device or the device
96 to accept electronic controlled keys; originating keys for locks or copying keys; adjusting or installing locks
97 or deadbolts, mechanical or electronic locking devices, egress control devices, safes, and vaults; opening,
98 defeating or bypassing locks or latching mechanisms in a manner other than intended by the manufacturer;
99 with or without compensation for the general public or on property not his own nor under his own control or
100 authority.

101 "Natural person" means an individual person.

102 "Personal protection specialist" means any individual who engages in the duties of providing close
103 protection from bodily harm to any person.

104 "Private investigator" means any individual who engages in the business of, or accepts employment to
105 make, investigations to obtain information on (i) crimes or civil wrongs; (ii) the location, disposition, or
106 recovery of stolen property; (iii) the cause of accidents, fires, damages, or injuries to persons or to property;
107 or (iv) evidence to be used before any court, board, officer, or investigative committee.

108 "Private security services business" means any person engaged in the business of providing, or who
109 undertakes to provide, armored car personnel, security officers, personal protection specialists, private
110 investigators, *human trafficking investigators*, couriers, security canine handlers, security canine teams,
111 detector canine handlers, detector canine teams, alarm respondents, locksmiths, central station dispatchers,
112 electronic security employees, electronic security sales representatives or electronic security technicians and
113 their assistants to another person under contract, express or implied.

114 "Private security services instructor" means any individual certified by the Department to provide
115 mandated instruction in private security subjects for a certified private security services training school.

116 "Private security services registrant" means any qualified individual who has met the requirements under
117 this article to perform the duties of alarm respondent, locksmith, armored car personnel, central station
118 dispatcher, courier, electronic security sales representative, electronic security technician, electronic security

technician's assistant, personal protection specialist, private investigator, *human trafficking investigator*, security canine handler, detector canine handler, unarmed security officer or armed security officer.

"Private security services training school" means any person certified by the Department to provide instruction in private security subjects for the training of private security services business personnel in accordance with this article.

"Registration" means a method of regulation whereby certain personnel employed by a private security services business are required to register with the Department pursuant to this article.

"Registration category" means any one of the following categories: (i) unarmed security officer and armed security officer/courier, (ii) security canine handler, (iii) armored car personnel, (iv) private investigator, (v) personal protection specialist, (vi) alarm respondent, (vii) central station dispatcher, (viii) electronic security sales representative, (ix) electronic security technician, (x) electronic technician's assistant, (xi) detector canine handler, ~~or~~ (xii) locksmith, *or (xiii) human trafficking investigator*.

"Security canine" means a dog that has attended, completed, and been certified as a security canine by a certified security canine handler instructor in accordance with approved Department procedures and certification guidelines. "Security canines" shall not include detector dogs.

"Security canine handler" means any individual who utilizes his security canine in the performance of private security duties.

"Security canine team" means the security canine handler and his security canine performing private security duties.

"Supervisor" means any individual who directly or indirectly supervises registered or certified private security services business personnel.

"Unarmed security officer" means a natural person who performs the functions of observation, detection, reporting, or notification of appropriate authorities or designated agents regarding persons or property on the premises he is contracted to protect, and who does not carry or have access to a firearm in the performance of his duties.

§ 9.1-139. Licensing, certification, and registration required; qualifications; temporary licenses.

A. No person shall engage in the private security services business or solicit private security business in the Commonwealth without having obtained a license from the Department. No person shall be issued a private security services business license until a compliance agent is designated in writing on forms provided by the Department. The compliance agent shall ensure the compliance of the private security services business with this article and shall meet the qualifications and perform the duties required by the regulations adopted by the Board.

B. No person shall act as a private security services training school or solicit students for private security training in the Commonwealth without being certified by the Department. No person shall be issued a private security services training school certification until a school director is designated in writing on forms provided by the Department. The school director shall ensure the compliance of the school with the provisions of this article and shall meet the qualifications and perform the duties required by the regulations adopted by the Board.

C. No person shall be employed by a licensed private security services business in the Commonwealth as armored car personnel, courier, armed security officer, detector canine handler, unarmed security officer, security canine handler, private investigator, *human trafficking investigator*, personal protection specialist, alarm respondent, locksmith, central station dispatcher, electronic security sales representative, electronic security technician's assistant, or electronic security technician without possessing a valid registration issued by the Department, except as provided in this article. Notwithstanding any other provision of this article, a licensed private security services business may hire as an independent contractor a personal protection specialist ~~or~~, private investigator, *or human trafficking investigator* who has been issued a registration by the Department.

D. A temporary license may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search. However, no person shall be issued a temporary license until (i) he has designated a compliance agent who has complied with the compulsory minimum training standards established by the Board pursuant to subsection A of § 9.1-141 for compliance agents, (ii) each principal of the business has submitted his fingerprints for a National Criminal Records search and a Virginia Criminal History Records search, and (iii) he has met all other requirements of this article and Board regulations.

E. No person shall be employed by a licensed private security services business in the Commonwealth unless such person is certified or registered in accordance with this chapter.

F. A temporary registration may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search. However, no person shall be issued a temporary registration until he has (i) complied with, or been exempted from the compulsory minimum training standards established by the Board, pursuant to subsection A of § 9.1-141, for armored car personnel, couriers, armed security officers, detector canine handlers, unarmed security officers, security canine

handlers, private investigators, *human trafficking investigators*, personal protection specialists, alarm respondents, locksmith, central station dispatchers, electronic security sales representatives, electronic security technician's assistants, or electronic security technicians, (ii) submitted his fingerprints to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search, and (iii) met all other requirements of this article and Board regulations.

G. A temporary certification as a private security instructor or private security training school may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search. However, no person shall be issued a temporary certification as a private security services instructor until he has (i) met the education, training and experience requirements established by the Board and (ii) submitted his fingerprints to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search. No person shall be issued a temporary certification as a private security services training school until (a) he has designated a training director, (b) each principal of the training school has submitted his fingerprints to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search, and (c) he has met all other requirements of this article and Board regulations.

H. A licensed private security services business in the Commonwealth shall not employ as an unarmed security officer, electronic security technician's assistant, unarmed alarm respondent, central station dispatcher, electronic security sales representative, locksmith, or electronic security technician, any person who has not complied with, or been exempted from, the compulsory minimum training standards established by the Board, pursuant to subsection A of § 9.1-141, except that such person may be so employed for not more than 90 days while completing compulsory minimum training standards.

I. No person shall be employed as an electronic security employee, electronic security technician's assistant, unarmed alarm respondent, locksmith, central station dispatcher, electronic security sales representative, electronic security technician or supervisor until he has submitted his fingerprints to the Department to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search. The provisions of this subsection shall not apply to an out-of-state central station dispatcher meeting the requirements of subdivision 19 of § 9.1-140.

J. The compliance agent of each licensed private security services business in the Commonwealth shall maintain documentary evidence that each private security registrant and certified employee employed by his private security services business has complied with, or been exempted from, the compulsory minimum training standards required by the Board. Before January 1, 2003, the compliance agent shall ensure that an investigation to determine suitability of each unarmed security officer employee has been conducted, except that any such unarmed security officer, upon initiating a request for such investigation under the provisions of subdivision A 11 of § 19.2-389, may be employed for up to 30 days pending completion of such investigation. After January 1, 2003, no person shall be employed as an unarmed security officer until he has submitted his fingerprints to the Department for the conduct of a National Criminal Records search and a Virginia Criminal History Records search. Any person who was employed as an unarmed security officer prior to January 1, 2003, shall submit his fingerprints to the Department in accordance with subsection B of § 9.1-145.

K. No person with a criminal conviction for a misdemeanor involving (i) moral turpitude, (ii) assault and battery, (iii) damage to real or personal property, (iv) controlled substances or imitation controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (v) prohibited sexual behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or (vi) firearms, or any felony shall be (a) employed as a registered or certified employee by a private security services business or training school, or (b) issued a private security services registration, certification as an unarmed security officer, electronic security employee or technician's assistant, a private security services training school or instructor certification, compliance agent certification, or a private security services business license, except that, upon written request, the Director of the Department may waive such prohibition. Any grant or denial of such waiver shall be made in writing within 30 days of receipt of the written request and shall state the reasons for such decision.

L. The Department may grant a temporary exemption from the requirement for licensure, certification, or registration for a period of not more than 30 days in a situation deemed an emergency by the Department.

M. All private security services businesses and private security services training schools in the Commonwealth shall include their license or certification number on all business advertising materials.

N. A licensed private security services business in the Commonwealth shall not employ as armored car personnel any person who has not complied with, or been exempted from, the compulsory minimum training standards established by the Board pursuant to subsection A of § 9.1-141, except such person may serve as a driver of an armored car for not more than 90 days while completing compulsory minimum training standards, provided such person does not possess or have access to a firearm while serving as a driver.

§ 9.1-140. Exceptions from article; training requirements for out-of-state central station dispatchers.

The provisions of this article shall not apply to:

1. An officer or employee of the United States, the Commonwealth, or a political subdivision of either, while the officer or employee is performing his official duties;
2. A person, except a private investigator as defined in § 9.1-138, engaged exclusively in the business of obtaining and furnishing information regarding an individual's financial rating or a person engaged in the business of a consumer reporting agency as defined by the Federal Fair Credit Reporting Act;
3. An attorney licensed to practice in Virginia or his employees;
4. The legal owner of personal property which has been sold under any security agreement while performing acts relating to the repossession of such property;
5. A person receiving compensation for private employment as a security officer, or receiving compensation under the terms of a contract, express or implied, as a security officer, who is also a law-enforcement officer as defined by § 9.1-101 and employed by the Commonwealth or any of its political subdivisions;
6. Any person appointed under § 46.2-2003 or 56-353 while engaged in the employment contemplated thereunder, unless they have successfully completed training mandated by the Department;
7. Persons who conduct investigations as a part of the services being provided as a claims adjuster, by a claims adjuster who maintains an ongoing claims adjusting business, and any natural person employed by the claims adjuster to conduct investigations for the claims adjuster as a part of the services being provided as a claims adjuster;
8. Any natural person otherwise required to be registered pursuant to § 9.1-139 who is employed by a business that is not a private security services business for the performance of his duties for his employer. Any such employee, however, who carries a firearm and is in direct contact with the general public in the performance of his duties shall possess a valid registration with the Department as required by this article;
9. Persons, sometimes known as "shoppers," employed to purchase goods or services solely for the purpose of determining or assessing the efficiency, loyalty, courtesy, or honesty of the employees of a business establishment;
10. Licensed or registered private investigators *or human trafficking investigators* from other states entering Virginia during an investigation originating in their state of licensure or registration when the other state offers similar reciprocity to private investigators *or human trafficking investigators* licensed and registered by the Commonwealth;
11. Unarmed regular employees of telephone public service companies where the regular duties of such employees consist of protecting the property of their employers and investigating the usage of telephone services and equipment furnished by their employers, their employers' affiliates, and other communications common carriers;
12. An end user;
13. A material supplier who renders advice concerning the use of products sold by an electronics security business and who does not provide installation, monitoring, repair or maintenance services for electronic security equipment;
14. Members of the security forces who are directly employed by electric public service companies;
15. Any professional engineer or architect licensed in accordance with Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 to practice in the Commonwealth, or his employees;
16. Any person who only performs telemarketing or schedules appointments without access to information concerning the electronic security equipment purchased by an end user;
17. Any certified forensic scientist employed as an expert witness for the purpose of possibly testifying as an expert witness;
18. Members of the security forces who are directly employed by shipyards engaged in the construction, design, overhaul or repair of nuclear vessels for the United States Navy;
19. An out-of-state central station dispatcher employed by a private security services business licensed by the Department provided he (i) possesses and maintains a valid license, registration, or certification as a central station dispatcher issued by the regulatory authority of the state in which he performs the monitoring duties and (ii) has submitted his fingerprints to the regulatory authority for the conduct of a national criminal history records search;
20. Any person, or independent contractor or employee of any person, who (i) exclusively contracts directly with an agency of the federal government to conduct background investigations and (ii) possesses credentials issued by such agency authorizing such person, subcontractor or employee to conduct background investigations;
21. Any person whose occupation is limited to the technical reconstruction of the cause of accidents involving motor vehicles as defined in § 46.2-100, regardless of whether the information resulting from the investigation is to be used before a court, board, officer, or investigative committee, and who is not otherwise a private investigator as defined in § 9.1-138;
22. Retail merchants performing locksmith services, selling locks or engaged in key cutting activities conducted at the business location who do not represent themselves to the general public as locksmiths;
23. Law-enforcement, fire, rescue, emergency service personnel, or other persons performing locksmith

304 services in an emergency situation without compensation and who do not represent themselves to the general
305 public as locksmiths;

306 24. Motor vehicle dealers as defined in § 46.2-1500 performing locksmith services who do not represent
307 themselves to the general public as locksmiths;

308 25. Taxicab and towing businesses performing locksmith services that do not represent themselves to the
309 general public as locksmiths;

310 26. Contractors licensed under Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 performing locksmith
311 services when acting within the scope of such license who do not represent themselves to the general public
312 as locksmiths;

313 27. Any contractor as defined in § 54.1-1100 (i) who is exempt from the licensure requirements of
314 Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1, (ii) where the total value referred to in a single contract or
315 project is less than \$1,000, (iii) when the performance of locksmith services is ancillary to the work
316 performed by such contractor, and (iv) who does not represent himself to the general public as a locksmith;

317 28. Any individual, employed by a retail merchant that also holds a private security services business
318 license as a locksmith, where such individual's duties relating to such license are limited to key cutting and
319 the key cutting is performed under the direct supervision of the licensee;

320 29. Any individual engaged in (i) computer or digital forensic services as defined in § 9.1-138 or in the
321 acquisition, review, or analysis of digital or computer-based information, in order to obtain or furnish
322 information for evidentiary purposes or to provide expert testimony before a court, or (ii) network or system
323 vulnerability testing, including network scans and risk assessment and analysis of computers connected to a
324 network;

325 30. Employees and sales representatives of a retailer of electronic security equipment, provided such
326 employees and sales representatives (i) sell electronic security equipment at a store location, online, or by
327 telephone, but not at the end user's premises; (ii) are not electronic security technicians; and (iii) do not have
328 access to end user confidential information regarding the end user's electronic security equipment; or

329 31. A certified public accountant authorized to practice in the Commonwealth under Chapter 44 (§ 54.1-
330 4400 et seq.) of Title 54.1 or his employees.

331 **§ 9.1-144. Insurance required.**

332 In order for his license or certificate to be operative, any person licensed as a private security services
333 business under subsection A of § 9.1-139 or certified as a private security services training school under
334 subsection B of § 9.1-139 shall file with the Department evidence of a policy of liability insurance in an
335 amount and with coverage as fixed by the Department. The liability insurance shall be maintained for so long
336 as the licensee or certificate holder is licensed or certified by the Department.

337 Every personal protection specialist ~~and~~, private investigator, *or human trafficking investigator* who has
338 been issued a registration by the Department and is hired as an independent contractor by a licensed private
339 security services business shall maintain comprehensive general liability insurance in a reasonable amount to
340 be fixed by the Department, evidence of which shall be provided to the private security services business
341 prior to the hiring of such independent contractor pursuant to subsection C of § 9.1-139.

342 **§ 9.1-149. Unlicensed activity prohibited; penalty.**

343 A. No person:

344 1. Required to possess a registration under subsection C of § 9.1-139 shall be employed by a private
345 security services business, except as provided in this article, as armored car personnel, courier, armed security
346 officer, security canine handler, personal protection specialist, private investigator, *human trafficking*
347 *investigator*, alarm respondent, central station dispatcher, electronic security sales representative or electronic
348 security technician without possessing a valid registration.

349 2. Licensed or required to be licensed under subsection A of § 9.1-139 shall employ or otherwise utilize,
350 except as provided in this article, as armored car personnel, courier, armed security officer, security canine
351 handler, personal protection specialist, private investigator, *human trafficking investigator*, alarm respondent,
352 central station dispatcher, electronic security sales representative or electronic security technician, any person
353 not possessing a valid registration.

354 3. Required to possess an instructor certification under subsection D of § 9.1-139 shall provide mandated
355 instruction, except as provided in § 9.1-141 and Board regulations, without possessing a valid private security
356 instructor certification.

357 4. Certified or required to be certified as a private security services training school under subsection B of
358 § 9.1-139 shall employ or otherwise utilize, except as provided in § 9.1-141 and Board regulations, as a
359 private security instructor, any person not possessing a valid instructor certification.

360 B. No compliance agent employed or otherwise utilized by a person licensed or required to be licensed
361 under subsection A of § 9.1-139 shall:

362 1. Employ or otherwise utilize as an unarmed security officer, except as provided in this article, any
363 individual for whom the compliance agent does not possess documentary evidence of compliance with, or
364 exemption from, the compulsory minimum training standards established by the Board for unarmed security

officers and before January 1, 2003, maintain documentary evidence that an investigation to determine suitability has been conducted.

2. Employ or otherwise utilize as an electronic security technician's assistant, except as provided in this article, any individual for whom the compliance agent does not possess documentary evidence of compliance with, or exemption from, the compulsory minimum training standards established by the Board for electronic security technician's assistants.

C. Any person convicted of a violation of subsections A or B shall be guilty of a Class 1 misdemeanor.

§ 18.2-60.3. Stalking; penalty.

A. Any person, except a law-enforcement officer, as defined in § 9.1-101, and acting in the performance of his official duties, and a registered private investigator or *human trafficking investigator*, as defined in § 9.1-138, who is regulated in accordance with § 9.1-139 and acting in the course of his legitimate business, who on more than one occasion engages in conduct, either in person or through any other means, including by mail, telephone, or an electronically transmitted communication, directed at another person with the intent to place, or when he knows or reasonably should know that the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member is guilty of a Class 1 misdemeanor. If the person contacts or follows or attempts to contact or follow the person at whom the conduct is directed after being given actual notice that the person does not want to be contacted or followed, such actions shall be prima facie evidence that the person intended to place that other person, or reasonably should have known that the other person was placed, in reasonable fear of death, criminal sexual assault, or bodily injury to himself or a family or household member.

B. Any person who is convicted of a second offense of subsection A occurring within five years of a prior conviction of such an offense under this section or for a substantially similar offense under the law of any other jurisdiction is guilty of a Class 6 felony.

C. A person may be convicted under this section in any jurisdiction within the Commonwealth wherein the conduct described in subsection A occurred, if the person engaged in that conduct on at least one occasion in the jurisdiction where the person is tried or in the jurisdiction where the person at whom the conduct is directed resided at the time of such conduct. Evidence of any such conduct that occurred outside the Commonwealth may be admissible, if relevant, in any prosecution under this section.

D. Upon finding a person guilty under this section, the court shall, in addition to the sentence imposed, issue an order prohibiting contact between the defendant and the victim or the victim's family or household member.

E. The Department of Corrections, sheriff or regional jail director shall give notice prior to the release from a state correctional facility or a local or regional jail of any person incarcerated upon conviction of a violation of this section, to any victim of the offense who, in writing, requests notice, or to any person designated in writing by the victim. The notice shall be given at least 15 days prior to release of a person sentenced to a term of incarceration of more than 30 days or, if the person was sentenced to a term of incarceration of at least 48 hours but no more than 30 days, 24 hours prior to release. If the person escapes, notice shall be given as soon as practicable following the escape. The victim shall keep the Department of Corrections, sheriff or regional jail director informed of the current mailing address and telephone number of the person named in the writing submitted to receive notice.

All information relating to any person who receives or may receive notice under this subsection shall remain confidential and shall not be made available to the person convicted of violating this section.

For purposes of this subsection, "release" includes a release of the offender from a state correctional facility or a local or regional jail (i) upon completion of his term of incarceration or (ii) on probation or parole.

No civil liability shall attach to the Department of Corrections nor to any sheriff or regional jail director or their deputies or employees for a failure to comply with the requirements of this subsection.

F. For purposes of this section:

"Family or household member" has the same meaning as provided in § 16.1-228.

§ 18.2-60.5. Unauthorized use of electronic tracking device; penalty.

A. Any person who installs or places an electronic tracking device through intentionally deceptive means and without consent, or causes an electronic tracking device to be installed or placed through intentionally deceptive means and without consent, and uses such device to track the location of any person is guilty of a Class 1 misdemeanor.

B. The provisions of this section shall not apply to the installation, placement, or use of an electronic tracking device by:

1. A law-enforcement officer, judicial officer, probation or parole officer, or employee of the Department of Corrections when any such person is engaged in the lawful performance of official duties and in accordance with other state or federal law;

2. The parent or legal guardian of a minor when tracking (i) the minor or (ii) any person authorized by the parent or legal guardian as a caretaker of the minor at any time when the minor is under the person's sole

426 care;

427 3. A legally authorized representative of a vulnerable adult, as defined in § 18.2-369;

428 4. The owner of fleet vehicles, when tracking such vehicles;

429 5. An electronic communications provider to the extent that such installation, placement, or use is
430 disclosed in the provider's terms of use, privacy policy, or similar document made available to the customer;
431 or

432 6. A registered private investigator *or human trafficking investigator*, as defined in § 9.1-138, who is
433 regulated in accordance with § 9.1-139 and is acting in the normal course of his business and with the consent
434 of the owner of the property upon which the electronic tracking device is installed and placed. However, such
435 exception shall not apply if the private investigator is working on behalf of a client who is subject to a
436 protective order under § 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-279.1, 19.2-152.8, 19.2-152.9, or 19.2-
437 152.10 or subsection B of § 20-103, or if the private investigator knows or should reasonably know that the
438 client seeks the private investigator's services to aid in the commission of a crime.

439 C. For the purposes of this section:

440 "Electronic tracking device" means an electronic or mechanical device that permits a person to remotely
441 determine or track the position and movement of another person.

442 "Fleet vehicle" means (i) one or more motor vehicles owned by a single entity and operated by employees
443 or agents of the entity for business or government purposes, (ii) motor vehicles held for lease or rental to the
444 general public, or (iii) motor vehicles held for sale by motor vehicle dealers.