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HOUSE BILL NO. 2120
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Joint Conference Committee
on February 21, 2025)

(Patron Prior to Substitute—Delegate Maldonado)

A BILL to amend and reenact § 19.2-386.5 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 22.2 of Title 19.2 a section numbered 19.2-386.36, relating to seizure of property used in connection with or derived from financial exploitation of vulnerable adults.

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-386.5 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 22.2 of Title 19.2 a section numbered 19.2-386.36 as follows:

§ 19.2-386.5. Release of seized property.

At any time prior to the filing of an information, the attorney for the Commonwealth in the county or city in which the property has been seized pursuant to Chapter 22.2 (§ 19.2-386.15 et seq.) or other provision under the Code may, in his discretion, upon the payment of costs incident to the custody of the seized property, return the seized property to an owner or lien holder, without requiring that the owner or lien holder post bond as provided in § 19.2-386.6, if he believes the property is properly exempt from forfeiture pursuant to § 19.2-386.8.

At any time after the filing of an answer or upon default, on motion of the attorney for the Commonwealth or a vulnerable adult, the court may order the return of property to the vulnerable adult upon a showing that the property is the subject of a violation of § 18.2-178.1 or traceable to such a violation and is properly exempt from forfeiture pursuant to § 19.2-386.8.

Any property seized and returned pursuant to § 19.2-386.36 shall not require the payment of costs or the posting of a bond.

§ 19.2-386.36. Seizure of moneys or other assets of value in connection with or derived from financial exploitation of vulnerable adults.

All money, equipment, motor vehicles, and other personal and real property of any kind or character that is (i) the subject of a violation of § 18.2-178.1, including all moneys or other property, real or personal, traceable to such a violation, together with any interest or profits derived from the investment of such money or other property, or (ii) used in substantial connection with such a violation shall be subject to lawful 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 12 months.

All seizures and forfeitures under this section shall be governed by Chapter 22.1 (§ 19.2-386.1 et seq.), and the procedures specified therein shall apply, *mutatis mutandis*, except that an action against any property subject to seizure under the provisions of this section may be commenced by the filing of an information in the clerk's office of the circuit court by the guardian, adult protective agent, or representative of the vulnerable adult, who may for good cause shown, upon motion to the court in which the information is filed, act and stand in the place of the attorney for the Commonwealth for the enforcement of such action. A hearing on a motion by a vulnerable adult pursuant to this section shall be scheduled on an expedited basis and given priority over other civil matters before the court. In addition to existing procedures for service of process, such service may be satisfied by certified mail, return receipt requested.

Notwithstanding any provision of Chapter 22.1 (§ 19.2-386.1 et seq.) to the contrary, money, equipment, motor vehicles, and other personal and real property seized in the course of the investigation or prosecution for such offense shall be returned to the vulnerable adult or his estate pursuant to § 19.2-386.5 and shall be returned upon a plea of guilty or a finding of facts sufficient for guilt for a violation of § 18.2-178.1.