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SENATE BILL NO. 860

Offered January 13, 2027

Prefiled November 18, 2026

A BILL to amend the Code of Virginia by adding in Title 19.2 a chapter numbered 22.3, consisting of sections numbered 19.2-386.38 through 19.2-386.42, relating to virtual currency fraud investigations and recovery.

Patron—Perry

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 19.2 a chapter numbered 22.3, consisting of sections numbered 19.2-386.38 through 19.2-386.42, as follows:

CHAPTER 22.3.

VIRTUAL CURRENCY FRAUD INVESTIGATIONS AND RECOVERY.

§ 19.2-386.38. Seizure and forfeiture of virtual currency generally; definitions.

A. As used in this chapter, unless the context requires a different meaning:

"Blockchain" means a digital ledger or database that is chronological, consensus based, decentralized, and mathematically verified in nature.

"Blockchain analytics" means the same as that term is defined in § 6.2-2239.

"Resident owner" means a person or entity that is known to be a resident of the Commonwealth.

"Virtual asset service provider" means any person or entity, located within or outside of the Commonwealth, engaged in the business of soliciting, accepting, issuing, managing, or facilitating the custody, control, transfer, restriction, or conversion of virtual currency, including financial institutions, platforms, exchanges, cross-chain bridges, swapping services, custodians, wallet providers, asset issuers, stablecoin issuers, and brokers.

"Virtual currency" means the same as that term is defined in § 6.2-818.1.

"Virtual currency address" means the same as that term is defined in § 6.2-2239.

"Virtual currency wallet" means the same as that term is defined in § 6.2-2239.

B. Notwithstanding any provision of Chapter 22.1 (§ 19.2-386.1 et seq.) or Chapter 22.2 (§ 19.2-386.15 et seq.) to the contrary, any virtual currency that is subject to a violation of extortion pursuant to § 18.2-59, grand larceny pursuant to § 18.2-95, petit larceny pursuant to § 18.2-96, embezzlement pursuant to § 18.2-111, embezzlement by officers of public or other funds pursuant to § 18.2-112, misuse of public assets pursuant to § 18.2-112.1, computer fraud pursuant to § 18.2-152.3, computer trespass pursuant to § 18.2-152.4, obtaining money by false pretense pursuant to § 18.2-178, financial exploitation of vulnerable adults pursuant to § 18.2-178.1, identity theft pursuant to § 18.2-186.3, or money laundering pursuant to § 18.2-246.3 shall be subject to the provisions of this chapter.

§ 19.2-386.39. Virtual currency recovery warrant; jurisdiction; affidavit.

A. As used in this section, "affidavit" means statements made under oath or affirmation and preserved verbatim.

B. Whenever any individual is the victim of a fraudulent offense listed under subsection B of § 19.2-386.38, where virtual currency was transferred or exchanged, such virtual currency may be recovered by a virtual currency recovery warrant. A virtual currency recovery warrant may be issued by any judge or magistrate having jurisdiction in the locality where any act was performed in furtherance of such offense, where the suspect is located, where the victim resides, or where the virtual currency is accessible. Such warrant shall be issued only upon an affidavit being filed with the judge or magistrate that establishes material facts upon which the judge or magistrate finds probable cause to believe that the virtual currency is the proceeds of, is derived from, is traceable to, or was used to facilitate a fraudulent offense listed under subsection B of § 19.2-386.38.

C. The affidavit required by this section may be filed by electronically transmitted (i) facsimile process or (ii) electronic record as defined in § 59.1-480. Such affidavit shall be certified by the judge or magistrate who issues such virtual currency recovery warrant and delivered in person, mailed by certified mail, return receipt requested, or delivered by electronically transmitted facsimile process or by use of filing and security procedures as defined in the Uniform Electronic Transactions Act (§ 59.1-479 et seq.) for transmitting signed documents by such judge or magistrate, or his designee or agent, to the clerk of the circuit court of the locality wherein the judge or magistrate issued the virtual currency recovery warrant. Such warrant shall be delivered within seven days after the issuance of such warrant and the clerk of the court shall preserve such warrant as a record, which shall at all times be subject to inspection by the public after the virtual currency

recovery warrant that is the subject of the affidavit has been executed or 15 days after issuance of the virtual currency recovery warrant, whichever is earlier. Each such clerk shall maintain an index of all such affidavits and warrants filed in his office in order to facilitate inspection.

D. Every virtual currency recovery warrant shall contain the following information:

1. The name of the affiant;

2. A recitation of the offense in connection with which the recovery is sought;

3. Identification of the virtual currency with reasonable specificity, including type, amount, wallet address, or other identifying information;

4. A description of the legal basis for seizure; and

5. A recitation that the judge or magistrate has found probable cause to believe that the virtual currency constitutes proceeds of, was derived from, is traceable to, or was used to facilitate a violation of the cited offense.

E. Every virtual currency recovery warrant shall be directed to (i) the law-enforcement agency of the locality in which the virtual currency is located or accessible, (ii) any law-enforcement officer or agent employed by the Commonwealth having the power to arrest, or (iii) any law-enforcement officer and a federal agent, jointly, as described in § 19.2-56. Such warrant shall command any such law-enforcement officer to seize, secure, transfer, burn, reissue, redeem, or freeze the virtual currency described in such warrant to a secure virtual currency wallet controlled by the seizing law-enforcement agency or, alternatively, by the Department of State Police if the seizing agency does not have a secure virtual currency wallet, which shall be held until further order of the court.

F. A virtual currency recovery warrant issued pursuant to this chapter may be directed to and served upon any virtual asset service provider, regardless of whether such entity maintains a physical presence, is incorporated, or is registered to do business within the Commonwealth, provided that:

1. The virtual asset service provider holds, controls, or hosts a virtual currency wallet or address containing virtual currency that constitutes the proceeds of or was used to facilitate a violation of a fraudulent offense listed under subsection B of § 19.2-386.38 that was committed against a resident of the Commonwealth or utilizes infrastructure located within the Commonwealth to enable the virtual asset service provider to hold, control, or host a virtual currency wallet or address containing such virtual currency;

2. A direct and immediate result of an illegal act occurred within the Commonwealth;

3. Any act was performed in furtherance of any course of conduct that violated any provision listed under subsection B of § 19.2-386.38; or

4. Any access to a computer or computer network was made whether by wires, electromagnetic waves, microwaves, optics, or any other means of communication within the Commonwealth.

G. 1. Where a virtual currency recovery warrant is directed to a virtual asset service provider, operating inside or outside of the Commonwealth, including international or offshore entities, such warrant may be executed by (i) delivery via certified mail, express courier, or secure electronic transmission to its registered agent, corporate headquarters, or designated legal compliance division or (ii) by electronic transmission to any public-facing legal, support, or operational electronic mail or digital messaging address utilized by the virtual asset service provider if no domestic agent or compliance division is published.

2. The virtual currency recovery warrant shall command the recipient virtual asset service provider or entity, upon receipt of the electronic or physical transmission, to immediately freeze the virtual currency addresses, accounts, or unique identifiers associated with the specified assets to prevent dissipation and immediately transfer, or cause to be transferred, the virtual currency described in the virtual currency recovery warrant to a secure digital wallet controlled exclusively by the seizing law-enforcement agency. The virtual currency recovery warrant shall also command the recipient virtual asset service provider or centralized stablecoin issuer to freeze, re-assign, or transfer the virtual currency wallet to a law-enforcement wallet.

H. Every such virtual currency recovery warrant shall contain the date and time it was issued. However, the failure of any such virtual currency recovery warrant to contain the date and time it was issued shall not render such warrant void, provided that the date and time of issuing of such warrant is established by competent evidence. For the purposes of this chapter, a virtual currency recovery warrant shall be considered executed in the jurisdiction where such warrant was issued or where the electronic transmission is initiated by a law-enforcement officer. An inventory stating the total amount or value of the virtual currency seized shall be returned to the circuit court in which the virtual currency recovery warrant was issued. A copy of the accompanying affidavit shall become a part of the virtual currency recovery warrant and served therewith.

I. Any virtual currency recovery warrant not executed within 15 days after issuance shall be returned to the judicial officer who issued it and shall be voided by the issuing officer.

§ 19.2-386.40. Recovery and return of moneys or other assets of value in connection with or derived from virtual currency fraud.

A. Upon execution of a virtual currency recovery warrant and recovery of virtual currency pursuant to § 19.2-386.39, the seizing agency shall immediately notify in writing the attorney for the Commonwealth.

Within 90 days of such recovery, the attorney for the Commonwealth shall file an information against the virtual currency in the clerk's office of the circuit court. A recovery action under this chapter shall proceed in rem against the virtual currency itself.

B. The attorney for the Commonwealth may immediately proceed on such information. Unless the parties to the action specifically consent by agreement to stay the proceeding, no court shall stay such proceeding based on (i) the existence of an ongoing criminal investigation or prosecution or (ii) whether a suspect has been identified or is subject to the jurisdiction of the courts of the Commonwealth.

C. The attorney for the Commonwealth shall prove by a preponderance of the evidence that the seized virtual currency is (i) moneys or profits traceable to or derived from the offenses listed in subsection B of § 19.2-386.38 or (ii) was used in substantial connection to facilitate one of the offenses listed in subsection B of § 19.2-386.38.

D. Venue for an action of recovery shall lie in the locality where (i) any act was performed in furtherance of the offense, (ii) the suspect is located, (iii) any alleged victim resides, or (iv) the virtual currency is accessible.

E. Such information shall (i) name as parties the virtual currency wallet, all owners of such virtual currency wallet, if known, and all known alleged victims of such virtual currency fraud; (ii) specifically describe the virtual currency wallet; (iii) set forth in general terms the grounds for recovery of the named virtual currency pursuant to this chapter; (iv) pray that the same be condemned and liquidated according to law; and (v) ask that all persons concerned or interested be notified to appear and show cause why such virtual currency should not be recovered on behalf of such alleged victims.

F. 1. Notice for any resident owner of a virtual currency wallet and any alleged victims, if known, shall be satisfied by providing a copy of the information and notice to appear prior to any recovery judgment hearing through certified mail, return receipt requested. Such notice shall contain a statement informing any named party that his interest in the virtual currency shall be subject to recovery judgment unless within 30 days after service on him of such notice, or before the date set forth in any order of publication, an answer under oath is filed in the proceeding setting forth (i) the nature of the resident owner's or alleged victim's claim; (ii) the exact right, title, or character of the ownership or interest in the virtual currency and the evidence thereof; and (iii) the reason, cause, exemption, or defense he may have against the recovery of his interest in the virtual currency, including the exemptions set forth in this section.

2. Notice directed to a corporation or a virtual asset service provider may be executed (i) by delivery via certified mail, express courier, or secure electronic transmission to its registered agent, corporate headquarters, or designated legal compliance division or (ii) by electronic transmission to any public-facing legal, support, or operational electronic mail address utilized by the virtual asset service provider if no domestic agent or compliance division is published. Such notice shall contain a statement informing any named party that its interest in the virtual currency shall be subject to recovery judgment unless within 30 days after service on it of such notice, or before the date set forth in any order of publication as set forth in this chapter, an answer under oath is filed in the proceeding setting forth (a) the nature of the claim; (b) the exact right, title, or character of the ownership or interest in the virtual currency and the evidence thereof; and (c) the reason, cause, exemption, or defense it may have against the recovery of its interest in the virtual currency, including the exemptions set forth in this section.

3. Notice for unknown nonresident alleged victims shall be satisfied as follows:

a. The Commonwealth, in its pleading, shall (i) certify that such owner is unknown after due diligence in investigation by law enforcement and (ii) in such certification, request the court or clerk of the court provide service by publication as specifically provided by this section.

b. Upon such certification and request within the pleadings, the court or clerk of the court shall publish an order giving the abbreviated style of the suit, stating briefly its object, and requiring the unknown alleged victims against whom it is entered to appear and protect their interests on or before the date stated in the order, which shall be no sooner than 45 days after entry of the order of publication. Such order of publication shall be published once each week for four successive weeks on the website of the circuit court clerk and shall be posted at the front door of the courthouse wherein the court is held. Upon completion of such publication, the clerk shall file a certificate in the papers of the case that the requirements of this section have been complied with. The cost of such publication or notice shall be paid first from the proceeds of the liquidation of any virtual wallet.

c. If after such specific order of publication has been executed as provided in this section, the unknown alleged victims against whom it is entered shall not appear on or before the date specified in such order, then the case may be tried or heard as to them. When the provisions of this section have been complied with, no other publication or notice shall thereafter be required, and no further attack may be made upon any judgment rendered by the court.

G. No owner's interest may be recovered under this chapter if the court finds that:

1. Such owner did not know and had no reason to know of the conduct giving rise to recovery;

2. Such owner was a bona fide purchaser for value without notice; or

3. The conduct giving rise to recovery occurred without his connivance or consent, express or implied.

H. In the event the interest has been sold to a bona fide purchaser for value in order to avoid the provisions of this chapter, the Commonwealth shall have a right of action against the seller of the virtual currency for the proceeds of the sale.

I. No lien holder's interest may be forfeited under this chapter if the court finds that:

1. The lien holder did not know of the conduct giving rise to recovery at the time the lien was granted;

2. The lien holder held a bona fide lien on the virtual currency subject to recovery and had perfected the same in the manner prescribed by law prior to seizure of the virtual currency; and

3. The conduct giving rise to forfeiture occurred without his connivance or consent, express or implied.

J. Any person claiming to be an owner or lien holder of the named virtual currency wallet may appear at any time within 30 days after service on him of notice to appear or on or before the date certain set forth in any order of publication as set forth in this section or such longer time as the court in its discretion may allow to prevent a miscarriage of justice. Any person without actual or constructive notice of the recovery proceedings claiming to be an owner or lienholder may appear at any time before final judgment of the trial court and be made a party to the action. Such appearance shall be by answer, under oath, which shall clearly set forth (i) the nature of the individual's claim; (ii) the exact right, title, or character of the ownership or interest in the virtual currency and the evidence thereof; and (iii) the reason, cause, exemption, or defense he may have against the recovery of the virtual currency.

K. Any owner of a virtual currency wallet who fails to appear after proper notice as prescribed by this chapter shall be in default. Upon default, the recovery judgment shall be deemed established as to the interest of any owner of a virtual currency wallet. Such recovery judgment shall be disbursed as set forth in this chapter.

L. If any owner or lien holder of the named virtual currency wallet appears in accordance with this chapter, the court shall proceed to trial of the case, unless trial by jury is demanded by the Commonwealth or owner or lien holder of the named virtual currency wallet. At trial, the Commonwealth has the burden of proving by a preponderance of the evidence that the virtual currency is subject to recovery under this chapter. Upon such a showing by the Commonwealth, the owner or lien holder of the named virtual currency wallet has the burden of proving by a preponderance of the evidence that the owner or lien holder of the named virtual currency wallet interest in the virtual currency is exempt pursuant to this chapter.

M. If a (i) default recovery order is entered against any owner of a virtual currency wallet or (ii) recovery judgment is ordered against any owner of a virtual currency wallet after trial pursuant to this chapter, and if any alleged victim, via blockchain analytics or other investigative means, is found by the court to be an innocent owner of any portion of the recovered virtual currency, the court shall order that such virtual currency be returned in-kind to the identified innocent owner as soon as practicable. Such alleged victim seeking return of such virtual currency shall establish by a preponderance of evidence that he did not consent to, participate in, or have knowledge of the illegal conduct giving rise to the recovery or otherwise was deprived of control over the virtual currency due to the illegal conduct of another.

N. Prior to disbursement of funds to any identified innocent owner, any expenses incident to normal legal proceedings to perfect the alleged victims' interest in the seized virtual currency through recovery judgment, and the actual expenses incident to the liquidation thereof, including commissions, shall be taxed as costs and shall be paid to the person or persons who incurred these costs out of the net proceeds from the liquidation of such virtual currency wallet. If there are no proceeds, the actual expenses shall be paid by the Commonwealth from the Criminal Fund. No law-enforcement agency nor any agent of the Commonwealth shall be held liable for any loss in value of the virtual currency from liquidation.

§ 19.2-386.41. Virtual Currency Victim Restitution Fund.

The Virtual Currency Victim Restitution Fund (the Fund) is hereby established as a special nonreverting subfund of the Criminal Injuries Compensation Fund established under § 19.2-368.18 to be administered by the Comptroller. Such Fund shall accept the residue of any recovery order, after all other amounts are distributed by order pursuant to this chapter, and deposit such residue into the state treasury to credit the Fund. The purpose of the Fund is to distribute restitution to those affected by alleged virtual currency fraud who are without recourse otherwise to seek recovery pursuant to this chapter. Distributions from the Fund shall be based on need and shall be made in accordance with any rules and regulations promulgated by the Virginia Workers' Compensation Commission pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.).

§ 19.2-386.42. Recovery injunction for immediate return of moneys or other assets of value in connection with or derived from virtual currency fraud.

It being in the public interest to expedite the recovery of money or assets in connection with or derived from virtual currency fraud, a court may order liquidation of such virtual currency wallet and issue an immediate preliminary release, in whole or in part, of assets seized pursuant to this chapter to an alleged victim if (i) the pleadings certify that such owner of a virtual currency wallet is unknown after due diligence in investigation by law enforcement and (ii) the court finds (a) that the alleged victim will more likely than not suffer irreparable harm, (b) that credible facts demonstrating that the underlying claim will more likely than not succeed, and (c) that the harm to the alleged victim, without liquidation and release, compared with the harm to the unknown owner of the virtual currency wallet, with the preliminary liquidation and release,

favors granting the preliminary release, in whole or in part. Further, no bond shall be required to effectuate an immediate preliminary release of assets seized pursuant to this chapter. If an unknown owner of a virtual currency wallet responds and the ultimate recovery judgment is in such virtual currency wallet owner's favor, then the court shall deem the alleged victim who received such preliminary release of assets liable to the owner of the virtual currency wallet in the amount of the preliminary liquidation and release of assets seized.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2026, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is $0 for periods of commitment to the custody of the Department of Juvenile Justice.