



TESTIMONY IN SUPPORT OF HB 170 BEFORE THE MARYLAND HOUSE JUDICIARY COMMITTEE

February 2, 2023

Dear Chairman Clippinger and Members of the Maryland House Judiciary Committee:

Human Rights for Kids respectfully submits this testimony for the official record to express our support for HB 170. We are grateful to Delegate Simpson for her leadership in introducing this bill, and we appreciate the Maryland General Assembly's willingness to address these important human rights issues concerning Maryland's children.

Human Rights for Kids is a Washington, D.C.-based non-profit organization dedicated to the promotion and protection of the human rights of children. We work to inform the way the nation understands Adverse Childhood Experiences (ACEs) from a human rights perspective, to better educate the public and policymakers' understanding of the relationship between early childhood trauma and negative life outcomes. We use an integrated, multi-faceted approach which consists of research and public education, coalition-building and grassroots mobilization, and policy advocacy and strategic litigation to advance critical human rights on behalf of children in the United States.

We support HB 170 because, if signed into law, the bill will ensure that judges fully consider a child's background and trauma history prior to sentencing them in adult court. It will help to end the unjust practice of sentencing child victims of sex crimes and human trafficking to lengthy prison terms for crimes they commit against their abusers. Instead of locking exploited and abused children away in cages, these children will be treated the way that child victims deserve – with care, compassion, and humanity. The reality is that most children who commit serious crimes are contending with severe trauma in their lives, and it is essential that courts take that trauma into consideration when sentencing youth.

Bill Summary

The first portion of HB 754 outlines factors that a judge must consider when sentencing a juvenile who is convicted of a crime in adult court, including their exposure to adverse childhood experiences and their trauma history. The judge must state these considerations on the record.

The second portion of the bill provides that if an adult court judge finds by *clear and convincing evidence* that the juvenile defendant committed the crime at issue against someone who sexually abused or trafficked them, then the judge *may* transfer the child to the juvenile court for a more appropriate sentence.

The purpose of this bill is to ensure that judges give full consideration to the mitigating factors of youth and how children differ from adult offenders, and to give judges more options and greater flexibility when sentencing child sex crime and trafficking victims who have committed crimes against their abusers and traffickers.

Juvenile Brain & Behavioral Development Science

Because of the many bills improving the rights of children over the past two years in Maryland, this Committee understands children's brains are not fully developed. The pre-frontal cortex, which is responsible for temporal organization of behavior, speech, and reasoning continues to develop into early adulthood. As a result, children rely on a more primitive part of the brain known as the amygdala when making decisions. The amygdala is responsible for immediate reactions including fear and aggressive behavior. This makes children less capable than adults to regulate their emotions, control their impulses, evaluate risk and reward, and engage in long-term planning. This is also what makes children more vulnerable, more susceptible to peer pressure, and more heavily influenced by their surrounding environment.

Children's underdeveloped brains and proclivity for irrational decision-making is why society does not allow children to vote, enter into contracts, work in certain industries, get married, join the military, or use alcohol or tobacco products. These widely accepted policies recognize that children are impulsive, immature, and lack solid decision-making abilities until they've reach adulthood.

Adverse Childhood Experiences

In the vast majority of delinquent and criminal cases, children who come into conflict with the law are contending with early childhood trauma and unaddressed adverse childhood experiences (ACEs), including psychological, physical, or sexual abuse; witnessing domestic violence; living with family members who have substance abuse disorders, suffer from mental illness or are suicidal, or are formerly incarcerated. Studies have shown that approximately 90% of children in the juvenile justice system have experienced at least 2 ACEs, and 48% have experienced 4 or more ACEs. Nationally, approximately 73% of all juvenile justice-involved girls have histories of physical and sexual abuse. This is known as the sex-abuse-to-prison-pipeline.

Sex Abuse & Trafficking

In the United States, Child Protective Services estimates that 63,000 children are sexually abused each year. In the U.S., 1 in 9 girls and 1 in 53 boys under the age of 18 experience sexual abuse or assault at the hands of an adult, 93% of which are committed by an individual that the child

knows. Children who are victims of sexual assault are four times more likely to become addicted to drugs, four times as likely to experience Post-Traumatic Stress Disorder, and three times more likely to experience a major depressive episode.

In 2015, the National Center for Missing and Exploited Children estimated that 1 in 6 endangered runaways are likely child sex trafficking victims and that approximately 100,000 U.S. children are sexually exploited every year. Child victims of sex trafficking are often subjected to physical and sexual abuse by their traffickers and the “johns” or “buyers” that exploit and rape them.

Traumatic Bonding and Post-Traumatic Stress Disorder

The reasons why sexually abused or trafficked children may lash out against their offenders can be understood by examining psychological research. According to psychologist Dr. Michael Welner, abusers often make their victims undergo prolonged stages of grooming: (1) targeting the victim, (2) gaining the victim’s trust, (3) fulfilling a need, (4) isolating the child, (5) sexualizing the relationship, and (6) maintaining control. According to Welner "...a skillful abuser gets into the child's DNA and becomes a part of the child, and the child can't cast him off regardless of the age."

These grooming tactics lead to traumatic bonding, in which a victim develops a dysfunctional attachment to their abuser. Traumatic bonding is characterized by misplaced loyalty, and is found in situations of exploitative cults, incestuous families, or in hostage or kidnapping situations. Over the years, clinicians have referred to similar abnormal psychological attachments as “Stockholm Syndrome” and in the case of domestic violence, “Battered Person’s Syndrome,” which take place in different abusive situations.

This phenomenon, coupled with the fact that children’s brains are not fully developed, prevent them from understanding the consequences of their actions as it relates to individuals who have committed severe abuse against them. Children cannot control their emotions and impulses and cannot evaluate risks in the same manner as adults. In addition, children who suffer from repeated and brutal victimization often have no way of understanding that they could be incarcerated for an action that they believe is self-defense against their abuser.

Inadequacy of Self-Defense Claims

While psychological research shows that children who have been victimized have real feelings of danger triggered by their abusers, the law does not always recognize this under the theory of self-defense.

A self-defense claim is usually valid in the law only when the individual feels that “the danger of being killed or suffering serious bodily harm is *imminent*” and the use of force was not “unreasonable and excessive.”

For many child victims of sex abuse or trafficking, they are not always in “imminent danger” under the legal definition when they commit crimes against their abusers. Sometimes these crimes are premeditated on the part of the child victim. Nevertheless, sound public policy should dictate that children who commit crimes against their abusers are provided with treatment and

services, not criminal punishment. The child would not have committed a crime if it were not for the abuser having abused or trafficked the child in the first place. Therefore, the law should focus on treatment, not punishment, of the child victim.

The U.S. Supreme Court

The Supreme Court has emphasized through its cases in *Roper v. Simmons* (2005), *Graham v. Florida* (2010), *Miller v. Alabama* (2012), and *Montgomery v. Louisiana* (2016) that **“the distinctive attributes of youth diminish the penological justifications for imposing the harshest sentences on juvenile offenders, even when they commit terrible crimes.”** (Emphasis Added).

The Court has also found that, “only a relatively small proportion of adolescents” who engage in illegal activity “develop entrenched patterns of problem behavior,” and “developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds,” including “parts of the brain involved in behavior control.”

The Courts rulings in this area are especially relevant and helps to inform the need for judicial discretion and require judges to consider mitigating factors of youth at sentencing.

Racial Disparities

Black children are disproportionately represented in the adult criminal justice system, comprising 58% of all children confined in adult prisons. In addition, roughly 83% of children prosecuted in the adult criminal justice system are racial minorities. Black children represent 87% of drug cases, 48% of property cases, and 63% of the public order offense cases where children are tried in the adult criminal justice system.

Conclusion

Child status matters at sentencing. Human rights law and norms dictate that children must be treated differently than adults in the criminal legal system. This means sentencing children by different standards than we use for adults.

Children who commit crimes against their abusers are especially deserving of our support and compassion. They are categorically different than other types of offenders in the criminal legal system. Today we ask that you recognize these children as victims and give judges the flexibility to fashion an outcome that is more just and compassionate. These children deserve better. And we owe it to them to be better.

Child victims deserve our understanding, empathy, and love. They don't deserve to be demonized and thrown away by the justice system. As you consider this measure, I'd like you to ask yourself what if these children were your own son or daughter? What would you want done in cases like theirs?

Today we ask you to set a new standard and to protect the most vulnerable children in Maryland. We've failed these children too many times in their lives. Let's not fail them again. And for all children who are prosecuted as adults, send the message that their child status still matters.

It is for these reasons that we strongly encourage this committee to issue a favorable report on HB 170 to ensure child status is fully considered at sentencing and give judges greater flexibility in cases where child victims commit crimes against their abusers. Thank you for your consideration.

Submitted by:

Emily Virgin, Director of Advocacy & Government Relations
1250 Connecticut Ave. NW, Suite 700
Washington, DC 20036
Phone: (405) 306-4294
Email: evirgin@humanrightsforkids.org

Below we've included a small sampling of stories from around the country of children who committed crimes against their abusers and traffickers. We hope their voices and stories illuminate the pressing need for HB 170.



MARYLAND MATTERS

Opinion: Md. Must Protect Child Trafficking and Sex Crime Victims in the Legal System

By Sara Kruzan

January 26, 2022

The writer received a life sentence for killing her sex trafficker when she was 16 years old but is now free. This piece was submitted by the Washington, D.C., organization Human Rights for Kids.

President Biden has declared January as National Human Trafficking Prevention Month. Yet, some of the worst government-sanctioned human rights abuses are committed against child trafficking and sex crime victims right here in the United States.

I was in elementary school and only 11 years old when I met the man who robbed me of my childhood. Coming from a home and community where drugs and abuse were the norm, I was an easy target for a man with sinister intentions. From the time I was 13 years old until I was 16, I was a child sex trafficking victim who endured horrific abuse, rape and torture at the hands of my trafficker. I was eventually able to break free from the manipulative hold he had over me and returned shortly after that and killed him.

Despite being his victim of trafficking, sex abuse and rape, I was tried as an adult where none of the abuse and complex trauma I experienced throughout my childhood was admitted into evidence. The prosecution, the judge and the media depicted me as a sophisticated monster, the worst of the worst and sentenced me as such. The “justice” system sentenced me — a child sex trafficking and rape survivor — to life imprisonment without parole, plus four years, for killing the man who victimized me for nearly a third of my young life.

Injustices like this happen as a result of automatic transfer laws, as well as sentencing schemes that fail to center child status and trauma history when youth are tried as adults.

While I’m grateful that my sentence was commuted in 2013, I still spent nearly 20 years in prison. What happened to me was not justice. What has happened to other child sex trafficking victims like Alexis Martin and Cyntoia Brown, both of whom also received a life sentence for

their involvement in the death of their trafficker and would-be rapist, is not justice. None of us should have been sent to prison in the first place — a far too common response for girls of color in our country — especially for actions taken against our abusers.

Imagine if we were your own daughter; how might you respond to the vile men who exploited and abused us? Is it so difficult to understand then how a 16-year-old girl, who was raped and abused and trafficked from the time she left elementary school, would end up killing the man who harmed her so? What should we do with her? Our answer to this question says a lot more about us than it does about her.

It is curious why a prosecutor would want to seek a life sentence for child sex trafficking victims who kill their rapists or traffickers, given what we know about traumatic bonding and the invisible chains that keep us bound in modern-day slavery. Yet, there has been little outrage for the too many child sex crime victims who are sitting in prison cells or awaiting prosecution for crimes committed against their rapists and traffickers.

The sad reality is that almost every girl who ends up in the juvenile or adult criminal legal system are victims of sexual or physical abuse, rape, human trafficking, domestic violence, or some form of severe trauma. Research has shown that 73% of girls experienced physical or sexual abuse prior to system involvement.

In addition, nearly one-third of girls in the juvenile justice system were sexually abused and nearly half experienced five or more Adverse Childhood Experiences (ACEs). Sexual abuse is one of the most common determining factors of girls becoming involved in the system. This sexual-abuse-to-prison pipeline, as Rights4Girls calls it, highlights a fundamental truth about youth delinquency and crime: unmitigated childhood trauma is the root cause for why children end up in the system to begin with. And yet, our justice system rarely recognizes or understands the impact that trauma has on children.

There is hope, however. The Maryland General Assembly has the opportunity this year to change the way that child victims like me are treated when they commit crimes. Senate Bill 165 by Sen. Jill Carter will end the practice of automatically charging children as adults, which will ensure that a juvenile court judge can properly weigh whether or not a child should be tried as an adult.

In addition, pending legislation by Sen. Susan Lee and Del. Lesley Lopez will require judges to consider child status, trauma history, and how children are different from adult offenders prior to sentencing. Their legislation will also create a presumption that judges should send cases involving child sex crime victims in situations like mine back to juvenile court for adjudication if they're convicted as adults. Such protections are known as Sara's Law, which is an initiative I started with the non-profit organization Human Rights for Kids.

I can think of no better way for the Maryland Legislature to show solidarity and support to child victims everywhere during Human Trafficking Prevention Month than by passing these reforms to ensure that what happened to me doesn't happen to any child in Maryland. Our children deserve care, not cages.

Source: <https://www.marylandmatters.org/2022/01/26/opinion-md-must-protect-child-trafficking-and-sex-crime-victims-in-the-legal-system/>

19-year-old Chrystul Kizer faces life in prison for killing accused pedophile who allegedly abused her

Chrystul Kizer killed Randall Volar at his home after he allegedly raped her.

ABC News, by Karma Allen, December 18, 2019

A Wisconsin teenager is facing life in prison after admitting to killing an accused pedophile who allegedly abused her and sold her to other men for sex.

Chrystul Kizer, now 19, admitted to killing 34-year-old Randall Volar at his home last year after she says he raped her, according to her attorneys.

The gruesome incident unfolded in Kenosha, Wisconsin, about 40 miles south of Milwaukee, in June 2018. Kizer allegedly shot Volar twice in the head, set his home on fire and then stole his luxury vehicle, authorities said.



Chrystul Kizer is pictured during a hearing in the Kenosha County Courthouse, Nov. 15, 2019, in Kenosha, Wisc.

When confronted by police, Kizer, who was 17 at the time, allegedly confessed to killing him because she was tired of him sexually assaulting her. She also alleged that he sold her to other men for sex, which is why her attorneys say she should be protected under sex trafficking victim laws.

However, prosecutors said the law that protects those who are sex trafficked doesn't apply wholly in this case. They said they do not believe she was engaged in prostitution at the time of the crime and they don't believe her life was in danger at the moment.

Prosecutors also said they have evidence, including communications with Kizer's boyfriend and others, indicating that she plotted and planned the murder ahead of time.



Chrystul Kizer is pictured during a hearing in the Kenosha County Courthouse, Nov. 15, 2019, in Kenosha, Wisc.

She apparently even researched how to hide evidence and talked to some of the people around her about what she planned to do, prosecutors said.

Volar had been arrested and released four months before he was killed, court records show. At the time of his death, authorities were investigating Volar on child sex trafficking allegations and her attorneys said Kizer was one of his victims.

Kizer faces multiple felony charges, including first-degree intentional homicide, possession of a firearm and arson, court records show. She is currently being held on \$1 million bail.

The case is slated to go to trial in February. Kizer faces life in prison if convicted as charged.

Source: <https://abcnews.go.com/US/chrystul-kizer-19-faces-life-prison-killing-accused/story?id=67805720>

The Boy Who Killed His Molester



Published 10/18/2010, Oprah.com

January 22, 2010, started off as a typical Friday for 16-year-old [Daniel Kovarbasich](#). That morning, his father drove his mother to work, dropping off Daniel at the home of close family friend Duane Hurley, who was supposed to take Daniel to school.

Thirty minutes later, Duane was dead. Daniel had stabbed him 55 times.

Immediately after the stabbing, Daniel frantically called his father, Terry. Terry raced to meet Daniel and found him standing on the street, his hands caked in blood. Inside the house, the scene was gruesome. Duane lay lifeless at the top of the stairs with blood splattered across his body, floor and walls.

Daniel claimed that Duane had attacked him, but that wasn't true. The real story would unfold over the next several months, revealing a horrifying secret: Daniel alleged that Duane had been grooming and sexually abusing him for more than three years—and no one had a clue.

Daniel was 12 when 52-year-old Duane Hurley first approached him outside a local elementary school. Daniel was charmed by Duane's dog, and when Duane returned a few days later asking if Daniel would watch the dog for a moment, he agreed. Five minutes later, Daniel says Duane returned and paid him \$30 for his help.

This was the start of the "grooming process," a calculated behavior that helps child molesters gain the trust of potential victims and, oftentimes, victims' families.

Initially, Daniel and his parents, Terry and Donna, were suspicious. "We got the information off the dog tag to go look [Duane] up online to see if he was a sex offender," Daniel says. "We didn't find anything."

So, when Duane began inviting Daniel over to his house to do odd jobs for money, his parents agreed—but they went to Duane's house with their son. "Duane welcomed us into his home and seemed very genuine," Terry says.



For the next year, both Terry and Donna accompanied Daniel on his visits to Duane's home. Over time, they began to treat Duane like part of the family. That's when things allegedly took a very dark turn.

Unbeknownst to the Kovarbasichs, Duane was skillfully grooming Daniel, as well as his parents.

"He'd buy me stuff," Donna says. "I'd say that I'm out of laundry detergent and have to wait until I get paid to get detergent. He would go out and buy detergent and bring it to me. I mean, he was a great guy. Who wouldn't like someone like this?"

Once the family was comfortable with him, Duane moved on to the next stage of the grooming process: lowering Daniel's inhibitions.

"He'd say stuff like, 'How many different ways can you say the word 'penis'?' " Daniel says. "[And] while I'd be using the bathroom, he'd walk by and open the door. He would also pee with the door open."

That's not all Duane did. He also let Daniel—who was too young to get a license—drive his sedan. To get the keys, Daniel says Duane asked him to expose his genitals. Then Daniel says Duane wanted to touch his penis. "After the touching," Daniel says, "I wanted to drive the Corvette. He [said], 'Bigger toys, bigger things.'"



After hearing about his sexual encounters with Duane, Oprah asks Daniel why he kept going back.

"I felt like I had to. Like I couldn't get away from him," Daniel says. "It was like it was my fault. I was the one who showed him my genitals, which started it, and he kept using that against me. ... If I didn't [go over to Duane's house], he'd come find me. If I tell him no, then he was going to say something."

Duane continued to sexually abuse Daniel, even though the teen says he told Duane to stop. Then, the abuse began to escalate.

Two weeks before he murdered Duane, Daniel fell asleep on Duane's couch. "He anally penetrated me that night," Daniel says. "I acted like I didn't know."

That's when Daniel says the rage and hate started to surface.

The last straw for Daniel came just before the murder, around the time he was planning a romantic anniversary celebration with his girlfriend. Duane saw another opportunity to seduce his young victim.

That Friday when Daniel came over to Duane's house before school, the two talked about the upcoming anniversary. "So all this [anniversary] stuff's going to cost...what?" Daniel says Duane asked.



"\$80," Daniel answered.

Then, Daniel says Duane responded. "You know this stuff isn't free, right?"

Daniel says he knew Duane wanted to have sex, and at that moment, he realized that the molestation was not going to stop.

"I just snapped," he says.



After Daniel snapped, he says he walked over to Duane picked up a nearby pickle jar and smashed him in the head. Then, he admits to stabbing Duane 55 times.

"Did you realize you had stabbed him that many times?" Oprah asks. "No," Daniel says. "I had no idea."

A judge found Daniel guilty of voluntary manslaughter and aggravated assault. He was sentenced to five years probation and was ordered to stay in jail until the court finds him a therapy-based treatment facility.

At the sentencing, the judge read a quote from forensic psychologist Dr. Michael Welner: "A skillful groomer, a skillful abuser, gets into the child's DNA and becomes a part of the child, and the child can't cast him off regardless of the age."

Daniel could have spent a minimum of 15 years in prison if convicted of the original charge—murder. There are some people who feel the judge went too easy on the teen, but Daniel feels differently.

"Do you feel that the sentence was fair?" Oprah asks.

"I feel it was fair," Daniel says.



When Daniel finally came forward and accused Duane of molesting him, his parents were devastated.

"I was shocked that someone could get past my radar like that," Terry says. "And I was angry that this person deceived my whole family. He literally just took our innocence away."

"I was very upset," Donna says. "In my head, [Duane] was such a nice person, but he knew what he was doing."

Oprah asks Daniel what he'd say to other abused children who are feeling the same shame, guilt and rage that he felt. "You need to come out and say something, because it's not your fault," Daniel says. "No one is going to blame you. Man up."

Terry also has advice for children. "When anybody is giving you stuff that your parents don't want you to have and you think: 'Hey, this person's cool. He's giving me alcohol. He's letting me drive his car. He's the cool guy. My parents suck,' listen. Something's wrong."

Source: <https://www.oprah.com/oprahshow/the-16-year-old-boy-who-killed-his-molester/all>

Should 'forced sex slave' get a break in her pimp's death?

Man was killed during robbery 5 years ago

Posted: 12:23 PM, May 06, 2018

Updated: 12:23 PM, May 06, 2018

By: Andrew Welsh-Huggins | Associated Press



COLUMBUS, Ohio -- No one disputes that a 15-year-old Ohio girl involved in the slaying of a man during a robbery five years ago was at one time, in the words of the state's Supreme Court chief justice, "a forced sex slave." What is up for debate before the Ohio Supreme Court is the impact of the girl's prostitution on her role in that killing.

The defendant, Alexis Martin, and her attorney argue that a juvenile judge made a mistake when Martin's history of sex trafficking wasn't adequately explored at a hearing that determined whether the girl should be charged as an adult.

The Associated Press doesn't normally identify victims of sexual assault or juveniles charged with crimes. In this case, Martin has been frequently identified in the media and court documents and doesn't have a problem with being named, her attorney said.

Investigators say Martin and a female friend came up with the robbery plan with two other men. The victims were Martin's pimp and his brother. The girls were having sex with the victims to distract them when the robbers entered a house and the victims were shot, according to court documents. Martin is not accused of firing a gun.

Martin's lawyer, Jennifer Kinsley, says the juvenile court judge should have determined that Martin was covered by a 2012 Ohio law that protects children whose crimes are related to their status as trafficking victims.

Had the judge determined that the so-called Safe Harbor law applied, a court-appointed guardian for the girl could have been named, and that person could have investigated the full extent of the girl's history of prostitution, Kinsley says.

There were plenty of warning signs, including the girl's call to a probation officer when she was 14, saying she'd been kidnapped and taken to Cincinnati and forced to perform exotic dances, Kinsley told justices this year.

The girl "is a crime victim. She was being raped and sold for sex," she said.

Ultimately, the judge determined the girl could not be rehabilitated in the juvenile court system and transferred her to adult court, where she pleaded guilty to murder and other charges. Now 19, she's serving 21 years to life.

Kinsley wants the Supreme Court to order the case back to juvenile court.

The Summit County prosecutor's office is challenging the girl's appeal, saying her activity the day of the robbery is separate from her history as a prostitute.

Neither Martin nor her attorney at the time raised the Safe Harbor law, and Martin's case was properly moved to adult court because of the seriousness of the crime and questions about whether Martin could be properly rehabilitated at the juvenile level, according to Richard Raley, a Summit County assistant prosecutor.

During oral arguments in January, Chief Justice Maureen O'Connor asked Raley to clarify the status of Martin's sexual activity before the crime and the day of.

"She was having sex with one of these men, at the time of the robbery, and that was separate and distinct from her activity of being a forced sex slave?" O'Connor said. Raley said that was the case from the state's perspective.

A court decision isn't expected for weeks.

Several organizations fighting human trafficking have asked the court to side with Martin, including Case Western Reserve University's Human Trafficking Law Clinic; the Ohio State law school's Justice for Children Project; and the Washington, D.C.-based Human Trafficking Pro Bono Legal Center.

Source: <https://www.wcpo.com/news/state/state-ohio/should-forced-sex-slave-get-a-break-in-her-pimps-death>