

**Department of Legislative Services**  
Maryland General Assembly  
2019 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 688

(Senator Lee, *et al.*)

Judicial Proceedings

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**Juvenile Law – Sex Trafficking – Immunity, Services, and Investigations**  
**(Child Sex Trafficking Screening and Services Act of 2019)**

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This bill establishes that a minor engaging in prostitution or occupying a building, structure, or conveyance for prostitution is immune from criminal prosecution or from being proceeded against as a delinquent child. It also requires the Executive Director of the Governor’s Office of Crime Control and Prevention (GOCCP) to select up to six “regional navigators” to coordinate and provide services to children who are victims of sex trafficking. GOCCP must provide grant funding for services provided by regional navigators; the Governor may appropriate up to \$3.0 million for grant funding.

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**Fiscal Summary**

**State Effect:** GOCCP can use existing grant funding, as discussed below, to implement the bill’s requirements. The Department of Human Services (DHS) can use existing resources to submit the required report. The bill does not otherwise materially affect State operations or finances.

**Local Effect:** The bill does not materially affect local operations or finances.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The bill expresses the intent of the General Assembly that a minor who is reasonably believed to have engaged in prostitution must be treated as a victim of sexual abuse and have access to immediate child-centered and trauma-informed services. The bill adds the Department of Juvenile Services to the list of entities that must enter into

a written agreement that specifies standard operating procedures for investigations and prosecutions of reported cases of suspected abuse and neglect. It also requires a joint investigation procedure to include screening to determine whether a child is a victim of sex trafficking and prohibits an investigation from resulting in a criminal prosecution or a juvenile delinquency proceeding against the child who is the subject of the investigation.

The bill requires a law enforcement officer who has reason to believe that a child who has been detained is a victim of sex trafficking to notify the regional navigator in the appropriate jurisdiction, as specified. A local department of social services that receives a report of suspected abuse or neglect involving a child who is a suspected victim of sex trafficking must refer the child to the regional navigator. “A regional navigator” is a community-based victim services agency that provides and coordinates child-centered and trauma-informed services to victims of child sex trafficking in the region in which it is located.

The Executive Director of GOCCP must designate six regional jurisdictions based on population and geography in the State, with each designated jurisdiction to be served by a regional navigator. Services coordinated and provided by a regional navigator must include safety planning, emergency response, basic living needs, trauma counseling and mental health services, drug and alcohol abuse treatment, and legal services. Beginning December 1, 2019, and every two years thereafter, the executive director must submit an independent evaluation report, as specified, regarding whether services coordinated and provided by regional navigators are available, adequate, and successfully serving children who are victims of sex trafficking. The executive director may adopt related regulations.

Beginning December 1, 2019, the Department of Human Services must submit an annual report to the Governor and the General Assembly on (1) the number of reports of child sex trafficking made in the State in the preceding year; (2) the outcome or disposition of the reports; and (3) the number of referrals made to regional navigators in the preceding year.

**Current Law:** Statutory provisions set forth a process by which individuals are required to report suspected child abuse and neglect, including “sex trafficking.” “Sex trafficking” is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a child for the purpose of a commercial sex act.

### *Child Abuse and Neglect Investigations*

After receiving a report of suspected abuse or neglect of a child who lives in Maryland that is alleged to have occurred in the State, the local department of social services and/or the appropriate law enforcement agency must promptly investigate the report to protect the health, safety, and welfare of the child or children. Within 24 hours after receiving a report of suspected physical or sexual child abuse, and within five days after receiving a report of

suspected child neglect or mental injury, the local department or law enforcement agency must (1) see the child; (2) attempt to have an on-site interview with the child's caretaker; (3) decide on the safety of the child and of other children in the household; and (4) decide on the safety of the other children in the care or custody of the alleged abuser. The determinations and assessments that are required during an abuse or neglect investigation are specified in statute.

The local State's Attorney must assist in a child abuse or neglect investigation if requested to do so by a local department of social services. The local departments, appropriate law enforcement agencies, the State's Attorneys in the counties and Baltimore City, and the local health officers must enter into a written agreement pertaining to standard operating procedures for investigations of suspected abuse or neglect. A joint investigation procedure must be implemented for conducting investigations of sexual abuse, which must include techniques for expediting validation of sexual abuse complaints and other techniques to decrease trauma to the child. Statutory provisions specify timeframes by which investigations and reports must be completed.

### *Prostitution*

In addition to related prohibitions, a person may not knowingly engage in prostitution or assignation by any means or allow a building, structure, or conveyance owned or under the person's control to be used for prostitution or assignation. A person who violates these provisions is guilty of a misdemeanor and subject to maximum penalties of one year imprisonment and/or a \$500 fine. It is an affirmative defense of duress if the defendant committed the act as a result of being a victim of an act of another who was charged with violating specified prohibitions against human trafficking. A defendant may not assert the affirmative defense unless the defendant notifies the State's Attorney of the intent to do so at least 10 days prior to trial.

**Background:** Chapter 91 of 2015 established the Workgroup to Study Safe Harbor Policy for Youth Victims of Human Trafficking. The workgroup, chaired by the Secretary of State, was tasked with various responsibilities relating to human trafficking, including making recommendations regarding legislation to address the provision of services and legal protections for youth victims of human trafficking in the State. In its 2017 report, the workgroup noted that according to the National Conference of State Legislatures, approximately 20 states and the District of Columbia have enacted laws regarding prosecutorial immunity for trafficked youth. Although the laws differ among states, most provide criminal immunity for prostitution.

According to the GOCCP, VOCA (Victims of Crime Act) is the federally funded grant program that is funded by the fines assessed in federal criminal convictions. It is intended to assist state programs that compensate victims of crime. The Crime Victims Fund, which

is part of VOCA, is a major funding source for victim services nationwide. The fund consists of millions of dollars from criminal fines, forfeited bail bonds, penalties, and special assessments collected by the U.S. Department of Justice, the federal courts, and the Federal Bureau of Prisons. Since 1986, over \$4 billion in VOCA grants have been awarded.

**State Expenditures:** GOCCP anticipates that expenditures associated with the bill's requirements total \$1.5 million annually, or \$1,148,250 in fiscal 2020, which accounts for the bill's October 1, 2019 effective date. These expenditures include \$1.0 million in funding for supportive services, \$300,000 for the independent evaluation required every two years (for which costs are assumed to be assessed at \$150,000 each year) and \$381,000 for the six regional navigators. GOCCP advises that it intends to use federal Crime Victims funds (*i.e.*, VOCA funds) to implement and support the program. VOCA allocations to states are multi-year awards and available for expenditure throughout the fiscal year of the award, plus the next three fiscal years.

In federal fiscal 2018 (the most recent funding data available), the State was awarded \$61.1 million in VOCA funds. The proposed fiscal 2020 budget includes \$29.7 million in VOCA funds, based on anticipated grant award amounts. Although the amount of VOCA funding fluctuates annually, the 2018 *Joint Chairmen's Report* noted a repeated concern about the failure to fully expend these grant funds and the Department of Legislative Services has noted in past years that actual VOCA spending has not matched anticipated budgeted amounts. Therefore, for purposes of this fiscal and policy note, it is assumed that federal fund expenditures do not increase, as GOCCP can meet the bill's requirements by specifically designating a portion of available VOCA funding to use for this purpose. However, federal fund expenditures may increase to the extent that the Governor appropriates *additional* funding of up to \$3.0 million, as specified in the bill. Furthermore, to the extent that VOCA funding available for the functions specified in the bill decreases significantly in future years, general funds may be required to continue the bill's requirements; any such impact is not accounted for in this analysis.

The notification, investigation, and referral requirements of the bill can be handled with existing resources. The immunity provisions of the bill are not anticipated to materially impact State and local finances or operations.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 827 (Delegate Lierman, *et al.*) - Judiciary.

**Information Source(s):** Harford and Montgomery counties; City of College Park; Maryland Association of Counties; Governor's Office of Crime Control and Prevention; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Human Services; Department of Juvenile Services; Department of State Police; National Conference of State Legislatures; Department of Legislative Services

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