

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 768
Criminal Law – Victims of Child Sex Trafficking – Safe Harbor
and Service Response
DATE: February 9, 2022
(3/8)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes Senate Bill 768, as drafted. This bill would amend the Courts and Judicial Proceedings Article, the Criminal Procedure Article, and the Family Law Article. It would change the required procedures for the police and the court when a child is alleged to have committed a delinquent act and the child might be a victim of sex trafficking. It also prohibits a youth from being detained for any offense for which an adult may petition the court for vacatur of a conviction on the basis of being trafficked, if the youth committed the act as a result of being trafficked.

The Judiciary strongly supports the intention of the bill, and notes that legislation to support minors who have been victims of sex trafficking should be a priority. However, as drafted, the bill presents several problems in implementation.

Specifically, the proposed subsection § 3-8A-17.13 provides that at any time after a petition alleging that a child has committed a delinquent act has been filed with the court, the court shall stay all proceedings and order that the regional navigator evaluate the child's status as a victim of sex trafficking, if the court finds that there is probable cause to believe the child committed the delinquent act and the court has reason to believe that the child committed the act as a result of, or related to, sex trafficking. But the bill does not speak to how, if the petition had been filed but the adjudication hearing not been held, the court would have the information to make that determination. Similarly, the bill does not speak to what happens to the child while the assessment by the regional navigator is pending, or if the assessment is challenged.

Lastly, § 3-8A-17.13 (b)(2) states that if the regional navigator finds that the child is a victim of sex trafficking, and if the court finds that the child committed the violation as a direct result of, or incidental or related to, sex trafficking, the court shall dismiss the case and transfer the case to the Department of Human Services. But if the court has

dismissed the case, there is nothing to transfer. In addition, this mandatory provision takes away judicial discretion about whether to dismiss a case seemingly no matter how tangentially related the violations are to sex trafficking.

The bill would also create some confusion around possible placements for a child if the parent or guardian either cannot be verified or is acting as the trafficker. The bill prohibits law enforcement from detaining the child in a juvenile detention facility, but does not speak to whose responsibility – Department of Juvenile Services or the Department of Human Services – it is to find a suitable placement for the child.

cc. Hon. Susan Lee
Judicial Council
Legislative Committee
Kelley O'Connor