

SUSAN C. LEE
Legislative District 16
Montgomery County

MAJORITY WHIP

Judicial Proceedings Committee

Joint Committee on
Cybersecurity, Information Technology,
and Biotechnology

Chair

Maryland Legislative Asian American
and Pacific Islander Caucus

President Emeritus

Women Legislators of the
Maryland General Assembly, Inc.



James Senate Office Building
11 Bladen Street, Room 223
Annapolis, Maryland 21401
410-841-3124 · 301-858-3124
800-492-7122 Ext. 3124
Susan.Lee@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

March 3, 2022

Senate Judicial Proceedings Committee

SB769 - Favorable – Minors Convicted as Adults – Sentencing – Transfer to Juvenile Court

Senate Bill 769 is a reasonable and thoughtful way to apply justice in circumstances where the law provides punishments that do not fit the crimes when child victims of sex crimes commit serious offenses against their abusers. There is a limit of one year from the time of the abuse, so this is not a green light to hurt your abuser, rather, it provides no protection from adult prosecution. What it does allow for is the mitigating factors of the abuse the youth suffered to be considered for sentencing and have the appropriate standards apply in the sentencing process.

Adverse childhood experiences (ACEs) are more than a catchphrase when it comes to the juvenile justice system, especially concerning victims of sex crimes. 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. The population we are discussing under this bill, specifically youth victims of sex crimes, is self-evidently above the high end of these broader studies. Consider nationally that 73% of all juvenile justice involved girls have histories of physical and sexual abuse. In combination with traumatic bonding and post-traumatic stress disorder, children with undeveloped brains cannot control their emotions and impulses and cannot evaluate risk the same as adults. These mitigating factors must be considered at sentencing for these specific children for these specific crimes against their abuser.

Senate Bill 769 is not a safe harbor bill, such as the one you will hear next week for non-violent crimes, but this bill does cover the similar population of child victims of sex crimes. Maryland does not have a real duress defense for coercive circumstances, so short of a complete defense,

this bill is asking for the reasonable application of sentencing for youth victims of sex crimes – only for crimes against those who abused them, within one year of that abuse, which has to be proven by clear and convincing evidence.

You will hear from victims of abuse who later were victims of the criminal justice system. They can tell their stories best but the common denominator is that the law is not flexible enough to allow judges and prosecutors to dispense justice, and not just the brutal force of inflexible laws.

The opposition shows little interest in understanding the intent and justice behind this legislation. What incentive do people have to cooperate with police beyond sentencing a victim of child sexual abuse to a harsh penalty? I think there are other motivations that are more important, and the status quo is grossly unjust and ineffective at inducing cooperation. I'm not sure they read the language of the bill as their application only applies against the abuser of sexual abuse of that specific youth victim. Were any of the FOP examples relevant here?

The Judiciary missed the language they reference at (c)(3)(ii) does not even exist in the Senate Bill. We hope they will communicate their revised analysis after the hearing as we are aware they don't provide oral testimony to defend or clarify their written claims.

The intent of this legislation and the actual language contained in this bill simply allow the sentencing judge to consider the mitigating factors of child victims of sex crimes when they commit a crime against their abuser. We can resolve real and perceived technicalities, for these children and for justice generally.

For these reasons I respectfully request a favorable report on SB 769.