



BILL NO: House Bill 833/Senate Bill 768

TITLE: Criminal Law - Victims of Child Sex Trafficking - Safe Harbor and Service Response

COMMITTEE: Judiciary/Judicial Proceedings

HEARING DATE: February 17, 2022/March 8, 2022

SUBMITTED BY: Caitlyn Burnitis, Lead Maryland Attorney, Amara Legal Center

POSITION: SUPPORT

The Amara Legal Center writes to support House Bill 833/Senate Bill 768 (HB833/SB768). We are grateful that Delegate Lierman, Senator Lee, and Senator Watson introduced this important legislation to ensure that minors are not prosecuted for offenses related to their trafficking victimization. Thank you for giving us the opportunity to share our thoughts.

The Amara Legal Center (“Amara”) provides free legal services in Washington, D.C., Maryland, and Northern Virginia to survivors of sex trafficking and to anyone whose rights are violated while involved in commercial sex. Since 2013, Amara has served over 500 clients with more than 800 legal matters. Although many believe that sex trafficking only occurs overseas or among foreign nationals, the vast majority of Amara’s clients are U.S. citizens, both juveniles and adults born and raised in the D.C. metro area. Amara provides brief legal advice, partial, and full representation for civil legal issues such as civil protection orders, divorce, child custody and support, and name changes. In addition to civil legal services, Amara provides victim-witness advocacy for clients working with law enforcement, criminal/juvenile defense, and representation in criminal record sealing and expungement cases.

Survivors of sex trafficking often interact with law enforcement and the court system because of conduct related to their victimization. As a result of the power and control exercised by their traffickers, victims engage in activities in which they would not have otherwise engaged. These activities often lead to victims’ arrests, which create victim-defendants in the criminal legal system. Involvement in the criminal legal system may come from arrests for prostitution or solicitation; arrests for drug use; mental illness that may precede, occur during, or be exacerbated by sex trafficking; struggles with housing insecurity and homelessness; and a variety of crimes related to survival such as shoplifting and trespassing. Criminal records then hinder survivors from obtaining gainful employment, safe housing, and educational opportunities, even after they leave the trafficking situation.

According to the National Human Trafficking Hotline, ninety-five sex trafficking cases were reported in Maryland in 2020 and forty-one human trafficking cases involved minors.¹ This bill recognizes that minors, by virtue of their age, are especially vulnerable to being trafficked and should not be penalized by the legal system for their own victimization. While Maryland’s current Regional Navigator program enables trafficked youth to be connected with specialized social services, it does not prevent youth from being criminalized for offenses committed while being trafficked. HB833/SB768 takes the next step in protecting trafficked youth by establishing immunity from prosecution for criminal, delinquency, or civil cases when the underlying offense was a direct result of the minor being

¹ National Human Trafficking Hotline, Maryland Statistics, <https://humantraffickinghotline.org/state/maryland>.



trafficked. As of now, at least thirty-four other states have passed Safe Harbor legislation to protect minors from prosecution for offenses related to their trafficking.² We commend the Maryland legislature for supporting and enacting the Regional Navigator program in 2019 and now urge you to support immunity for youth charged with offenses as a result of being trafficked.

This bill is consistent with the Trafficking Victims Protection Act of 2000 (TVPA), the federal law that defines sex and labor trafficking, and with Maryland's Family Law Code, which defines child abuse. Under the TVPA, all minors engaging in commercial sex work are victims of sex trafficking. This is true regardless of the presence of force, fraud, or coercion, or whether a trafficker/pimp or other third party is involved. Additionally, victims of sex trafficking are victims of child abuse under Maryland law.³ As such, they should be proceeded upon as victims of abuse and not as delinquents or criminal defendants.

Regarding qualifying offenses, HB833/SB768 refers to §8-302 of Maryland's Criminal Procedure Article for a list of offenses that would be eligible for immunity. Amara urges the committee to expand this list to include juvenile status offenses, such as truancy and running away from home. Status offenses refer to conduct that would not be considered an offense if the individual was over eighteen years old. Status offenses often result in court involvement through Child In Need of Supervision (CINS) cases. While being trafficked, youth are likely to be subject to status offenses as they may be unable to attend school or may miss curfew because of the power and control exercised by their trafficker. For these reasons, Amara respectfully urges the committee to support HB833/SB768 and to amend the list of qualifying offenses to include juvenile status offenses.

² 2020 Trafficking in Persons Report: United States, U.S. Department of State, <https://www.state.gov/reports/2020-trafficking-in-persons-report/united-states/#:~:text=At%20least%2034%20states%20had,being%20prosecuted%20for%20commercial%20sex>.

³ See Md. Code Ann., Fam. Law § 5-701(y).