

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 8, 2022

Senate Judicial Proceedings Committee

Senate Bill 768 – FAVORABLE - Criminal Law - Victims of Child Sex Trafficking - Safe Harbor and Service Response

Senate bill 768 is the result of the multi-year [Safe Harbor Working Group](#) that was [initiated back in 2015](#), and the top recommendation resulting from the group - [safe harbor legislation](#). At the time of the work group report and subsequent bill hearings, the Maryland States Attorneys Association voiced concerns and the bill was amended to take out references to the safe harbor and was really left as a barebones navigator bill. The program is working, but it could work much better, and as initially designed in the Workgroup. After seven years, we believe the times have caught up to us and we think the MSAA is also getting to yes, with our proposed amendments and ongoing dialogue. The bill language you have before you today is also in direct response to the [failing grade Maryland received](#) this year from Shared Hope, which highlights specifically the failure to act here in this space for victims of trafficking to have safe harbor.

This bill aligns Maryland with the other 42 states and District of Columbia, who have enacted safe harbor legislation or outright divert child sex trafficking survivors from the juvenile justice system. Instead, the children are directed towards resources, advocates, and agencies who are equipped to assist with the multi-faceted needs of these children.

The mechanisms of this bill are as follows: upon detention of a child suspected to be involved in sex trafficking as defined in 5-701, a law enforcement officer is to notify a regional navigator for the jurisdiction in which the child has been taken into custody. The officer is then to report to local child welfare agencies and release the child to appropriate parent, guardian, or custodian if safe to do so. Alternatively, a court must stay proceedings and notify a regional navigator if an offense was committed as a result of the child offender being trafficked. This bill further prohibits proceedings against a child committing a civil offense if the offense was the direct result of sex trafficking.

The regional navigators have been established. They are ready to begin working with these young survivors and indeed navigate through the services offered in Maryland - many of which we have supported. We waited, at the bequest of the State's Attorney's, and now we are ready to treat these children as do the majority of other states: as survivors of sex trafficking at the hands of the vile adults who preyed upon them. We have to move Maryland to a safe harbor state.

A court still determines whether the offense is one that we have determined is related to and with high correlation to child sex trafficking survivors. The qualifying offenses are those already recognized by this committee through our list of qualifying offenses eligible for vacatur. As discussed in the House, some of the qualifying offenses are not victimless and we acknowledge this fact, yet must reiterate that the offender is both a child and a victim of such egregious nature that I believe society is better served avoiding punishment of children and instead offering support and resources. In addition, no crimes of violence or crimes against the person are among the list of qualifying offenses.

Senate bill 768 also allows for improved efficiency in our courts. No longer would the courts precious time be occupied by work associated with offenses eligible for vacatur; instead the safe harbor requirements will be triggered and appropriate parties contacted to further assist the survivors.

There is an amendment in your packet based on discussion we heard from the Judiciary and the Maryland States Attorneys Association. It also clarifies some issues brought up about the authority of the navigator and adds to the list of crimes to includes joyriding under 14-102 of the transportation article. The law uses the existing list of crimes in the vacatur statute, and helps to ensure that children who are forced into trafficking, are not treated as traffickers themselves. The law does not assume anyone committed their crime as a result of being trafficked, which would have to be shown through evidence in addition to the trafficking proof itself. The direct result of language was at the request of the states' attorneys and should resolve any lingering concerns about the breath of this language. Youth victims of sex trafficking who are coerced into crimes, should not be treated as criminals in our justice system.

For these many reasons, I respectfully urge a favorable report for SB768, with our sponsor amendment.