

WRITTEN TESTIMONY

BILL NO: Senate Bill 768
TITLE: Criminal Law—Victims of Child Sex Trafficking—Safe Harbor and Service Response
COMMITTEE: Judicial Proceedings Committee
DATE: March 8, 2022
POSITION: SUPPORT WITH AMENDMENTS

Dear Chairperson Smith, Vice Chairperson Waldstreicher, and Committee Members:

Thank you for hearing testimony on Senate Bill 768 relating to the plight of child sex trafficking victims within the state.

Shared Hope International has been working in Maryland, across the country, and throughout the globe for over 20 years to guide and support appropriate responses to protect survivors, hold offenders to account, and ultimately prevent the crime entirely. 12 years ago we launched the [State Report Card project](#) to assess the status of state's laws and drive legislative progress. Since 2011, we have called on states to recognize any minor engaged in commercial sex as a victim of sex trafficking, not a "prostitute" or "delinquent youth." We know that survivors of child sex trafficking have the best outcomes when they are met with protection, trauma-informed services, and a response that is appropriate for the horrific experiences they have endured—such a response cannot be rooted in juvenile justice practices and systems.

Despite Maryland's commitment to increasing effective responses to child, youth, and adult sex trafficking, including passing several particularly impactful pieces of legislation during the last few sessions, the state is lagging behind a majority of the country in providing one of the most foundational protections for child and youth survivors. [27 states and D.C.](#) have made clear that children engaged in commercial sex are victims of sex trafficking, not prostitution offenders. While Maryland state law clearly defines children who are bought and sold for sex as victims of sex trafficking under criminal law, those same minors can be arrested and prosecuted for prostitution. SB 768 is not only critical for remedying this legal paradox, the legislation embraces a nationally-regarded promising practice for protecting children and preventing harm.

Amending the prostitution statutes to be inapplicable to minors recognizes that children *never* engage in commercial sex by choice; rather, a child does so out of coercion, force, fraud, fear, or survival. If not for the exchange of money or something else of value, the minor would be regarded as a victim of rape, child sexual abuse, and/or sexual assault; consequently, our systems could and would never subject the child to a juvenile or criminal justice response under the guise of providing services and safety to the child. Yet, Maryland state law maintains two distinct responses for addressing children who experience similar harm and resulting trauma: child victims of *commercial* sexual violence can be subjected to arrest, charges, and prosecution to facilitate access to services or to coerce cooperation as a victim witness, while victims of *non-commercial* sexual violence are provided the appropriate, victim-centered protective response. It is time for the legislature to eliminate the fabricated hierarchy of victimization and provide minors engaged in or subjected to commercial sex and violence with access to specialized and long-term care, not the traumatizing impact of an arrest, detention, or prosecution.

Earlier legislation has already played an instrumental role in laying the groundwork for ensuring that SB 768 will operate as both a feasible and effective policy change. During the 2019 legislative session, the Maryland General Assembly passed the Child Sex Trafficking Screening and Services Act of 2019 which developed the Safe Harbor Regional Navigator Grant Program and necessary protocols for ensuring access to specialized services for survivors of child sex trafficking across the state. However, the goals of the Child Sex Trafficking Screening and Services Act continue to be undermined by state law that allows for the arrest, detention, and prosecution of minors for prostitution, inhibiting accessibility to the service-oriented and trauma-informed response provided through the Regional Coordinators. SB 768 serves to remove problematic barriers to ensuring *all* survivors of child sex trafficking are treated appropriately and provided a response that is proven to support healing and positive outcomes.

In addition to the foundational protection that removes criminal liability under Md. Code Ann. § 11-303 for children, SB 768 provides several additional key provisions that will allow Maryland to respond both appropriately and effectively to children with lived experience:

- (1) Clarifies the response provided to identified or suspected child victims of sex trafficking to support prioritization of the child's safety and wellbeing, including providing law enforcement the authority to take a minor into temporary protective custody; and
- (2) Provides immunity for numerous pertinent offenses if the minor engaged in the offending conduct as a direct result of their trafficking victimization and outlines the process for suspending criminal or delinquency proceedings if victimization and its connection to the offending conduct is established after proceedings are commenced.

SB 768 is a vital piece of legislation for increasing effective, sustainable, and prevention-oriented responses to child sex trafficking in the state. We are grateful for the Committee's dedication to this issue and respectfully ask for your support of the bill *inclusive of Senator Lee's amendment*.

Sincerely,

Christine Raino, Esq.
Senior Director of Public Policy

For questions or additional information:
christine@sharedhope.org