



Working to end sexual violence in Maryland

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Testimony Supporting Senate Bill 768 with Amendments **Lisae C. Jordan, Executive Director & Counsel** March 8, 2022

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judicial Proceedings Committee to report favorably on Senate Bill 768 with Amendments.

Senate Bill 768

Safe Harbor – Preventing Prosecution of Minor Victims of Sex Trafficking

“Safe Harbor” refers to the practice of prohibiting prosecution or juvenile proceedings against youth for prostitution or other crimes and instead providing services. Maryland is making slow but steady progress in its efforts to respond to sex trafficking. In 2012, sex trafficking was made a form of child abuse and this gave more trafficked children access to services from the Department of Human Services. In 2019, the legislature enacted the Child Sex Trafficking Screening and Services Act of 2019, initiating the creation of a network of “Regional Navigators” to help provide case management and services to youth survivors. Both the Department of Human Services and the Department of Juvenile Services are tasked with screening for trafficking in an effort to identify victims and provide better responses.

Despite this progress, Maryland is lagging behind the rest of the country in its response to this horrific crime. While identification of minor victims has grown steadily each year in response to expanded training and awareness efforts throughout the state, Maryland ranks behind forty-two other states, plus the District of Columbia, in their legal response to child sex trafficking.¹ In fact, Maryland not only received an “F” from Shared Hope International on the effectiveness of its victim protection laws in their 2021 annual review but was also ranked in the bottom 10 states for treatment of child victims of sex trafficking nationwide,² particularly with regard to access to justice.

Protection from Prosecution

Senate Bill 768 is the next step in improving Maryland's response to children and adolescents who are victims of sex trafficking. This bill would prohibit prosecution of these victims in either the criminal or juvenile justice systems for a specified list of relatively low level non-violent crimes. The list of

¹ Shared Hope International, *Report Cards on Child & Youth Sex Trafficking: 2021 Toolkit* 40-43 (2021), <https://reportcards.sharedhope.org/wp-content/uploads/2021/10/2021Toolkit.pdf>.

² *Id.*

offenses in proposed amendments includes violations, offenses punishable by citation. Additionally, prosecution for “qualifying offenses” is prohibited. “Qualifying offenses” are the same crimes that adult survivors of sex trafficking can seek to have vacated. Two crimes are added to this list: unauthorized use of a motor vehicle, and soliciting (but not paying for) prostitution. Committing sex trafficking is also included as a protected crime because trafficker often force teenagers to help manage other victims.

Prosecution in adult or juvenile proceedings would be prohibited when the act alleged is a direct result of sex trafficking. Determination of this issue would be by a judge after a motion from child’s counsel, the State’s Attorney, or the Court. Both DHS and a Regional Navigator would be notified about safe harbor proceedings to facilitate connecting the child with services.

SB768 is carefully balanced to provide services, not punishment. It does not and should not address every case and fix every problem, but it is a necessary piece of justice.

Violent Crimes

The protected crimes in SB768 and amendments do not include protection from prosecution from violent crimes. While there has been discussion of whether safe harbor should extend to assault in the second degree, MCASA believes that this would be bad policy because it would elevate the needs of one victim over another, disregard crime victim rights, and create great risks. In particular, MCASA is concerned that prohibiting prosecution of assault could incentivize adult traffickers to encourage minors who are helping manage other victims to beat the other victims because they could not be prosecuted for assault. There are simply other better ways to address the needs of sex trafficking victims who commit violent crimes and the legislature should not explore these as a separate policy issue. SB768 will provide “safe harbor” for nonviolent offenses.

Connecting Victims with Services

In addition to the prohibitions on prosecution, Senate Bill 768 would permit law enforcement to detain suspected victims but not to place them in juvenile facilities, and would address gaps in laws protecting confidentiality of records. These relatively technical changes will help ensure victims have services and that service provision remains confidential, respectively.

SB768 continues Maryland’s progress towards a workable and sensitive safe harbor policy to address sex trafficking of children and adolescents in Maryland.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to report favorably on Senate Bill 768 with Amendments**