

SB_768_FAV_CPMC.pdf

Uploaded by: Alison D'Alessandro

Position: FAV

THE COALITION TO PROTECT MARYLAND'S CHILDREN

Our Mission: To combine and amplify the power of organizations and citizens working together to keep children safe from abuse and neglect. We strive to secure the budgetary and public policy resources to make meaningful and measurable improvements in safety, permanence, and well-being.

Testimony before the Judicial Proceedings Committee Senate Bill 768: Criminal Law – Victims of Child Sex Trafficking – Safe Harbor and Service Response

March 8, 2022

The Coalition to Protect Maryland's Children (CPMC) is a consortium of Maryland organizations and individuals formed in 1996 to promote meaningful child welfare reform. CPMC **supports** passage of SB 768: Criminal Law – Victims of Child Sex Trafficking – Safe Harbor and Service Response.

Senate Bill 768 would extend the protections available to child sex trafficking victims first established by the Child Sex Trafficking Screening and Services Act of 2019 by providing an exit ramp out of the juvenile legal system for child sex trafficking victims charged with prostitution and other related crimes. CPMC supports this bill because it protects, instead of criminalizes, children who are victims of human trafficking, and provides them with the specialized services they so desperately need.

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 in which Maryland ranks

At present in Maryland, **trafficked minors can still be incarcerated** for prostitution and related crimes, including status offenses that stem from their victimization like truancy and running away, as well as crimes that are common to street survival like trespassing, 4th degree burglary, and drug possession.³ Furthermore, while Maryland finally began offering trafficked minors access to specialized services responsive to the unique trauma that is associated with this type of victimization back in 2019,⁴ this protective response does not extend to youth who are incarcerated for actions stemming from their trafficking experience. As a result, trafficked minors continue to languish behind bars, with the isolation, stigma, and psychological trauma that was once caused by their trafficking experience now being perpetuated by the very systems that were supposed to protect them.

Maryland's trafficked youth deserve better. It is time for Maryland to move from incarceration to protection by providing a process by which minor victims are shielded from prosecution for acts that stem from their own victimization, and instead provided with the victim-centered, trauma-informed

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.*

³ Shared Hope International, *Report Cards on Child & Youth Sex Trafficking: Analysis Report Maryland* 6-7 (2021), <https://reportcards.sharedhope.org/wp-content/uploads/2021/11/2021-State-Analysis-MD.pdf>.

⁴ MD. CODE ANN., FAM. LAW § 5-704.4 (West, 2020).

services they need to recover from their trafficking experience. **Trafficked youth need protection, not incarceration.**

For the above stated reasons, the Coalition to Protect Maryland's Children (CPMC) urges a favorable committee report on SB 768.

WDC Testimony SB768-2022_FINAL.pdf

Uploaded by: Beth Tomasello

Position: FAV



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

Senate Bill 768
Criminal Law - Victims of Child Sex Trafficking – Safe Harbor and Service
Response
Judicial Proceedings Committee – March 8, 2022
FAVORABLE

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2022 legislative session. WDC is one of Maryland's largest and most active Democratic Clubs, with hundreds of politically active women and men, including many elected officials.

WDC urges the passage of SB768. This bill alters certain procedures that law enforcement and the court are required to follow to ensure that a minor is not criminally prosecuted for crimes committed as a direct result of sex trafficking. Far too often, WDC finds itself advocating for legislation to fix a problem that is hard to believe has been allowed to exist in our state. This is that kind of legislation. It would likely not occur to most Marylanders that, children who are trafficked for sex are actually arrested (and possibly prosecuted and incarcerated) or detained in the custody of the Department of Juvenile Services for crimes related to their trafficking. Children who are trafficked for sex are not perpetrators of crime, they are the victims of crime. No child should ever be prosecuted for crimes of which they are the victim. WDC thanks Senator Lee for sponsoring this legislation to clear up the confusion between child criminals and child victims for law enforcement officials.

Most trafficking victims are women and girls, and the majority of them are women and girls of color. According to the National Center for Missing and Exploited Children, the average age of sex trafficking victims is 15.¹ Trafficked children can now be charged in the criminal or juvenile justice system for acts that are directly related to their victimization including prostitution and other related offenses. Children are, by law, considered victims of human trafficking if they are engaging in sex work; however, unlike any other victimization, they can also be charged for the very act that makes them a victim.

¹ <https://www.childrensrights.org/newsroom/fact-sheets/child-sex-trafficking/#:~:text=The%20average%20age%20of%20child%20sex%20trafficking%20victims%20is%2015,were%20sexually%20abused%20as%20children.>



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

This bill would provide a “safe harbor” for child victims of sex trafficking and prevent prosecution for acts committed as a result of being trafficked, including prostitution and other related offenses. In 2019, Maryland established the regional navigator program that connects child survivors of trafficking to necessary services. Instead of being treated as criminals, children suspected of being trafficked would receive services and assistance instead of being forced to fight against the criminal justice system for acts that were committed against them, or they were forced by their traffickers to commit.

The emotional effects of trauma can be persistent and devastating. Victims of human trafficking may suffer from one or more conditions of anxiety, panic disorder, major depression, substance abuse, eating disorders, and Post-Traumatic Stress Disorder.² These children need specialized, trauma-based, therapeutic help to deal with the trauma of having been trafficked.³ What they do not need is the compounding trauma of arrest or detention, prosecution, and possibly incarceration.

We ask for your support for SB768 and strongly urge a favorable Committee report.

Respectfully,

Leslie Milano
President

² <https://aspe.hhs.gov/reports/treating-hidden-wounds-trauma-treatment-mental-health-recovery-victims-human-trafficking-0>

³ <https://aspe.hhs.gov/reports/treating-hidden-wounds-trauma-treatment-mental-health-recovery-victims-human-trafficking-0>

Amara Legal Center Written Testimony- SB 768.pdf

Uploaded by: Caitlyn Burnitis

Position: FAV



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).

SB0768_Child_Sex_Trafficking_Safe_Harbor_MLC_FAV.p

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0768
Criminal Law - Victims of Child Sex Trafficking - Safe Harbor and Service Response

Bill Sponsor: Senator Carter

Committee: Judicial Proceedings

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0768 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of individuals and grassroots groups with members in every district in the state with well over 30,000 members.

Children who are victims of sex trafficking often do not only have the horror of what has happened to them to contend with – they are often arrested and charged with delinquency or another criminal offence. This bill will require that an officer who detains or arrests a child who that officer suspects is a victim of sex trafficking must notify a regional navigator so that the navigator can release the child to the child's parents or guardian (unless it would put the child at further risk) and notify the local child welfare agency.

If a child has already been charged before it is determined that the child was a victim of sex trafficking, the court or the child's attorney or the state's attorney will stay the proceedings while a determination is made. If the determination shows that the child committed the offense(s) under the duress of sex trafficking, all charges will be dismissed.

This is a much more humane way to treat a child who has already been traumatized.

We support this bill and recommend a **FAVORABLE** report in committee.

SAFE HARBOR TESTIMONY (SENATE BILL).pdf

Uploaded by: Christopher Providence

Position: FAV

MARYLAND ALLIANCE FOR JUSTICE REFORM
Working to end unnecessary incarceration and build strong, safe communities



TO: Chair Senator Will C. Smith Jr. and Judiciary Proceedings Committee Members
FROM: Christopher Providence, MAJR Executive Committee
DATE: March 7, 2022

Maryland Alliance for Justice Reform (MAJR – www.ma4jr.org) strongly supports SB 0768, “Criminal Law – Victims of Sex Trafficking – Safe Harbor and Service Response.” This bill alters procedures that a law enforcement officer and court must follow when there is reason to believe a child who has been detained is a victim of sex trafficking, and prohibits the criminal prosecution of or a delinquency proceeding against a minor as a delinquent child for a certain crime or civil offense if the minor committed the underlying act as a direct result of sex trafficking.

According to *Save the Children* (www.savethechildren.org), the United States is one of the most active sex trafficking countries in the world. Sex trafficking occurs in cities, suburban areas, and rural areas. Sex traffickers are known to target runaway youth and homeless youth (many of whom have been abused, neglected, sexually assaulted, or put out of their homes because of their sexual orientation or gender identity) by exploiting their vulnerability. Minors forced to engage in commercial sex are placed at risk for prosecution under prostitution laws. Once convicted of prostitution, these already-traumatized young people go from being under the control of the sex trafficker to being under the control of the criminal justice system.

Safe Harbor Laws ensure that trafficked children are treated as victims, not criminals, and direct them to support services including medical care, counseling, safe housing, and remedial education. SB 0768 protects child victims of sex trafficking from unjust criminalization.

When the anti-trafficking organization *Shared Hope International* (www.sharedhope.org) convened in Washington, D.C., in November 2021 to grade states on their laws to protect victims of child sex trafficking, **Maryland was one of 40 states that received an F.** We **must** do better.

District of Columbia, Michigan, New Hampshire, New York, and other states have passed Safe Harbor Laws that protect minors from criminalization for prostitution. Delaware, District of Columbia, New Hampshire, Vermont, and other states have passed Safe Harbor Laws that direct juvenile sex trafficking victims to specialized services. Legislation such as SB 0768 and SB 0165 (“Juvenile Court – Jurisdiction – Ending Automatic Charging of Youth as Adults”) will go a long way to prevent vulnerable, traumatized youth who are victims of sex trafficking from being further victimized by Maryland’s juvenile justice system by directing them to needed wrap-around services instead of incarceration.

For these reasons, MAJR strongly supports SB 0768 to protect child victims of sex trafficking from being criminally prosecuted or proceeded against for crimes or civil offenses committed as a result of sex trafficking.

SB768(22)S.pdf

Uploaded by: Edwin Thomas

Position: FAV



EASTERN SHORE HUMAN TRAFFICKING TASK FORCE

Moving forward to combat this evil together

March 7, 2022

The Honorable William C. Smith, Jr.
Chairman, Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Dear Senator Smith,

Senate Bill 768 - Criminal Law - Victims of Child Sex Trafficking - Safe Harbor and Service Response
Hearing Date: March 8, 2022
Favorable

Child sex trafficking victims deserve a way out of the juvenile legal system when charged with prostitution and other related crimes. Therefore, the Eastern Shore Human Trafficking Task Force supports SB 768 as it will protect, rather than criminalize, children who are victims of human trafficking, and provide them with the specialized services they require.

Human trafficking is the second highest grossing criminal enterprise. For the pimps and traffickers, it is high profit and low risk. For the victims and their families, it is a far-reaching tragedy with a long road to recovery. There have been several cases on the eastern shore, and many more throughout Maryland, where minors have been trafficking victims subjected to unspeakable acts. They need a Safe Harbor to protect and assist them, SB 768 will go a long way in meeting this need throughout Maryland.

For these reasons and to improve Maryland's child sex trafficking laws which were recently been given an F, the lowest possible grade, by Shared Hope International the Eastern Shore Human Trafficking Task Force urges the Committee to give SB 768 a favorable report.

Yours Truly

Edwin Thomas, Co-Chair
1562 Efford Road
Pasadena, MD 21122

MVLS Testimony SB 768 Safe Harbor_Support 3.8.22.p

Uploaded by: Heather Heiman

Position: FAV

MARYLAND SENATE JUDICIAL PROCEEDINGS COMMITTEE
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE
IN SUPPORT OF SB 768: CRIMINAL LAW – VICTIMS OF CHILD SEX
TRAFFICKING – SAFE HARBOR AND SERVICE RESPONSE
(with Sponsor Amendments)
MARCH 8, 2022

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Senate Bill 768 (with Sponsor Amendments) would extend the protections available to child sex trafficking victims first established by the Child Sex Trafficking Screening and Services Act of 2019 by providing an exit ramp out of the juvenile legal system for child sex trafficking victims charged with prostitution and other related crimes. Maryland Volunteer Lawyers Service supports this bill because it protects, instead of criminalizes, children who are victims of human trafficking, and provides them with the specialized services they so desperately need.

While Maryland holds itself out as a leader in the fight against child sex trafficking, it continues to lag 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

At present in Maryland, trafficked minors can still be incarcerated for prostitution and related crimes, including status offenses that stem from their victimization like truancy and running away, as well as crimes that are common to street survival like trespassing, 4th degree burglary, and drug possession.³ While Maryland was one of the first states in the country to address the criminalization of adult survivors,⁴ no such action has been taken with regard to the criminalization of trafficked youth, even though national data tell us that child trafficking survivors are being criminalized at similar rates as their adult counterparts.⁵ Unfortunately, age does not play a large factor in who is being identified as a victim and who is being arrested.

Maryland's trafficked youth deserve better. It is beyond time for Maryland to move from incarceration to protection by providing a process by which minor victims are shielded from prosecution for acts that stem from their own victimization, and instead provided with the victim-centered, trauma-informed services they need to recover from their trafficking experience. **Trafficked youth need protection, not incarceration.**

For all the reasons stated above, Maryland Volunteer Lawyers Service supports SB 768 (with Sponsor Amendments) and respectfully encourages a favorable report.

Maryland Catholic Conference_FAV_SB768.pdf

Uploaded by: Jenny Kraska

Position: FAV



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

March 8, 2022

Senate Bill 768

Criminal Law – Victims of Child Sex Trafficking – Safe Harbor & Service Response

Senate Judicial Proceedings Committee

Position: SUPPORT

The Maryland Catholic Conference represents the mutual public-policy interests of the three (arch)dioceses serving Maryland, including the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington. We offer this testimony in support of Senate Bill 768.

Senate Bill 768 would extend the protections available to child sex trafficking victims first established by the Child Sex Trafficking Screening and Services Act of 2019 by providing an exit ramp out of the juvenile legal system for child sex trafficking victims charged with prostitution and other related crimes. We support this bill because it protects, instead of criminalizes, children who are victims of human trafficking, and provides them with the specialized services they so desperately need.

As Pope Francis reminds us: *“Human trafficking is an open wound on the body of contemporary society, a scourge upon the body of Christ ... It is a crime against humanity.”* While Maryland holds itself out as a leader in the fight against child sex trafficking, it continues to lag 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

At present in Maryland, trafficked minors can still be incarcerated for prostitution and related crimes, including status offenses that stem from their victimization like truancy

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.*

and running away, as well as crimes that are common to street survival like trespassing, 4th degree burglary, and drug possession.³ Furthermore, while Maryland finally began offering trafficked minors access to specialized services responsive to the unique trauma that is associated with this type of victimization back in 2019,⁴ this protective response does not extend to youth who are incarcerated for actions stemming from their trafficking experience. As a result, trafficked minors continue to languish behind bars, with the isolation, stigma, and psychological trauma that was once caused by their trafficking experience now being perpetuated by the very systems that were supposed to protect them.

Maryland's trafficked youth deserve better. It is beyond time for Maryland to move from incarceration to protection by providing a process by which minor victims are shielded from prosecution for acts that stem from their own victimization, and instead provided with the victim-centered, trauma-informed services they need to recover from their trafficking experience.

For these reasons, we urge a favorable report on Senate Bill 768.

³ Shared Hope International, *Report Cards on Child & Youth Sex Trafficking: Analysis Report Maryland* 6-7 (2021), <https://reportcards.sharedhope.org/wp-content/uploads/2021/11/2021-State-Analysis-MD.pdf>.

⁴ MD. CODE ANN., FAM. LAW § 5-704.4 (West, 2020).

HPP SB 768 Testimony- FAV WITH SPONSOR AMENDMENTS

Uploaded by: Jessica Emerson

Position: FAV

Testimony of the Human Trafficking Prevention Project

BILL NO: Senate Bill 768
TITLE: Criminal Law – Victims of Child Sex Trafficking – Safe Harbor and Service Response Health and Government Operations
COMMITTEE: Judicial Proceedings
HEARING DATE: March 8, 2022
POSITION: **FAVORABLE WITH SPONSOR AMENDMENTS**

Senate Bill 768 with sponsor amendments would extend the protections available to child sex trafficking victims first established by the Child Sex Trafficking Screening and Services Act of 2019 by providing an exit ramp out of the juvenile legal system for child sex trafficking victims charged with prostitution and other related crimes. The Human Trafficking Prevention Project supports this bill because it protects, instead of criminalizes, children who are victims of human trafficking, and provides them with the specialized services they so desperately need.

While Maryland holds itself out as a leader in the fight against child sex trafficking, it continues to lag 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

At present in Maryland, **trafficked minors can still be incarcerated** for prostitution and related crimes, including status offenses that stem from their victimization like truancy and running away, as well as crimes that are common to street survival like trespassing, 4th degree burglary, and drug possession.³ While Maryland was one of the first states in the country to address the criminalization of adult survivors,⁴ no such action has been taken with regard to the criminalization of trafficked youth, even though national data tell us that child trafficking survivors are being criminalized at similar rates as their adult counterparts.⁵ Unfortunately, age does not play a large factor in who is being identified as a victim and who is being arrested.

Maryland's trafficked youth deserve better. It is beyond time for Maryland to move from incarceration to protection by providing a process by which minor victims are shielded from prosecution for acts that stem from their own victimization, and instead provided with the victim-centered, trauma-informed services they need to recover from their trafficking experience. **Trafficked youth need protection, not incarceration.**

For all the reasons stated above, the Human Trafficking Prevention Project supports SB 768 with sponsor amendments and respectfully encourages a favorable report.

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.*

³ Shared Hope International, *Report Cards on Child & Youth Sex Trafficking: Analysis Report Maryland* 6-7 (2021), <https://reportcards.sharedhope.org/wp-content/uploads/2021/11/2021-State-Analysis-MD.pdf>.

⁴ MD CODE ANN., CRIM. PROC. § 8-302 (West, 2020).

⁵ National Survivor Network, *National Survivor Network Members Survey: Impact of Criminal Arrest and Detention on Survivors of Human Trafficking* 3 (2016), <https://nationalsurvivornetwork.org/wp-content/uploads/2017/12/VacateSurveyFinal.pdf>. NSN (citing that 41.6% of respondents reported being arrested as minors, with 50% stating that they had been convicted of at least one crime as a juvenile).

MLAW Testimony - SB768 - Criminal Law - Victims of

Uploaded by: Jessica Morgan

Position: FAV



Bill No: SB768
Title: Criminal Law - Victims of Child Sex Trafficking - Safe Harbor and Service Response
Committee: Judicial Proceedings
Hearing: March 8, 2022
Position: FAVORABLE

The Maryland Legislative Agenda for Women (MLAW) is a statewide coalition of women's groups and individuals formed to provide a non-partisan, independent voice for Maryland women and families. MLAW's purpose is to advocate for legislation affecting women and families. To accomplish this goal, MLAW creates an annual legislative agenda with issues voted on by MLAW members and endorsed by organizations and individuals from all over Maryland. **SB768 - Criminal Law - Victims of Child Sex Trafficking - Safe Harbor and Service Response** is a priority on the 2022 MLAW Agenda and we urge your support.

SB768 would provide a safe harbor for child victims of sex trafficking and prevent prosecution for acts committed as a result of trafficking including prostitution and other related offenses. Legislation was passed in 2019 that established the regional navigator program that connects child survivors of trafficking to necessary services. This bill will benefit women and girls by preventing them from being criminalized for being a victim. Children, would instead, receive services and assistance instead of being forced to fight against the stigmas associated with societal views on sex work and the criminal justice system for acts that were committed against them.

Most trafficking victims are women and girls. Currently children can be charged in the criminal or juvenile justice system for acts that are directly related to their victimization including prostitution and other related offenses. Children are, by law, considered victims of human trafficking per se if they are engaging in sex work; however, unlike any other victimization, they can also be charged for the very act that makes them a victim. This paradox in the criminal justice system leads to further victimization both as children, but often leads to further abuse as adults.

For these reasons, MLAW strongly urges the passage of SB768.



MLAW 2022 Supporting Organizations

The following organizations have signed on in support of our 2022 Legislative Agenda:

Allegany County Women's Action Coalition
American Association of University Women - Anne Arundel County
American Association of University Women - Maryland
American Association of University Women - Garrett Branch
Anne Arundel County Commission for Women
Anne Arundel County NOW (National Organization for Women)
Baltimore County Commission for Women
Baltimore Jewish Council
Baltimore NOW (National Organization for Women)
Business and Professional Women of Maryland
For All Seasons, Inc.
Forward Justice Maryland
Indivisible Central Maryland
Make A Difference Monday
Maryland NOW (National Organization for Women)
Maryland Network Against Domestic Violence
Maryland Women's Heritage Center
MoCoWoMen
MomsRising
Montgomery County NOW (National Organization for Women)
Montgomery County Commission for Women
Montgomery County Women's Democratic Club
National Coalition For Sexual Freedom
National Organization for Women
NCBW Anne Arundel County Chapter
Prince George's County Alumnae Chapter
Prince George's County Drug Policy Coalition, Inc.
Reproductive Justice Inside
South Prince George's Business and Professional Women
WISE - WISE Women of Maryland
Women's Equality Day Celebration across Maryland
Women's Law Center of Maryland
Yellow Rose Foundation
Zonta Club Mid Maryland
Zonta Club of Annapolis

Maryland Legislative Agenda for Women

305 W. Chesapeake Avenue, Suite 201 • Towson, MD 21204 • 443-519-1005 phone/fax
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SB 768 - FAV - Women's Law Center of Maryland.pdf

Uploaded by: Laure Ruth

Position: FAV

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

Senate Bill 768 would extend the protections available to child sex trafficking victims first established by the Child Sex Trafficking Screening and Services Act of 2019 by providing an exit ramp out of the juvenile legal system for child sex trafficking victims charged with prostitution and other related crimes. The Women's Law Center of Maryland (WLC) supports this bill because it protects, instead of criminalizes, children who are victims of human trafficking, and provides them with the specialized services they so desperately need.

While Maryland holds itself out as a leader in the fight against child sex trafficking, it continues to lag 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

At present in Maryland, trafficked minors can still be incarcerated for prostitution and related crimes, including status offenses that stem from their victimization like truancy and running away, as well as crimes that are common to street survival like trespassing, 4th degree burglary, and drug possession.³ Furthermore, while Maryland finally began offering trafficked minors access to specialized services responsive to the unique trauma that is associated with this type of victimization back in 2019,⁴ this protective response does not extend to youth who are incarcerated for actions stemming from their trafficking experience. As a result, trafficked minors continue to languish behind bars, with the isolation, stigma, and psychological trauma that was once caused by their trafficking experience now being perpetuated by the very systems that were supposed to protect them.

It is beyond time for Maryland to move from incarceration to protection by providing a process by which minor victims are shielded from prosecution for acts that stem from their

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.*

³ Shared Hope International, *Report Cards on Child & Youth Sex Trafficking: Analysis Report Maryland* 6-7 (2021), <https://reportcards.sharedhope.org/wp-content/uploads/2021/11/2021-State-Analysis-MD.pdf>.

⁴ MD. CODE ANN., FAM. LAW § 5-704.4 (West, 2020).

own victimization, and instead provided with the victim-centered, trauma-informed services they need to recover from their trafficking experience. Trafficked youth need protection, not incarceration.

For all the reasons stated above, the Women's Law Center of Maryland supports SB 768 and respectfully urges a favorable report.

The Women's Law Center of Maryland is a private, non-profit, membership organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change.

VSAB SupportLTR Child Sex Trafficking Safe Harbor

Uploaded by: Leslie Frey

Position: FAV



VICTIM SERVICES ADVISORY BOARD

March 8, 2022

The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401

Re: Support – SB768 - Criminal Law - Victims of Child Sex Trafficking - Safe Harbor and Service Response

Dear Chairman Smith:

Senate Bill 768 alters the procedures that a law enforcement officer and a court are required to follow when either has reason to believe that a detained child is a victim of sex trafficking. Minors may not be criminally prosecuted or have proceedings brought against them as delinquent children for certain crimes or civil offenses if the minors committed the crime or civil offense as a direct result of sex trafficking. Among various notification requirements, the law enforcement officer must alert the regional navigator to determine the child's service needs.

The Montgomery County Victim Services Advisory Board (VSAB) advises the County Council and County Executive on assisting the needs of victims of a broad range of violent crimes, including rape, domestic violence, sexual assault and human trafficking. The number and severity of the sexual assault and domestic violence cases referred to the Montgomery County HHS Victim Assistance and Sexual Assault Program and the Abused Persons Program have continued to increase substantially during the pandemic, with more than 1800 requests for help in FY21 and 500 requests received during the first quarter of FY 22. Victims of child sex trafficking are often runaways fleeing untenable situations of family abuse, drug addiction and homelessness, making them easy prey for sex offenders. Traffickers often target victims with these and other vulnerabilities including those who struggle with mental health issues, as well as recent migration/relocation challenges. (<https://polarisproject.org/wp-content/uploads/2022/01/Human-Trafficking-Trends-in-2020-by-Polaris.pdf>).

Maryland was ranked as one of the 10 worst states (44th place) to receive a failing grade in every category listed by the Shared Hope International 2021 Report on Child & Youth Sex Trafficking. The report examined both "safe harbor" laws to prevent minors' prosecution and the state infrastructure for connecting children with needed help and resources. Maryland needs to do more to identify these children and to provide them with help. SB768 protects children who are charged with prostitution or solicitation, theft, drug possession, and other nonviolent crimes committed under pressure from those controlling their activity. The notification requirements ensure that children who are victims of sex trafficking will receive the assistance they need.

VSAB asks the committee to issue a favorable report on SB768.

Sincerely,

Kathryn Pontzer
VSAB Co-chair

Department of Health and Human Services

CEBall_SB 768_Support_ Safe Harbor_Final.pdf

Uploaded by: Meghan Lynch

Position: FAV



HOWARD COUNTY OFFICE OF COUNTY EXECUTIVE

3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2013 Voice/Relay

Calvin Ball
Howard County Executive
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www.howardcountymd.gov
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March 8, 2022

Senator William C. Smith, Chairman
Senate Judicial Proceedings Committee
Miller Senate Office Building, 2 East
Annapolis, MD 21401

RE: Testimony **IN SUPPORT** of SB 768: Criminal Law – Victims of Child Sex Trafficking – Safe Harbor and Service Response

Dear Chair Smith, Vice Chair Waldstreicher, and Members of the Committee,

I commend Senators Lee and Watson for their leadership on this critical legislation which will protect child victims of sex trafficking from further harm and criminal prosecution.

Currently, all children are considered victims of human trafficking if they engage in any form of commercial sex. In addition, this outdated law still allows that same child to be charged in the criminal or juvenile justice system today for acts that are directly related to their victimization including prostitution and other related offenses.

In 2020, Howard County received a \$1.1 million federal grant in partnership with HopeWorks, Howard County's only domestic violence and sexual assault resource center. Since then, our Administration has worked to provide better services to survivors of human trafficking. This legislation builds on the work of the Human Trafficking Vacatur Act of 2020, which removes some of the criminal offenses that served as barriers to obtaining housing, employment, and becoming self-sufficient. Howard County has a robust Human Trafficking Prevention Coordinating Council, comprised of community stakeholders including our State's Attorney, Director of Social Services, Executive Director of Grassroots Crisis Intervention Center, Howard County General Hospital staff, and advocates dedicated to eradicating human trafficking in our community.

Senate Bill 768 is appropriately precise: it will give child sex trafficking victims safe harbor from criminal or delinquent charges for committing crimes from a defined list as a direct result of their trafficking. This bill will protect victims of sex trafficking from unjust criminalization. This necessary safe harbor for child victims is an important step forward for Maryland by preventing further victimization and fully embracing the national best practice of connecting child trafficking victims to critical services.

We view all victims of trafficking, especially children, with a victim-centered lens and are focused on expanding our child sex trafficking regional navigator program with more partnerships and accurate education to potential reporters. This legislation is an important step forward in codifying this basic improvement to our protections for child sex trafficking victims statewide. I welcome your partnership on this critical bill and urge a favorable report on SB 768.

All the Best,

Calvin Ball
Howard County Executive

SB 768_MNADV_FAV.pdf

Uploaded by: Melanie Shapiro

Position: FAV



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

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judicial Proceedings Committee to issue a favorable report with sponsor amendments on SB 768.**

Senate Bill 768 will provide a safe harbor for child victims of sex trafficking. Trafficking and domestic violence are both based on power and control dynamics. It is also all too common for a victim of trafficking to be in love with or in a relationship with their trafficker, whether that relationship violates statutory rape laws or not. Traffickers lure their victims with promises of love, clothing, food, and shelter. They prey on children's vulnerabilities which may include living in poverty, involvement with the child welfare system, or a mental health diagnosis. Then the traffickers might beat or rape or brand child victims and force them to commit acts of prostitution. Other offenses may be committed as well at the direction of the trafficker or as acts of survival.

Yet Maryland's laws do not treat child victims of sex trafficking as victims they treat them as delinquents. Our laws allow for exploited children, for victimized children to be arrested, to be detained and to be prosecuted for the very acts that their trafficker forced them to do. We must amend Maryland's laws to join the other forty-two states that treat child victims of sex trafficking as victims and recognize that they should not be prosecuted or stigmatized for being a victim of horrific crimes. Under existing law child sex trafficking is a form of abuse. Services for child victims of sex trafficking are available through the Regional Navigators established in 2019.

Providing Safe Harbor for child victims of sex trafficking Maryland is a crucial step to improving the status of Maryland as one of the ten worst states in treatment of child victims of sex trafficking according to Shared Hope International. HB 833 creates a necessary process for shifting a child from a punitive system to a protective system if their victimization is identified after a delinquency case commenced. Extending the safe harbor protections to offenses related to a child's victimization including status offenses and charges such as theft and trespass is a first step to improving Maryland's treatment of child victims of sex trafficking.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report with sponsor amendments on SB 768.**

For further information contact Melanie Shapiro • Public Policy Director • 301-852-3930 • mshapiro@mnadv.org

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Tel: 301-429-3601 • E-mail: info@mnadv.org • Website: www.mnadv.org

HB833_FAV_UMB_PARI_FiniganCarr 2022.pdf

Uploaded by: Nadine Finigan-Carr

Position: FAV

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
POSITION:	SUPPORT

The 2017 Protecting Victims of Trafficking Act defined child sex trafficking and provided for youth who have experienced trafficking to receive a trauma-informed, child-centered response via the child welfare system as opposed to the juvenile justice system. House Bill 833/Senate Bill 768 would extend the protections available to child sex trafficking victims established by the 2017 Act and codified in the Child Sex Trafficking Screening and Services Act of 2019 by providing additional protections especially for those youth trafficking victims who have been charged with prostitution and other related crimes. The University of Maryland School of Social Work's Prevention of Adolescent Risks Initiative (PARI) supports this bill because it protects as opposed to criminalizes the most vulnerable victims, the children of Maryland, and provides them with much needed services.

Over the past decade, PARI has worked diligently in collaboration with the Maryland Human Trafficking Task Force and Maryland's Departments of Human Services and Juvenile Services to build the infrastructure for our state to address the issue of child sex trafficking. Our work has allowed the state to better understand the risks and protective factors for youth; and, to train stakeholders from numerous disciplines to be able to better support those youth at risk and already being trafficking in our communities. Despite all of this, Maryland is currently ranked behind forty-two other states and the District of Columbia in our legal response to child sex trafficking¹. When Shared Hope International published their 2021 annual review of the effectiveness of victim protection laws, we received an F and also ranked in the bottom 10 states for treatment of child victims of sex trafficking nationwide.²

Traffickers often target runaway and homeless youth, as well as children who have been abused or neglected. When minors are forced to engage in commercial sex, it places them at risk for prosecution under prostitution laws. When child trafficking victims are convicted of prostitution, they are often transferred from the control of a trafficker to the control of the juvenile justice system. Services currently being provided to Maryland youth who have experienced the trauma of trafficking do not extend to youth who are incarcerated for actions stemming from their trafficking experience. This Safe Harbor law will ensure that trafficked children are treated as victims, not criminals, and provide access to medical care, safe housing, remedial education, and counseling services.

Maryland's trafficked youth deserve better. Safe Harbor Laws protect child victims of sex trafficking from unjust criminalization. Further, because this law will redirect arrested minors from juvenile delinquency proceedings to child protection proceedings, it will give sexually exploited children access to specialized services needed to become productive citizens as they transition to adulthood. Our focus in Maryland needs to become prevention and protection NOT incarceration for youth who have experienced trafficking.

For all the reasons stated above, UMSSW Prevention of Adolescent Risks Initiative supports HB 833/SB 768 and respectfully encourages a favorable report.

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.*

SB 768 SAFE Center Support Testimony.pdf

Uploaded by: Sophie Aron

Position: FAV



UNIVERSITY OF MARYLAND **SAFE CENTER**

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
POSITION: SUPPORT

TESTIMONY IN SUPPORT OF HB833/SB768:

Criminal Law – Victims of Child Sex Trafficking – Safe Harbor and Service Response

From: Amelia Rubenstein, MSW, LCSW-C, Director of Research & Programs, University of Maryland SAFE Center for Human Trafficking Survivors

Sophie Aron, MSW, Research and Program Coordinator, University of Maryland SAFE Center for Human Trafficking Survivors

Date: March 8, 2022

The University of Maryland Support, Advocacy, Freedom, and Empowerment (SAFE) Center for Human Trafficking Survivors provides survivor-centered and trauma-informed services that empower trafficking survivors to heal and reclaim their lives. The SAFE Center offers a one-stop-shop for survivors of sex and labor trafficking of all nationalities, ages, and genders to access multi-disciplinary services, including four direct services programs: social services, legal, behavioral health, and economic empowerment.

The SAFE Center aims to prevent trafficking and better serve trafficking survivors through research and policy advocacy. The SAFE Center is an initiative of the University of Maryland Strategic Partnership: MPowering the State – a collaboration between the University of Maryland, Baltimore and the University of Maryland, College Park. We are part of the Graduate School, University of Maryland, Baltimore.

Since opening in May 2016, we have supported more than 270 human trafficking survivors, plus more than 75 of their immediate family members, referred from law enforcement, other service providers, and the National Human Trafficking Hotline. We serve a diverse population of clients from the United States, El Salvador, Honduras, the Philippines, Guatemala, and other countries. Fifty-five percent of our clients have experienced sex trafficking, 29% labor trafficking, 8% sex and labor trafficking, 8% have demonstrated high risk indicators of trafficking.

The University of Maryland SAFE Center supports the passage of HB 833/SB768 Criminal Law – Victims of Child Sex Trafficking – Safe Harbor and Service Response because this law ensures minor victims of sex trafficking and commercial sexual exploitation in Maryland are treated as victims of child sexual abuse. Between June 2013 and June 2021, there have been 829 reports of child sex trafficking screened by Maryland DSS CPS Screening Units.¹ These youth require a child welfare, rather than juvenile justice, response to ensure they are safe, stable, and connected to proper trauma-specific treatment. By ensuring child victims of trafficking are not charged with crimes stemming from their

¹ 2013-2021 Child Electronic Social Services Information Exchange (CHESSIE), Child Juvenile & Adult Management System (CJAMS); DHS- SSA, as analyzed and reported by the Prevention of Adolescent Risks Initiative, University of Maryland, Baltimore School of Social Work



UNIVERSITY OF MARYLAND SAFE CENTER

trafficking, HB 833/SB768 will prevent victims from being criminalized, detained in juvenile detention, improperly labeled or shrugged off as delinquents, offenders, or “frequent flyer” runaways.

In 2019, the University of Maryland SAFE Center was appointed by the Governor’s Office of Crime Prevention, Youth, and Victim Services as the Regional Navigator for victims of sex trafficking under the age of 24 in Montgomery County and in 2020, was also appointed as the Regional Navigator for Prince George’s County. As the Regional Navigator for these counties, we work to:

- Increase awareness in Montgomery and Prince George's counties of sex trafficking involving youth victims aged 24 and under.
- Effectively identify child and youth victims of sex trafficking.
- Receive referrals involving suspected or confirmed child sex trafficking victims from both counties' law enforcement departments, Child Welfare Services offices, and other youth-serving organizations in the jurisdictions.
- Connect suspected or confirmed child sex trafficking victims with critical services, including safety planning, emergency response, basic living needs, trauma counseling, connection to drug and alcohol abuse treatment centers, legal services, victim advocacy, and case management.
- Implement a methodology to evaluate and report gaps in services in Montgomery County and Prince George's County for sex trafficking victims aged 24 and under.

In serving as the Regional Navigator, we have seen first-hand how trafficked youth are often criminalized as a result of their trafficking. Between 2010 and 2020, there were 1098 arrests in Maryland of young people ages 21 and under for Prostitution & Commercialized Vice.¹ Of these arrests, 110 were of minor children (ages 17 and under), including 33 arrests for prostitution of children 15 years old and younger. This unacceptable response to young people defined by federal and state law as victims of sex trafficking requires immediate intervention. In fact, **Maryland ranks behind forty-two other states, plus the District of Columbia, in their legal response to child sex trafficking.**² 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.³

SB786 builds on Maryland’s critical 2019 Child Sex Trafficking Screening & Services law that established the Regional Navigator grant program and expanded access to services for victims of sex trafficking under the age of 24. SB786 ensures that “a minor child may not be criminally prosecuted or proceeded against as a delinquent child.... for a qualifying offense...if the minor committed the underlying act as a direct result of sex trafficking.” This critical protection would ensure that Maryland has a true Safe Harbor law. SB786 also strengthens reporting requirements to ensure law enforcement, the Maryland Department of Human Services and the Local Departments of Social Services, and Regional Navigators collaborate effectively and follow appropriate information-sharing procedures.

For these reasons, the UM SAFE Center supports the passage of SB786: Criminal Law – Victims of Child Sex Trafficking – Safe Harbor and Service Response.

¹ *Id.*

² 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>.

³ *Id.*

Amelia Rubenstein, MSW, LCSW-C
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safe harbor letter of support-senate.pdf

Uploaded by: Wendy Stickle

Position: FAV



————— Montgomery County, MD —————
**HUMAN TRAFFICKING
PREVENTION COMMITTEE**

March 7, 2022

Senator William C. Smith
Chair, Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB 768 Criminal Law – Victims of Child Sex Trafficking – Safe Harbor and Service
Response
Position: Support

Dear Chairperson Smith and Members of the Judicial Proceedings Committee,

On behalf of the Montgomery County Human Trafficking Prevention Committee (HTPC), I am writing in support of SB 768—Victims of Child Sex Trafficking—Safe Harbor Service Response.

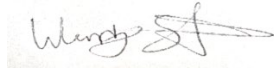
The HTPC was originally formed as a task force in 2014 and later transitioned into a Committee via legislation in 2017. The purpose of the HTPC is to educate the community about human trafficking and to reduce and prevent its occurrence.

SB 768 is a simple bill that provides a safe harbor for child victims of sex trafficking and prevents further victimization by connecting children to services needed through the already established regional navigator program. (Legislation was passed in 2019 that established the regional navigator program that connects child survivors of trafficking to necessary services.) This bill will assist child sex trafficking victims by preventing them from being criminalized for being a victim. Children, would instead, receive services and assistance. The bill also prevents any criminal or delinquent charges that might be brought against them because they are a victim of trafficking.

Unfortunately, children can be charged in the criminal or juvenile justice system for acts that are directly related to their victimization including prostitution and other related offenses. Children are, by law, considered victims of human trafficking per se if they are engaging in sex work; however, unlike any other victimization, they can also be charged for the very act that makes them a victim. This paradox in the criminal justice system leads to further victimization both as children, but often leads to further abuse as adults.

It is critical that children receive the help needed in order to stop the cycle of abuse and to end the horrific practice of child sex trafficking. We urge a favorable report on SB 768

Sincerely,

A handwritten signature in dark ink, appearing to read "Wendy Stickle", with a long horizontal flourish extending to the right.

Dr. Wendy Stickle
Chair
Montgomery County Human Trafficking Prevention Committee

Shared Hope_Written Testimony SB 768_Senate Judici

Uploaded by: Christine Raino

Position: FWA

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

SB 768 OPD Written Testimony in Support.pdf

Uploaded by: Elizabeth Hilliard

Position: FWA



PAUL DeWOLFE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
DIRECTOR OF POLICY AND DEVELOPMENT

KRYSTAL WILLIAMS
DIRECTOR OF GOVERNMENT RELATIONS DIVISION

ELIZABETH HILLIARD
ASSISTANT DIRECTOR OF GOVERNMENT RELATIONS DIVISION

Position on Proposed Legislation

BILL: SB 768 Criminal Law - Victims of Child Sex Trafficking - Safe Harbor and Service Response
FROM: Maryland Office of the Public Defender
POSITION: Favorable
DATE: March 7, 2022

The Maryland Office of the Public Defender respectfully requests this Committee issue a favorable report on Senate Bill 768.

Too often, young people who are victims of trafficking find themselves having to choose between two kinds of imprisonment - that inflicted by their traffickers and that threatened by the State of Maryland's juvenile courts.

Juvenile courts often use secure detention as a means to protect youth without adequate consideration of the trauma that secure detention can inflict on already traumatized youth. Youth exposed to trauma run away from those who inflict the trauma, quite often into another situation that, while unsafe, may seem safer than home. While federal law prohibits the incarceration of youth for status offenses such as runaways, there is a loophole (the valid court order exception) that allows states to imprison youth who have violated a court order. The use of detention to address status offenders is counterproductive and tends to exacerbate the underlying issues those children face.¹ Worse yet, status offenders are disparately detained depending on their gender, as girls are more likely than boys to be detained for status offenses.²

The Office of the Public Defender has represented countless teenage runaways who are forced into prostitution - a pathway all too familiar to anyone who has dealt with victims of domestic sex trafficking.³ Our clients often "do not seek help or resist intervention from law enforcement or

¹ See Ellen Wright Clayton, Richard D. Krugman, and Patti Simon, *Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United States*, National Academy of Sciences (2013) at 164.

² *Report of the Attorney General's National Task Force on Children Exposed to Violence* at 182, available at <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>.

³ See Jessica Lustig, *The 13-Year Old Prostitute: Working Girl or Sex Slave?*, New York Magazine (April 1, 2007), available at <https://nymag.com/news/features/30018/>; President Barack Obama, *Remarks by the President to the Clinton Global Initiative*, (September 25, 2012, available at <https://obamawhitehouse.archives.gov/the-press-office/2012/09/25/remarks-president-clinton-global-initiative>; see also *Very Young Girls*, a film which documents

social service organizations because they do not know their rights, they feel ashamed, they are reluctant to admit to victimization, or they fear their traffickers.”⁴

The federal directive for how to help young people in this situation is clear: “Help, do not punish, child victims of sex trafficking.”⁵ The U.S. Attorney General’s *National Task Force on Children Exposed to Violence* asked localities to ensure that local law enforcement and prosecutors work to protect the rights of child victims instead of continuing with outdated views that teens were willing participants and charging them with prostitution-related crimes.⁶ The Task Force report further directs that “[c]hild victims of commercial sex trafficking should not be treated as delinquents or criminals.”

Instead of incarceration and out of home placements, juvenile justice should focus on returning these youth to their communities, noting that “the key elements to trauma-informed, gender-responsive juvenile justice programs exist in every community. Very simply, programs that are good for girls, especially those recovering from exposure to violence, weave together family, community, and systems of care.”

Unfortunately, while Maryland, like many other states, prohibits the use of secure detention for status offenders on paper⁷ but courts use the valid court order exception to incarcerate children status offenders for “their own safety. The Office of the Public Defender supports SB 768 as it clarifies the law to make clear that victims should not be treated as delinquents. This position is supported by stakeholders across the criminal legal system, “The task force, consistent with federal policy, recommends strongly that child victims of commercial sex trafficking be treated as victims and not as delinquents or criminals. **They should not be locked up in juvenile detention facilities, placement programs, or jails** but instead should be given safe harbor in facilities specially designed to address their unique needs.”⁸

The National Academy of Sciences similarly argues against detention for victims of trafficking, finding that “secure detention deprives youth of opportunities that are vital to healthy development, including access to activities that lead to self-efficacy and critical thinking, connections with peers who exhibit prosocial behavior and value academic success, and adequate health and mental health care.”⁹ The National Academy of Sciences found that secure detention places victims of trafficking

commercial sexual exploitation of girls in New York City, information available at <https://www.gems-girls.org/shop>.

⁴ See Note 2 at 188.

⁵ *Id.*

⁶ *Id.* at 189.

⁷ Linda A. Szymanski, *What is the Valid Court Order Exception to Secure Detention for Status Offenders?* National Center for Juvenile Justice (2011).

⁸ See Note 2 at 189.

⁹ Ellen Wright Clayton, Richard D. Krugman, and Patti Simon, *Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United States*, National Academy of Sciences (2013) at 202.

at greater risk, as “secure detention can be an additional trauma and is therefore especially harmful to minors who are victims of commercial sexual exploitation and sex trafficking.”

Understanding, however, that youth who have been sexually trafficked are often detained for running away, truancy, or violating other conditions of probation, the Office of the Public Defender supports prohibiting detention for all youth who are suspected victims of sex trafficking instead of limiting the detention prohibition to youth detained for “qualifying offenses.”

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on SB 768.

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

Trafficking - safe harbor - testimony - senate - 2

Uploaded by: Lisae C Jordan

Position: FWA



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**

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Uploaded by: Susan Lee

Position: FWA



SB0768/233620/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

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BY: Senator Lee

(To be offered in the Judicial Proceedings Committee)

AMENDMENTS TO SENATE BILL 768

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “providing” in line 9 down through “minors” in line 10 and substitute “altering the list of offenses for which a person may file a motion to vacate judgement if the person’s participation was a result of being a victim of human trafficking”; and after line 10, insert:

“BY repealing and reenacting, without amendments,
Article - Courts and Judicial Proceedings
Section 3-8A-01(a) and (dd)
Annotated Code of Maryland
(2020 Replacement Volume and 2021 Supplement)”.

On pages 1 and 2, strike in their entirety the lines beginning with line 26 on page 1 through line 3 on page 2, inclusive, and substitute:

“BY repealing and reenacting, with amendments,
Article - Criminal Procedure
Section 8-302(a)
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)”.

BY repealing and reenacting, without amendments,
Article - Criminal Procedure
Section 8-302(b)
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)”.

On page 2, strike in their entirety lines 9 through 13, inclusive.

AMENDMENT NO. 2

On page 2, after line 16, insert:

“3–8A–01.

(a) In this subtitle the following words have the meanings indicated, unless the context of their use indicates otherwise.

(dd) “Violation” means a violation for which a citation is issued under:

(1) § 5–601 of the Criminal Law Article involving the use or possession of less than 10 grams of marijuana;

(2) § 10–113, § 10–114, § 10–115, or § 10–116 of the Criminal Law Article;

(3) § 10–132 of the Criminal Law Article;

(4) § 10–136 of the Criminal Law Article; or

(5) § 26–103 of the Education Article.”.

On page 4, after line 6, insert:

“(2) “QUALIFYING OFFENSE” HAS THE MEANING STATED IN § 8–302 OF THE CRIMINAL PROCEDURE ARTICLE.”;

in lines 7 and 9, strike “(2)” and “(3)”, respectively, and substitute “(3)” and “(4)”, respectively; in line 12, strike “DELINQUENT ACT” and substitute “QUALIFYING

OFFENSE OR A VIOLATION"; strike beginning with "STAY" in line 14 down through "TRAFFICKING" in line 21 and substitute ":

(I) MAKE THE DETERMINATION REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION;

(II) STAY ALL PROCEEDINGS UNTIL THE DETERMINATION IS MADE; AND

(III) REFER THE CHILD TO A REGIONAL NAVIGATOR AND NOTIFY THE DEPARTMENT OF HUMAN SERVICES";

strike beginning with "If" in line 22 down through "SERVICES" in line 26 and substitute "THE COURT:

(I) SHALL SCHEDULE A HEARING WITHIN 15 DAYS AFTER A MOTION IS FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

(II) MAY, ON GOOD CAUSE SHOWN, EXTEND THE TIME FOR THE HEARING AN ADDITIONAL 15 DAYS.

(3) THE COURT SHALL DETERMINE, BY EVIDENCE PRESENTED ON THE RECORD AND BY A PREPONDERANCE OF THE EVIDENCE, WHETHER THE CHILD:

(I) IS A VICTIM OF SEX TRAFFICKING; AND

(II) COMMITTED THE QUALIFYING OFFENSE OR VIOLATION AS A DIRECT RESULT OF BEING A VICTIM OF SEX TRAFFICKING.

(Over)

(4) THE COURT SHALL DISMISS THE CASE IF THE COURT FINDS THAT THE CHILD:

(I) IS A VICTIM OF SEX TRAFFICKING; AND

(II) COMMITTED THE QUALIFYING OFFENSE OR VIOLATION AS A DIRECT RESULT OF BEING A VICTIM OF SEX TRAFFICKING”.

On page 5, after line 2, insert:

“(4) “VIOLATION” HAS THE MEANING STATED IN § 3–8A–01 OF THE COURTS ARTICLE.”;

in line 5, after the first “OFFENSE” insert “, A VIOLATION,”; and after line 7, insert:

“Article – Criminal Procedure

8–302.

(a) (1) In this section the following words have the meanings indicated.

(2) “Qualifying offense” means:

(i) unnatural or perverted sexual practice under § 3–322 of the Criminal Law Article;

(ii) possessing or administering a controlled dangerous substance under § 5–601 of the Criminal Law Article;

(iii) possessing or purchasing a noncontrolled substance under § 5–618 of the Criminal Law Article;

(iv) possessing or distributing controlled paraphernalia under § 5–620(a)(2) of the Criminal Law Article;

(v) fourth-degree burglary under § 6–205 of the Criminal Law Article;

(vi) malicious destruction of property in the lesser degree under § 6–301(c) of the Criminal Law Article;

(vii) a trespass offense under Title 6, Subtitle 4 of the Criminal Law Article;

(viii) misdemeanor theft under § 7–104 of the Criminal Law Article;

(ix) misdemeanor obtaining property or services by bad check under § 8–103 of the Criminal Law Article;

(x) possession or use of a fraudulent government identification document under § 8–303 of the Criminal Law Article;

(xi) public assistance fraud under § 8–503 of the Criminal Law Article;

(xii) false statement to a law enforcement officer or public official under § 9–501, § 9–502, or § 9–503 of the Criminal Law Article;

(xiii) disturbing the public peace and disorderly conduct under § 10–201 of the Criminal Law Article;

(Over)

(xiv) indecent exposure under § 11–107 of the Criminal Law Article;

(xv) prostitution under § 11–303 of the Criminal Law Article;

(xvi) driving with a suspended registration under § 13–401(h) of the Transportation Article;

(xvii) failure to display registration under § 13–409(b) of the Transportation Article;

(xviii) driving without a license under § 16–101 of the Transportation Article;

(xix) failure to display license to police under § 16–112(c) of the Transportation Article;

(xx) possession of a suspended license under § 16–301(j) of the Transportation Article;

(xxi) driving while privilege is canceled, suspended, refused, or revoked under § 16–303 of the Transportation Article;

(xxii) owner failure to maintain security on a vehicle under § 17–104(b) of the Transportation Article;

(xxiii) driving while uninsured under § 17–107 of the Transportation Article; [or]

(xxiv) prostitution or loitering as prohibited under local law;

(XXV) UNAUTHORIZED USE UNDER § 14-102 OF THE
TRANSPORTATION ARTICLE; OR

(XXVI) SOLICITING OR OFFERING TO SOLICIT PROSTITUTION
OR ASSIGNATION UNDER § 11-306 OF THE CRIMINAL LAW ARTICLE.

(3) “Victim of human trafficking” means a person who has been
subjected to an act of another committed in violation of:

(i) Title 3, Subtitle 11 of the Criminal Law Article; or

(ii) § 1589, § 1590, § 1591, or § 1594(a) of Title 18 of the United
States Code.

(b) A person convicted of a qualifying offense may file a motion to vacate the
judgment if the person’s participation in the offense was a direct result of being a victim
of human trafficking.”.

On pages 5 and 6, strike in their entirety the lines beginning with line 8 on page
5 through line 9 on page 6, inclusive.

On pages 6 through 9, strike in their entirety the lines beginning with line 16 on
page 6 through line 13 on page 9, inclusive.

SB768_FAV_Lee_2022.pdf

Uploaded by: Susan Lee

Position: FWA

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
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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 include 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 breadth 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.

sb768.pdf

Uploaded by: Sara Elalamy

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 768
Criminal Law – Victims of Child Sex Trafficking – Safe Harbor
and Service Response
DATE: February 9, 2022
(3/8)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes Senate Bill 768, as drafted. This bill would amend the Courts and Judicial Proceedings Article, the Criminal Procedure Article, and the Family Law Article. It would change the required procedures for the police and the court when a child is alleged to have committed a delinquent act and the child might be a victim of sex trafficking. It also prohibits a youth from being detained for any offense for which an adult may petition the court for vacatur of a conviction on the basis of being trafficked, if the youth committed the act as a result of being trafficked.

The Judiciary strongly supports the intention of the bill, and notes that legislation to support minors who have been victims of sex trafficking should be a priority. However, as drafted, the bill presents several problems in implementation.

Specifically, the proposed subsection § 3-8A-17.13 provides that at any time after a petition alleging that a child has committed a delinquent act has been filed with the court, the court shall stay all proceedings and order that the regional navigator evaluate the child's status as a victim of sex trafficking, if the court finds that there is probable cause to believe the child committed the delinquent act and the court has reason to believe that the child committed the act as a result of, or related to, sex trafficking. But the bill does not speak to how, if the petition had been filed but the adjudication hearing not been held, the court would have the information to make that determination. Similarly, the bill does not speak to what happens to the child while the assessment by the regional navigator is pending, or if the assessment is challenged.

Lastly, § 3-8A-17.13 (b)(2) states that if the regional navigator finds that the child is a victim of sex trafficking, and if the court finds that the child committed the violation as a direct result of, or incidental or related to, sex trafficking, the court shall dismiss the case and transfer the case to the Department of Human Services. But if the court has

dismissed the case, there is nothing to transfer. In addition, this mandatory provision takes away judicial discretion about whether to dismiss a case seemingly no matter how tangentially related the violations are to sex trafficking.

The bill would also create some confusion around possible placements for a child if the parent or guardian either cannot be verified or is acting as the trafficker. The bill prohibits law enforcement from detaining the child in a juvenile detention facility, but does not speak to whose responsibility – Department of Juvenile Services or the Department of Human Services – it is to find a suitable placement for the child.

cc. Hon. Susan Lee
Judicial Council
Legislative Committee
Kelley O'Connor

SB0768_DHS_LOI.pdf

Uploaded by: Rachel Sledge

Position: INFO

Date: March 8, 2022

Bill number: SB 768

Committee: Judicial Proceedings

Bill title: **Criminal Law - Victims of Child Sex Trafficking - Safe Harbor and Service Response**

DHS Position: **Letter of Information**

The Maryland Department of Human Services (DHS), thanks the Committee for the opportunity to provide information about Senate Bill 768 (SB 768).

With respect to DHS, Senate Bill 768 in part deals with Maryland's Regional Navigator Program. Maryland's Regional Navigator Program Grant (RNPG) is tied to funding from the federal Victims of Crime Act (VOCA). The RNPG-VOCA was developed in Maryland after Governor Hogan signed into law the "Child Sex Trafficking Screening and Services Act of 2019" - Chapter 559 of the Acts of 2019. Chapter 559 established the Regional Navigator Program with the primary purpose of developing Regional Navigators that serve all Counties in the State to connect victims to services. Senate Bill 768 would make alterations to the authority, role, and responsibilities of Maryland's Human Trafficking Regional Navigator. Under this legislation the state's attorney shall order a regional navigator to conduct an evaluation of a child's status as a victim of sex trafficking—a responsibility not previously granted to the navigator. As of February 2022, 10 of Maryland's 24 jurisdictions have developed such a program.

The bill proposes that should the Regional Navigator find that the child is a victim of sex trafficking and the court finds that the child committed the offense due to sex trafficking, the court will then dismiss the case and transfer the matter to the Department of Human Services. However, unless the child qualifies as a CINA, it is unclear what it means to "transfer the case" to DHS.

Additionally, this bill would amend DHS's confidentiality provisions to specifically state that sex trafficking Child Protective Services (CPS) records must be disclosed under the mandatory disclosure scenarios listed in HU § 1-202(b). However, the current statute already allows for such disclosure because sex trafficking CPS records are part of the broader sexual abuse definition. As a matter of statutory interpretation, adding in the term "sex trafficking" would narrow what sexual abuse records must be disclosed under HU § 1-202(b). Additionally, the proposed changes would essentially prohibit release of sexual abuse records, including sex trafficking records, from DHS's allowable discretionary disclosures under HU § 1-202(c). This is challenging in situations where DHS needs the ability to share sexual abuse records to ensure services for victims, assist with prosecution of maltreators, and preventing sexual abuse perpetrators from working with children.

The Department appreciates the opportunity to provide the aforementioned information to the committee for consideration during your deliberations.

