



RE: Safe Harbor for Domestic Minor Sex Trafficked Youth Pilot Program (HB 2131)

Dear Committee Members:

Thank you, Chairperson and Subcommittee members, for the opportunity to provide feedback on this bill. The Virginia Coalition Against Human Trafficking (“VCAHT”) is an alliance of service providers, attorneys, survivor-advocates, and community members on a mission towards removing barriers preventing survivors of human trafficking from achieving a full and self-reliant life through public awareness campaigns, policy reform, and enacting survivor-centered human trafficking legislation.

Despite Virginia’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. [29 states and D.C.](#) have made clear that children engaged in commercial sex are victims of sex trafficking, not prostitution offenders. While Virginia state law clearly defines children who are bought and sold for sex as victims of sex trafficking, those same minors can be *and* are arrested and prosecuted for prostitution. Safe harbor is not only critical for remedying this legal paradox and embraces a nationally regarded promising practice for protecting children and preventing harm. **However, the proposed Safe Harbor Pilot Program falls seriously short protecting minor victims.**

We strongly commend the bill patron for introducing a bill that would protect minor victims of sex trafficking from unjust criminalization. The introduction of HB 2131 emphasizes an understanding that trafficking victims, especially minors, should not be held criminally liable for crimes they were forced to commit because of their victimization. Specifically, VCAHT supports the following provisions of the bills:

- The inclusion of strategies to reduce demand for commercial sex, a significant driving force behind the phenomenon of sex trafficking.
- The use of a multidisciplinary team to coordinate assessment and services.

However, in drafting Safe Harbor responses, the response should, at a minimum, (1) ensure that *all* minors under 18 are protected from criminalization, including arrest and charges and other punitive or quasi-punitive responses; and (2) direct survivors to comprehensive, specialized services designed to alleviate the adverse effects of trafficking victimization and to aid in the child’s healing, including, but not limited to, assistance with job placement, housing, access to education and legal services as well as trauma-based mental health service. VCAHT has the following concerns with the proposed legislation:

- The bill promotes approaches that are inconsistent with [best practice](#). For example, a "48-72 hour holding mechanism for youth either in partnership with a local department of social services, a local department of child protective services, or a local hospital or through court services." Any system response that permits arrest, detention, or court-ordered conditions and services for minor



victims, even if well intentioned, contradicts both the acknowledgement of victimization and promising practices.

- The language grants DCJS broad parameters to implement the program with little oversight. For example, the bill language does not provide definitions, guidelines, criteria, or restrictions.
- The emphasis on residential placement needs to be balanced by an investment in community-based, non-residential services.
- At a minimum, statewide safe harbor likely wouldn't be considered before 2026 (following evaluation of the pilot program).

Accordingly, we offer language amendments, that can be found at the end of this testimony.

There has been an effort to pass Safe Harbor in Virginia since 2013. Indeed, the Virginia State Crime Commission studied this issue in 2018 and concluded that the “traditional criminal justice response to commercial sex trafficking is not apprehending traffickers or serving the needs of victims,” and led to the creation of the State Trafficking Coordinator¹ position and the requirement of the Department of Social Services to perform human trafficking assessments² to shift the response from punitive to protective. Safe Harbor is a well-established, researched, and proven policy for appropriately responding to child sex trafficking victims. A majority of states have passed related legislation; in fact, many have gone on to increase and expand the protection to include other offenses, demonstrating the benefit to all stakeholder groups and the positive outcomes for youth. While it is encouraging to see the desire to move away from this approach, the proposed approach falls short of best practices and leaves many survivors without protection or services.

We would welcome any questions or feedback regarding the above and look forward to working with you in finalizing this legislation.

Sincerely,

Virginia Coalition Against Human Trafficking

¹ <http://vscc.virginia.gov/2019/VSCC%202018%20Annual%20Report%20-%20Sex%20Trafficking%20in%20Virginia.pdf>

² VA Code Ann. § 63.2-1506.1



§ 1. As used in this act, unless the context requires a different meaning:

"Department" means the Department of Criminal Justice Services.

"Pilot agency" means the lead agency in the locality chosen by the Department to conduct the pilot program required by § 2 of this act.

“Sex trafficked youth” means any person under the age of 18 who is engaged in commercial sexual activity or who would be considered a victim of sex trafficking as defined by the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

§ 2. A. The Department, **through the Statewide Trafficking Coordinator**, in partnership with the State Crime Commission, shall administer a two-year Demand Reduction and Safe Harbor for Domestic Minor Sex Trafficked Youth pilot program beginning July 1, 2023, and ending July 1, 2025. Such program shall consist of the following elements:

1. The program shall focus on (i) implementing proactive reverse sting operations that target buyers of sex services, with priority given to cases involving sex trafficked youth; (ii) utilization of a multidisciplinary response team to coordinate assessment **and trauma-informed services, including but not limited to** treatment and residential care for victims of sex trafficking; (iii) establishing or building capacity of residential care **and community-based programs** for trafficking victims; (iv) and design of an alternative to arrest protocol that **utilizes trauma-informed protective responses and prioritizes the least restrictive means of ensuring access to services.** ~~includes a 48-72 hour holding mechanism for youth either in partnership with a local department of social services, a local department of child protective services, or a local hospital or through court services.~~ The stated goal of the pilot program shall be to reduce arrest **and criminalization** of sex trafficking victims regardless of age, reduce demand for commercial sex exploitation by focusing **criminal enforcement efforts** on buyers, and establish high-quality restorative residential care, education, alternative employment opportunities, and life skills for victims;

2. The multidisciplinary response team shall be specific to the needs of sex trafficked and commercially exploited youth and shall be comprised of Virginia State Police, local law-enforcement, attorneys for the Commonwealth, crime victim and witness assistance programs, Department of Juvenile Justice, the Department of Social Services, other state and local agencies responding to victims of sex trafficking, and nongovernmental organizations providing direct services to victims of sex trafficking;

3. The Department shall be responsible for coordinating (i) a catalog of best practices in other states, (ii) compliance with all state and federal law, and (iii) a database to record outcomes for the pilot program. At the end of the pilot program, the Department shall report the outcomes of the pilot program to the Governor, the Attorney General, and the State Crime Commission; and

4. The pilot agency shall report by July 1, 2024, to the Department all state and local laws, ordinances, and regulations initially identified for elimination, amendment, or streamlining. The pilot agency shall identify any law, ordinance, or regulation proposed for elimination or modification that requires a change



in state or local law. If the pilot agency is unable to reach this goal, it shall provide a separate report to the Department stating the reasons for not meeting the goal.

B. The Director of the State Crime Commission shall report annually to the Governor, General Assembly, and the Attorney General no later than October 1, 2024, and October 1, 2025, on the progress of the pilot program established pursuant to this act.

C. The location of the pilot program shall remain confidential until the conclusion of the program. Any reference to location shall be anonymized in published documents.

D. Nothing in this section shall be construed to prevent the State Trafficking Coordinator or General Assembly from administering or legislating this program statewide prior to the completion of the pilot program.