

BILL NO: House Bill 268  
TITLE: Juveniles; evidence of trafficking, sexual abuse, or rape by the alleged victim.  
COMMITTEE: House Courts of Justice; Criminal Subcommittee  
DATE: January 26, 2024  
POSITION: SUPPORT

Dear Chairperson Watts and Subcommittee Members:

Thank you for hearing testimony on House Bill 268 relating to the plight of child sex trafficking victims within the state.

Shared Hope International is a non-profit organization dedicated to preventing, restoring, and bringing justice to survivors of child and youth sex trafficking. Shared Hope has been working in Virginia, 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. Thirteen years ago, we launched the State Report Card project to assess the status of state's laws and drive legislative progress. Despite its progress on addressing this issue, [Virginia received an 'F'](#) in 2023, scoring a 48 out of 100.

House Bill 268 ("HB 268"), if passed, directs a juvenile and domestic relations district court to retain jurisdiction of a juvenile defendant if, during a transfer hearing, the court receives evidence that such juvenile was trafficked, sexually abused, or raped by alleged victim of the conduct for which they've been charged. Additionally, the bill states that the provisions shall be construed to prioritize the successful treatment and rehabilitation of juvenile victims of human trafficking and sex crimes who commit acts of violence against their abusers. While ideally we would like to see these victims kept out of *any* punitive system and met with a protective—rather than punitive—response, we support this bill as a step in the right direction.

Juvenile courts were created to provide a non-adversarial and rehabilitative approach for children who had engaged in law offending conduct.<sup>1</sup> The juvenile justice system promotes an individualized approach to treat, supervise, and rehabilitate children.<sup>2</sup> This system recognizes children as malleable, and juvenile courts are given the discretion to divert children away from the consequences of formal court proceedings.<sup>3</sup> Juvenile courts afford minors with specific protections: proceedings are not open to the public, proceeding information is confidential, and juvenile adjudications are not considered convictions. When juveniles are tried in adult criminal court, they lose many protections afforded in juvenile proceedings discussed above. For example, adult courts are open to the public and focused on punishment, while juvenile proceedings are closed to the public and rehabilitation-focused. Juvenile adjudications are typically sealed while adult conviction records are publicly accessible.<sup>4</sup> Additionally, convictions in adult court can lead to harsher sentences and imprisonment with adults. When children are detained or incarcerated with adults, they face a significantly increased risk of physical, psychological, and social-emotional harm, including a higher likelihood of experiencing physical and sexual abuse and assault.<sup>5</sup>

Too often, the criminal legal system fails to respond in a trauma-informed and age-appropriate way to children who engage in delinquent or criminal conduct. The vast majority of children involved in the criminal legal system are contending with early childhood trauma and unmitigated Adverse Childhood Experiences (ACEs), including psychological, physical, and/or sexual abuse; witnessing domestic violence; living with family members who are

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<sup>1</sup> Andrea L Dennis, Decriminalizing Childhood, 45 Fordham Urb. L.J. 1, 11 (2017).

<sup>2</sup> Peterson Tavit, Mandatory Transfer of Juveniles to Adult Court: A Deviation from the Purpose of the Juvenile Justice System and a Violation of their Eight Amendment Rights, 52 Rev. Juridica U. Inter. P.R. 377, 385 (2017).

<sup>3</sup> *Id.* at 390.

<sup>4</sup> Juvenile Waiver (Transfer to Adult Court), FindLaw, <https://criminal.findlaw.com/juvenile-justice/juvenile-waiver-transfer-to-adult-court.html> (last updated Jan. 28, 2019).

<sup>5</sup> *Id.*

substance abusers, suffer from mental illness or suicidal ideation, or are incarcerated. Studies have shown that approximately 90 percent of children in the juvenile justice system have experienced at least two ACEs, and 27 percent of boys and 45 percent of girls have experienced at least five ACEs.<sup>6</sup>

HB 268 helps Virginia align with the human rights principles to foster the physical, psychological, and social recovery of child survivors of abuse and exploitation. By keeping child victims who defend themselves against their abusers in the juvenile justice system—instead of transferring them to adult courts—youth will be afforded a more individualized and rehabilitative response, and a better opportunity to make a life for themselves after the trauma of sexual abuse.

We strongly urge this committee to vote favorably upon HB 268 to protect child victims who commit crimes against their abusers and treat them as the victims they are. Thank you for your consideration.

We are grateful for the Committee’s dedication to this issue and respectfully ask for your support.

Sincerely,  
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Director of Advocacy

*For questions or additional information:*  
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<sup>6</sup> Human Rights for Kids (2018). <https://humanrightsforkids.org/wp-content/uploads/HRFK-ACES-Infographic-final.pdf>