

SENATE BILL 688

D4, E3

9lr0460
CF 9lr1378

By: **Senators Lee, Carter, Feldman, Guzzone, and Young**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law – Sex Trafficking – Immunity, Services, and Investigations**
3 **(Child Sex Trafficking Screening and Services Act of 2019)**

4 FOR the purpose of requiring a law enforcement officer who has reason to believe that a
5 certain child is a victim of sex trafficking to notify a certain regional navigator;
6 declaring a certain intent of the General Assembly; providing certain immunity for
7 a minor who engages in certain prostitution–related conduct; requiring a local
8 department of social services that receives a report of suspected abuse or neglect
9 involving a certain child to refer the child to a certain regional navigator for services;
10 requiring the Executive Director of the Governor’s Office of Crime Control and
11 Prevention to designate certain jurisdictions, with each to be served by a regional
12 navigator; requiring the Executive Director to select a certain number of regional
13 navigators to coordinate and provide certain services to children who are victims of
14 sex trafficking; requiring the Governor’s Office of Crime Control and Prevention to
15 provide certain grant funding notwithstanding a certain appropriation by the
16 Governor; requiring the Governor’s Office of Crime Control and Prevention to submit
17 a certain evaluation report to the Governor and the General Assembly once every 2
18 years; requiring the Department of Human Resources to submit a certain report to
19 the Governor and the General Assembly annually; authorizing the Governor to make
20 a certain annual appropriation; authorizing the Executive Director to adopt certain
21 regulations; requiring the Department of Juvenile Services to enter into a certain
22 agreement; requiring a certain joint investigation procedure to include screening to
23 determine whether a child is a victim of sex trafficking; prohibiting a certain joint
24 investigation from resulting in a certain criminal prosecution or proceeding alleging
25 a delinquent act; defining certain terms; and generally relating to child abuse and
26 neglect and sex trafficking of minors.

27 BY adding to
28 Article – Courts and Judicial Proceedings
29 Section 3–8A–14(d) and 5–809
30 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2013 Replacement Volume and 2018 Supplement)

2 BY repealing and reenacting, without amendments,
 3 Article – Criminal Law
 4 Section 11–301(a), (b), and (c) and 11–306
 5 Annotated Code of Maryland
 6 (2012 Replacement Volume and 2018 Supplement)

7 BY repealing and reenacting, without amendments,
 8 Article – Family Law
 9 Section 1–101(a) and (h), 5–701(a), (b), and (e), and 5–706(c) and (d)
 10 Annotated Code of Maryland
 11 (2012 Replacement Volume and 2018 Supplement)

12 BY adding to
 13 Article – Family Law
 14 Section 5–701(v), 5–704.3, and 5–704.4
 15 Annotated Code of Maryland
 16 (2012 Replacement Volume and 2018 Supplement)

17 BY repealing and reenacting, with amendments,
 18 Article – Family Law
 19 Section 5–701(v) through (aa) and 5–706(f), (g), and (h)
 20 Annotated Code of Maryland
 21 (2012 Replacement Volume and 2018 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 23 That the Laws of Maryland read as follows:

24 **Article – Courts and Judicial Proceedings**

25 3–8A–14.

26 **(D) IN ADDITION TO THE REQUIREMENTS FOR REPORTING CHILD ABUSE**
 27 **AND NEGLECT UNDER § 5–704 OF THE FAMILY LAW ARTICLE, IF A LAW**
 28 **ENFORCEMENT OFFICER HAS REASON TO BELIEVE THAT A CHILD WHO HAS BEEN**
 29 **DETAINED IS A VICTIM OF SEX TRAFFICKING, AS DEFINED IN § 5–701 OF THE FAMILY**
 30 **LAW ARTICLE, THE LAW ENFORCEMENT OFFICER SHALL NOTIFY THE REGIONAL**
 31 **NAVIGATOR, AS DEFINED IN § 5–701 OF THE FAMILY LAW ARTICLE, FOR THE**
 32 **JURISDICTION WHERE THE CHILD WAS TAKEN INTO CUSTODY OR WHERE THE CHILD**
 33 **IS A RESIDENT THAT THE CHILD IS A SUSPECTED VICTIM OF SEX TRAFFICKING.**

34 **5–809.**

35 **(A) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT A MINOR WHO IS**
 36 **REASONABLY BELIEVED TO HAVE ENGAGED IN PROSTITUTION SHALL BE TREATED**

1 AS A VICTIM OF SEXUAL ABUSE, AS DEFINED UNDER § 5-701 OF THE FAMILY LAW
2 ARTICLE, AND SHALL HAVE ACCESS TO IMMEDIATE CHILD-CENTERED AND
3 TRAUMA-INFORMED SERVICES.

4 (B) A MINOR IS IMMUNE FROM CRIMINAL PROSECUTION OR FROM BEING
5 PROCEEDED AGAINST AS A DELINQUENT CHILD UNDER TITLE 3, SUBTITLE 8A OF
6 THIS ARTICLE FOR ENGAGING IN PROSTITUTION IN VIOLATION OF § 11-306(A)(1) OF
7 THE CRIMINAL LAW ARTICLE OR FOR OCCUPYING A BUILDING, STRUCTURE, OR
8 CONVEYANCE FOR PROSTITUTION IN VIOLATION OF § 11-306(A)(2) OF THE
9 CRIMINAL LAW ARTICLE.

10 Article – Criminal Law

11 11-301.

12 (a) In this subtitle the following words have the meanings indicated.

13 (b) “Assignment” means the making of an appointment or engagement for
14 prostitution or any act in furtherance of the appointment or engagement.

15 (c) “Prostitution” means the performance of a sexual act, sexual contact, or
16 vaginal intercourse for hire.

17 11-306.

18 (a) A person may not knowingly:

19 (1) engage in prostitution or assignment by any means;

20 (2) keep, set up, occupy, maintain, or operate a building, structure, or
21 conveyance for prostitution or assignment;

22 (3) allow a building, structure, or conveyance owned or under the person’s
23 control to be used for prostitution or assignment;

24 (4) allow or agree to allow a person into a building, structure, or conveyance
25 for prostitution or assignment; or

26 (5) procure or solicit or offer to procure or solicit for prostitution or
27 assignment.

28 (b) A person who violates this section is guilty of a misdemeanor and on conviction
29 is subject to imprisonment not exceeding 1 year or a fine not exceeding \$500 or both.

30 (c) (1) Subject to paragraph (2) of this subsection, in a prosecution under this
31 section, it is an affirmative defense of duress if the defendant committed the act as a result

1 of being a victim of an act of another who was charged with violating the prohibition against
2 human trafficking under § 11–303 of this subtitle or under federal law.

3 (2) A defendant may not assert the affirmative defense provided in
4 paragraph (1) of this subsection unless the defendant notifies the State’s Attorney of the
5 defendant’s intention to assert the defense at least 10 days prior to trial.

6 Article – Family Law

7 1–101.

8 (a) In this article the following words have the meanings indicated.

9 (h) “Local department” means:

10 (1) a local department of social services; or

11 (2) in Montgomery County, the county department of health and human
12 services.

13 5–701.

14 (a) Except as otherwise provided in § 5–705.1 of this subtitle, in this subtitle the
15 following words have the meanings indicated.

16 (b) (1) “Abuse” means:

17 (i) the physical or mental injury of a child under circumstances that
18 indicate that the child’s health or welfare is harmed or at substantial risk of being harmed
19 by:

20 1. a parent;

21 2. a household member or family member;

22 3. a person who has permanent or temporary care or custody
23 of the child;

24 4. a person who has responsibility for supervision of the
25 child; or

26 5. a person who, because of the person’s position or
27 occupation, exercises authority over the child; or

28 (ii) sexual abuse of a child, whether physical injuries are sustained
29 or not.

1 (2) “Abuse” does not include the physical injury of a child by accidental
2 means.

3 (e) “Child” means any individual under the age of 18 years.

4 **(V) “REGIONAL NAVIGATOR” MEANS A COMMUNITY-BASED VICTIM**
5 **SERVICES AGENCY THAT PROVIDES AND COORDINATES CHILD-CENTERED AND**
6 **TRAUMA-INFORMED SERVICES TO VICTIMS OF CHILD SEX TRAFFICKING IN THE**
7 **REGION IN WHICH IT IS LOCATED.**

8 **[(v)] (W)** “Report” means an allegation of abuse or neglect, made or received
9 under this subtitle.

10 **[(w)] (X)** “Ruled out” means a finding that abuse, neglect, or sexual abuse did not
11 occur.

12 **[(x)] (Y)** “Sex trafficking” means the recruitment, harboring, transportation,
13 provision, obtaining, patronizing, or soliciting of a child for the purpose of a commercial sex
14 act.

15 **[(y)] (Z)** “Sexual abuse” means any act that involves:

16 (1) sexual molestation or exploitation of a child by:

17 (i) a parent;

18 (ii) a household member or family member;

19 (iii) a person who has permanent or temporary care or custody of the
20 child;

21 (iv) a person who has responsibility for supervision of the child; or

22 (v) a person who, because of the person’s position or occupation,
23 exercises authority over the child; or

24 (2) sex trafficking of a child by any individual.

25 **[(z)] (AA)** “Sexual molestation or exploitation” includes:

26 (1) allowing or encouraging a child to engage in:

27 (i) obscene photography, films, poses, or similar activity;

28 (ii) pornographic photography, films, poses, or similar activity; or

- 1 (iii) prostitution;
- 2 (2) incest;
- 3 (3) rape;
- 4 (4) sexual offense in any degree;
- 5 (5) sodomy; and
- 6 (6) unnatural or perverted sexual practices.

7 [(aa)] (BB) “Unsubstantiated” means a finding that there is an insufficient amount
8 of evidence to support a finding of indicated or ruled out.

9 **5-704.3.**

10 A LOCAL DEPARTMENT THAT RECEIVES A REPORT OF SUSPECTED ABUSE OR
11 NEGLECT UNDER THIS SUBTITLE INVOLVING A CHILD WHO IS A SUSPECTED VICTIM
12 OF SEX TRAFFICKING SHALL REFER THE CHILD TO THE REGIONAL NAVIGATOR FOR
13 THE JURISDICTION WHERE THE TRAFFICKING OCCURRED OR WHERE THE CHILD IS
14 A RESIDENT FOR SERVICES.

15 **5-704.4.**

16 (A) IN THIS SECTION, “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE
17 DIRECTOR OF THE GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION.

18 (B) THE EXECUTIVE DIRECTOR SHALL:

19 (1) DESIGNATE SIX REGIONAL JURISDICTIONS BASED ON
20 POPULATION AND GEOGRAPHY IN THE STATE, WITH EACH DESIGNATED
21 JURISDICTION TO BE SERVED BY A REGIONAL NAVIGATOR; AND

22 (2) SELECT UP TO SIX REGIONAL NAVIGATORS BASED ON
23 EXPERIENCE WORKING WITH SEX TRAFFICKING SURVIVORS TO COORDINATE AND
24 PROVIDE SERVICES TO CHILDREN WHO ARE VICTIMS OF SEX TRAFFICKING.

25 (C) SERVICES COORDINATED AND PROVIDED BY A REGIONAL NAVIGATOR
26 SHALL INCLUDE:

27 (1) SAFETY PLANNING;

28 (2) EMERGENCY RESPONSE;

- 1 **(3) BASIC LIVING NEEDS, NOT INCLUDING HOUSING;**
2 **(4) TRAUMA COUNSELING AND MENTAL HEALTH SERVICES;**
3 **(5) DRUG AND ALCOHOL ABUSE TREATMENT; AND**
4 **(6) LEGAL SERVICES.**

5 **(D) NOTWITHSTANDING ANY APPROPRIATION MADE UNDER SUBSECTION**
6 **(F) OF THIS SECTION, NOT LATER THAN OCTOBER 1, 2019, THE GOVERNOR'S**
7 **OFFICE OF CRIME CONTROL AND PREVENTION SHALL PROVIDE GRANT FUNDING**
8 **FOR SERVICES PROVIDED BY REGIONAL NAVIGATORS UNDER THIS SECTION.**

9 **(E) (1) EVERY 2 YEARS, BEGINNING DECEMBER 1, 2019, THE EXECUTIVE**
10 **DIRECTOR SHALL SUBMIT AN INDEPENDENT EVALUATION REPORT WITH**
11 **QUALITATIVE AND QUANTITATIVE DATA TO THE GOVERNOR AND, IN ACCORDANCE**
12 **WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY**
13 **REGARDING WHETHER SERVICES COORDINATED AND PROVIDED BY REGIONAL**
14 **NAVIGATORS UNDER THIS SECTION ARE AVAILABLE, ADEQUATE, AND**
15 **SUCCESSFULLY SERVING CHILDREN WHO ARE VICTIMS OF SEX TRAFFICKING.**

16 **(2) BEGINNING DECEMBER 1, 2019, THE DEPARTMENT OF HUMAN**
17 **SERVICES SHALL ANNUALLY REPORT TO THE GOVERNOR AND, IN ACCORDANCE**
18 **WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY**
19 **ON:**

20 **(I) THE NUMBER OF REPORTS OF CHILD SEX TRAFFICKING**
21 **MADE IN THE STATE IN THE PRECEDING YEAR;**

22 **(II) THE OUTCOME OR DISPOSITION OF REPORTS OF CHILD SEX**
23 **TRAFFICKING MADE IN THE STATE IN THE PRECEDING YEAR; AND**

24 **(III) THE NUMBER OF REFERRALS MADE TO REGIONAL**
25 **NAVIGATORS UNDER THIS SECTION IN THE PRECEDING YEAR.**

26 **(F) THE GOVERNOR MAY ANNUALLY APPROPRIATE UP TO \$3,000,000 FOR**
27 **GRANT FUNDING PROVIDED UNDER THIS SECTION.**

28 **(G) THE EXECUTIVE DIRECTOR MAY ADOPT REGULATIONS TO CARRY OUT**
29 **THIS SECTION.**

1 (c) Within 24 hours after receiving a report of suspected physical or sexual abuse
2 of a child who lives in this State that is alleged to have occurred in this State, and within 5
3 days after receiving a report of suspected neglect or suspected mental injury of a child who
4 lives in this State that is alleged to have occurred in this State, the local department or the
5 appropriate law enforcement agency shall:

6 (1) see the child;

7 (2) attempt to have an on-site interview with the child's caretaker;

8 (3) decide on the safety of the child, wherever the child is, and of other
9 children in the household; and

10 (4) decide on the safety of other children in the care or custody of the
11 alleged abuser.

12 (d) The investigation under subsection (c) of this section shall include:

13 (1) a determination of the nature, extent, and cause of the abuse or neglect,
14 if any;

15 (2) if mental injury is suspected, an assessment by two of the following:

16 (i) a licensed physician, as defined in § 14-101 of the Health
17 Occupations Article;

18 (ii) a licensed psychologist, as defined in § 18-101 of the Health
19 Occupations Article; or

20 (iii) a licensed social worker, as defined in § 19-101 of the Health
21 Occupations Article; and

22 (3) if the suspected abuse or neglect is verified:

23 (i) a determination of the identity of the person or persons
24 responsible for the abuse or neglect;

25 (ii) a determination of the name, age, and condition of any other
26 child in the household;

27 (iii) an evaluation of the parents and the home environment;

28 (iv) a determination of any other pertinent facts or matters; and

29 (v) a determination of any needed services.

1 (f) The local department, the appropriate law enforcement agencies, **THE**
2 **DEPARTMENT OF JUVENILE SERVICES**, the State's Attorney within each county and
3 Baltimore City, the local department's office responsible for child care regulation, and the
4 local health officer shall enter into a written agreement that specifies standard operating
5 procedures for the investigation under subsections (c) and (d) of this section and prosecution
6 of reported cases of suspected abuse or neglect.

7 (g) (1) The agencies responsible for investigating reported cases of suspected
8 sexual abuse, including the local department, the appropriate law enforcement agencies,
9 and the local State's Attorney, shall implement a joint investigation procedure for
10 conducting joint investigations of sexual abuse under subsections (c) and (d) of this section.

11 (2) The joint investigation procedure shall:

12 (i) include appropriate techniques for expediting validation of
13 sexual abuse complaints;

14 (ii) include investigation techniques designed to:

- 15 1. decrease the potential for physical harm to the child; and
16 2. decrease any trauma experienced by the child in the
17 investigation and prosecution of the case; [and]

18 (iii) establish an ongoing training program for personnel involved in
19 the investigation or prosecution of sexual abuse cases; **AND**

20 **(IV) INCLUDE SCREENING TO DETERMINE WHETHER A CHILD IS**
21 **A VICTIM OF SEX TRAFFICKING.**

22 (h) (1) To the extent possible, an investigation under subsections (c) and (d) of
23 this section shall be completed within 10 days after receipt of the first notice of the
24 suspected abuse or neglect by the local department or law enforcement agencies.

25 (2) An investigation under subsections (c) and (d) of this section that is not
26 completed within 30 days shall be completed within 60 days of receipt of the first notice of
27 the suspected abuse or neglect.

28 **(3) AN INVESTIGATION UNDER SUBSECTIONS (C) AND (D) OF THIS**
29 **SECTION MAY NOT RESULT IN A CRIMINAL PROSECUTION OR A PROCEEDING**
30 **ALLEGING A DELINQUENT ACT UNDER TITLE 3, SUBTITLE 8A OF THE COURTS**
31 **ARTICLE AGAINST THE CHILD WHO IS THE SUBJECT OF THE INVESTIGATION.**

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2019.