



# AMARA LEGAL CENTER

**TITLE:** Written Testimony on the Sexual Assault Victims' Rights Amendment Act; Child Neglect and Sex Trafficking Amendment Act; Victim Services Omnibus Amendment Act

**FROM:** Yvette Butler, Director of Policy and Strategic Partnerships, Amara Legal Center

**COMMITTEE:** Judiciary and Public Safety Committee, Council of the District of Columbia

**HEARING DATE:** June 22, 2017

**POSITION** Support

The Amara Legal Center is a non-profit legal services organization that provides free legal services to survivors of human trafficking and to sex workers in the District of Columbia, as well as in Maryland and Northern Virginia. Amara serves both minors and adults. Through our work with survivors of human trafficking, the Amara Legal Center recognizes the distinct and varied challenges these survivors of human rights abuses face in their attempts to rebuild their lives. Consequently, Amara generally supports the following three bills with the stated concerns.

## **Bill 22-022. Sexual Assault Victims' Rights Amendment Act of 2017**

Amara supports the Sexual Assault Victims' Rights Amendment Act or SAVRAA. This act provides a support system for teen victims of sexual assault.<sup>1</sup> Many teen victims often avoid or delay telling adults about traumatic experiences due to fear, shame, and lack of trust and awareness.<sup>2</sup>

Giving individuals ages 12 to 17 an advocate with limited reporting requirements ensures that young survivors of sexual assault, including survivors of trafficking, can be direct and honest with their advocates. In our experience, once a survivor of trafficking has a trusted advocate, their desire to assist law enforcement and prosecutors is heightened and successful prosecutions are much more likely. However, survivors cannot get to that point of trust without confidentiality.

SAVRAA does not go far enough in exempting advocates from reporting requirements. Attorneys who are also victims' advocates would be completely exempted from mandated reporting.<sup>3</sup> The Council should bestow upon non-attorney advocates a similar exemption from the reporting requirements to continue to reach as many youth as possible and give them the trauma-informed help they need. In doing so, SAVRAA would empower young survivors of sexual assault and trafficking to confide in an advocate who can build the relationship necessary to pursue an effective investigation and prosecution against the perpetrator, if that is what the

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<sup>1</sup> Bill 22-0022 expands the right to a sexual assault victim advocate to persons aged 12 years and older, provides a right to confidentiality for communications between a victim and sexual assault victim advocate, and clarifies the mandatory reporting requirements for sexual assault victim advocates.

<sup>2</sup> See *When a Youth is Victimized*, THE NAT'L CENTER FOR VICTIMS OF CRIME (2012), available at <http://victimsofcrime.org/help-for-crime-victims/get-help-bulletins-for-crime-victims/when-a-youth-is-victimized>.

<sup>3</sup> See D.C. CODE § 4-1321.02 (b) (2012).



survivor wants. Even if a survivor does not wish to pursue a charge against the perpetrator, meeting the survivors where they are and letting them candidly express their needs and concerns will allow the advocate to connect them with the services and resources they need.

During the hearing, the Committee expressed a concern as to the enforceability of SAVRAA on the United States Attorneys' Office ("USAO"). Amara does not believe that SAVRAA would be enforceable against the USAO, but there is significant value to immortalizing these rights in the law. For example, while the federal Crime Victims' Rights Act ("CVRA") and the D.C. Crime Victim Bill of Rights Act ("DC Crime Victim Bill of Rights"), acknowledge rights for victims and ensures that victims are treated with fairness and dignity, these two laws are legally unenforceable. Despite being legally unenforceable, Amara has had good experiences with the USAO upholding the victims' rights enshrined in the DC Crime Victim Bill of Rights.

Importantly, CVRA and the DC Crime Victim Bill of Rights encourage enforcement of victims' rights, promotes compliance with victims' rights laws, and expands participatory rights for victims at critical stages of the criminal justice process.<sup>4</sup> These bills offer a moral obligation to acknowledge and ensure victims' rights and to afford meaningful weight to victims' legal interests. At minimum, SAVRAA would impose a similar moral obligation, with the added bonus of giving real protection to teens who wish to candidly speak with an advocate.

### **Bill 22-0255. Child Neglect and Sex Trafficking Amendment Act of 2017**

The Amara Legal Center generally supports the Child Neglect and Sex Trafficking Amendment Act of 2017. Many parents of trafficking survivors are anxious to protect their children from being trafficked. It is vital that parents and guardians get the support they need and are not automatically punished once it is discovered that their child was a victim of trafficking.

In an age of rapid technological growth, parents are often unaware of what their children are doing online and find it increasingly difficult to monitor such behavior.<sup>5</sup> Many traffickers and pimps use social media and other technology to groom or recruit children to engage in sex work for them. Although pimps prey on children living in poverty or unstable homes, these advances in technology, such as camera phones or social media accounts, aid pimps in manipulating children from all types of homes, even when parents monitor their child's health and safety.<sup>6</sup>

Additionally, pimps and their recruiters attempt to recruit children where parents may not be present such as from local malls, high school and middle schools, on the street, or on buses or trains.<sup>7</sup> Since sometimes even a parent's best attempt to protect his or her child from exploitation

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<sup>4</sup> See 18 U.S.C. § 3771 (6); see also D.C. CODE § 23-1901 (b)(9).

<sup>5</sup> Just 13% of online teens say that their parents are "completely aware" of the full extent of their activities online. Additionally, 60% of online teens say they have created accounts that their parents were unaware of, such as on social media sites for apps they wanted to use. National Cyber Security Alliance, Keeping Up with Generation App: Parent/Teen Online Safety Survey (2016).

[https://staysafeonline.org/download/datasets/19792/Keeping\\_Up\\_With\\_Generation\\_App\\_Findings\\_Summary.pdf](https://staysafeonline.org/download/datasets/19792/Keeping_Up_With_Generation_App_Findings_Summary.pdf)

<sup>6</sup> Flores was a self-proclaimed "upper-middle-class" girl from a caring family who was raped, photographed, and blackmailed and shamed into performing sex acts for her abuser's profit. Mike Celizic, Former Teen Sex Slave Says Trafficking Common, (2009). <http://www.today.com/news/former-teen-sex-slave-says-trafficking-common-2D80556024>

<sup>7</sup> Former District of Columbia police officer, Linwood Barnhill, had pimped out minors. He recruited the girls at malls in southeast DC and promised them modeling jobs, searched for girls at bus stops nearby Jasper Street and Alabama Avenue SE, as well as Minnesota Avenue and Benning Road SE. Associated Press, Ex-D.C. Cop Linwood



can be futile against the trafficker's recruitment and coercion tactics, then the parent should not immediately receive punishment. Instead, parents and guardians who are not complicit in trafficking their children should be given resources and support so they can be a part of their child's healing and future protection.

Furthermore, Amara believes that service providers who serve minors should not be required to report trafficking orchestrated by a non-guardian. The rationale for this consideration is similar to that of the rationale for child advocates under SAVRAA: that we need to meet minors where they are and build a strong rapport to encourage criminal investigation of perpetrators. Minors might not come forward to report trafficking or access vital services, if it means their circumstances will be reported to law enforcement or child protective services. However, when a referral is made, CFSA plays a vital role in providing services to minors and guardians in cases of trafficking by a non-guardian.

### **Bill 22-0266. Victim Services Omnibus Amendment Act of 2017**

Amara generally supports the Victim Services Omnibus and the four parts of the act. Specifically, Amara is very excited to support the Address Confidentiality Program within the Victim Services Omnibus Amendment Act. Sex workers and victims of trafficking face pervasive sexual, psychological, and physical violence at the hands of traffickers or pimps, potential buyers, and even police. This bill allows participants to maintain the secrecy of their home addresses and thus improve their physical safety, protect themselves from former abusers and improve their peace of mind. Amara has worked with multiple clients who have feared for their safety because their information was available in public records.

Amara recommends making several changes to this portion of the Omnibus bill. The bill appears to say that prospective program participants are unable to request placement in the program by themselves and require the help of an advocate to apply. This limits survivors' access to safety and places yet another hurdle in the way of survivors rebuilding their lives.

Additionally, the bill in its current form does not expressly allow emancipated minors to apply for participation in the program. While the general understanding is that emancipated minors are to be treated in a similar manner as legal adults, DC's lack of guidance on emancipated minors could create confusion in implementation and execution of the program.

The bill should also include an avenue for victims' advocates to participate in the address confidentiality program. It is not unheard of for pimps and abusers to threaten anti-trafficking and anti-domestic violence advocates.

Finally, Section 16-5414(e)<sup>8</sup> assesses a fine for any person who knowingly and intentionally obtains or discloses a participant's address. Amara would like to see a specific place that this fine is sent, such as back into the Office of Victim Services and Justice Grants, which would funnel the money back into the address confidentiality program or, preferably, give the money to the victim whose information was disclosed. Consequently, more assistance should be given to a program participant whose information was disclosed. Disclosure of sensitive information such as an address when a victim is seeking to remain safe from an abuser could be deadly. There is no way re-privatize a disclosed address, once it is out. The victim would likely

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Barnhill Jr. Sentenced to 7 years for Pimping Teen Girls (2014). <http://www.nbcwashington.com/news/local/Ex-DC-Cop-to-Be-Sentenced-for-Pimping-Teen-Girls-278629421.html>

<sup>8</sup> This subsection is listed as (e), but this may be a typo and should likely be listed as (c).



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need to move to a new address. A specific avenue for recovering the costs of the new move and activities related to safety planning should be provided for in the bill.

Thank you for the opportunity to provide this testimony.

Sincerely,



Yvette Butler