



**BILL NO:** B24-0075, “Expanding Supports for Crime Victims Amendment Act of 2021”

**COMMITTEE:** Committee on the Judiciary and Public Safety

**HEARING DATE:** May 13, 2021

**POSITION:** Support with Recommendations

Dear Chairperson Alan and Distinguished Members of DC Council’s Committee on the Judiciary & Public Safety,

My name is Carole Bernard and I am the Executive Director of Amara Legal Center. I am submitting this testimony in support of B24-0075, Expanding Supports for Crime Victims Amendment Act of 2021, with recommendations.

Amara Legal Center (“Amara”) provides free trauma-informed legal representation, access to support services, and advocacy for a more equitable legal system for individuals impacted by sex trafficking or involved in sex work in the DC-metro area. Since 2013, Amara has served almost 500 clients. 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 adults and juveniles, who were born and raised in the DC metro area. Amara provides brief legal advice, partial representation, 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 also provides victim-witness advocacy services, criminal defense, and representation in criminal record sealing and expungement cases.

We strongly commend the Council for dedicating their time, energy, and resources to researching and drafting language that will strengthen access to support services for victims of crime. B25-0075 is a strong step in the right direction in ensuring equity in access to victim services. Namely, Amara supports the following provisions of the bill:

1. The bill formally establishes hospital-based violence intervention programs (“HVIP”) and makes communications between victims and staff members of an HVIP confidential so that victims can speak candidly.
2. The bill provides for the specific right for gunshot and stabbing survivors to have members of a hospital-based violence intervention program with them during certain events and procedures at the hospital, including law enforcement interviews conducted at the hospital.
3. The bill provides for crime victim advocates to assist victims of certain serious violent crimes in navigating the complex civil and criminal legal systems.
4. The bill creates a more robust procedure for seeking the disclosure of confidential communications with a domestic violence counselor, human trafficking counselor, sexual assault counselor, member of an HVIP, or crime victim advocate. The new procedure requires that victims be notified of, and given an opportunity to object to, requests to compel disclosure of confidential communications. This privilege will encourage candid communications and victims will feel empowered to seek advice and counsel without fear that statements made to their advocates will be disclosed to other parties.

5. The bill prohibits law enforcement from arresting survivors of sexual assault seeking emergency medical or forensic treatment unless there is an arrest warrant issued for the survivor for allegedly committing a dangerous crime or crime of violence. Even if such a warrant exists, the survivor cannot be arrested until the medical care/treatment is complete.
6. The bill creates a private right of action where survivors of sexual assault can sue for injunctive relief when their rights have been violated.
7. The bill amends the District's criminal code to ensure that any sexual conduct by law enforcement officials with arrestees or detainees is explicitly criminalized. This is especially important for Amara's client population as clients have reported law enforcement have offered clients freedom from custody or not to pursue charges in exchange for sex acts.
8. The bill expands the types of qualifying crimes someone can experience in order to be eligible for Crime Victims Compensation ("CVC"). The bill also provides for the "facts of the crime" to be used when determining CVC eligibility, as opposed to reliance on an offense listed in a police report or criminal case filing.

In developing recommendations for the legislature, victim services should be accessible, comprehensive, and informed by the lived experiences of crime victims. While the legislation as currently drafted will expand access and provide critical support to some victims of crime, Amara has the following recommendations for how to improve the legislation to be more comprehensive, meaningful, and informed by the experiences of its client population:

1. Extend the eligibility for the HIVIP program from gunshot and stabbing survivors to also include survivors of physical assaults. While current law provides trafficking survivors access to victim advocates, few survivors self-identify as a victim of human trafficking. It is Amara's experience that clients do not want to turn on their trafficker or even understand their victimization until obtaining counseling or other services. Additionally, many survivors are not seeking medical attention for an incident of sexual assault or domestic violence, but rather a physical assault from their trafficker,<sup>1</sup> who may or may not be an intimate partner, or sex purchaser.
2. Extend eligibility of crime victim advocates who would provide advocacy to survivors outside the hospital setting to all types of victimization. As stated above, many people do not self-identify as victims of the enumerated violent crimes but are still nonetheless crime victims in need of support services. Additionally, our clients are often reluctant to report crimes to law enforcement because of previous arrests due to their victimization and distrust in police due to historic biases. The creation of this role would allow for victims to have an advocate with them when being interviewed by law enforcement and ensure that all crime victim advocates have the same confidentiality and privilege requirements, realizing the legislative intent of encouraging rapport and candid communications.
3. Extend the prohibition on executing warrants for arrest to other types of crime victims accessing emergency medical treatment or forensic care so that they can receive treatment without law enforcement interference. Many of our clients have known and unknown warrants out for their arrest due to their victimization and the fact that their trafficker

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<sup>1</sup> DC Code defines intimate partner as a person "(A) to whom the offender is or was married; (B) with whom the offender is or was in a domestic partnership; (C) with whom the offender has a child in common; or (D) with whom the offender is, was, or was seeking to be in a romantic, dating, or sexual relationship. DC Code Sec. 16-1001.

forced them to commit certain criminal acts (e.g., prostitution-related offenses, theft, fraud). While the bill, as currently written, prohibits sexual assault victims from being arrested, if a victim does not self-identify or is seeking treatment for an assault or other injury or illness, they may be discouraged from seeking medical attention if they know they can be arrested at the hospital. Additionally, the bill language should be amended to prohibit arrests by immigration authorities in addition to law enforcement.

4. While it is crucial for survivors to have accountability mechanisms when their rights are violated, such relief should be expanded to victims of any type of crime, not just sexual assault survivors. It is inconsistent logic to acknowledge that certain victims of crime are entitled to this relief but not others.
5. While the elimination of the requirement for law enforcement interaction as a condition for receiving CVC will increase the number of crime victims eligible to receive CVC, the Council should consider additional alternatives for eligibility that do not require interaction with law enforcement, the court, or medical-forensic examiners. Lack of trust due to historic biases towards certain communities that are present in the systems crime victims are required to interact with to qualify for CVC will inherently result in gaps in access to many, particularly Black, Brown, and immigrant communities. Allowing victim services providers<sup>2</sup> to certify individuals as victims of crime will work to close this gap and ensure that more crime victims are able to receive CVC.

Thank you for your leadership and for considering the above amendments as a way to make the legislation more effective in expanding access to support services for victims of crime in the District. We would welcome any questions or feedback regarding the above and look forward to working with you in finalizing this legislation.

Sincerely,



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<sup>2</sup> Such as a “Covered Employee” pursuant to DC’s Address Confidentiality Program, DC Law 22-118.