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Serving Ohio's 11th State Senate District

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S.B. 13: The Protect Trafficked Minors Act Sponsor Testimony

Chairman Lang, Vice Chair Plummer, Ranking Member Leland, and my esteemed colleagues on the House Criminal Justice Committee, thank you for giving me the opportunity to provide sponsor testimony on Senate Bill 13, the Protect Trafficked Minors Act.

The Protect Trafficked Minors Act is a values statement. It demonstrates that lawmakers in Ohio agree: all minors should be protected from the horrors of human trafficking. Our children need to be rescued, not arrested, and it is time we catch up with the rest of the country. The provisions within this bill will move Ohio towards reducing demand for commercial sexual exploitation of women and girls, and increasingly men and boys.

Right now, for trafficked minors under 16, prosecutors do not need to prove the elements of compulsion or that the trafficker was in a position of trust. This law reflects our values and understanding that minors being prostituted are victims. This is different for minors' victims who are 16 or 17.

Ohio is the only state where prosecutors must prove a trafficker used force, fraud or coercion when trafficking a minor aged 16 or 17.¹ Unless the trafficker is someone in a position of trust, like a parent or teacher, prosecutors must demonstrate compulsion in order to convict an offender for trafficking a minor who is 16 or 17.

The Protect Trafficked Minors Act removes this distinction between minor victims and eliminates the current two-tiered approach. By removing these extra elements for 16 and 17 year olds, we give the same protections to all minors, and mirror Federal penalties for trafficking. In doing so, we allow local law enforcement and prosecutors to use their resources to protect Ohio's children.

This law does not create a new class of offenders. It holds those engaging in human trafficking of minors to the same standard.

¹ The Shared Hope International National State Law survey of 2018 was published August, 1, 2018 and showed two states, Ohio and New York as being the only states to require force for minors. On August 15, 2018, New York governor signed a bill to remove this requirement. See SHARED HOPE, PROTECTED INNOCENCE CHALLENGE, NATIONAL STATE LAW SURVEY: FORCE, FRAUD, OR COERCION http://sharedhope.org/PICframe8/statesurveycharts/NSL_Survey_ForceFraudorCoercion.pdf ; See also N.Y. Penal Law § 230.34-A (eff. Nov. 13, 2018).

The concern that consensual sexual partners will be charged for human trafficking has been addressed in this bill by expanding the definition. This amendment was offered by the chair of the Senate Judiciary committee, Senator John Eklund, and was unanimously accepted by the committee. It was our unified belief that this clarification would alleviate any concerns raised in the last General Assembly. Ohio's trafficking law targets those who recruit and exploit minors for monetary gain. The sexual act alone is not enough to convict. In fact, sec. 2095.32 explicitly states "proof that the defendant engaged in sexual activity" (whether or not it was for hire) would not violate this section². It further explains that the "sexual activity for hire" must be with "one or more third parties" and defines the term third party. The law requires a minimum of three people for prosecution: the trafficker, the victim, and a person buying the sexual activity for hire. In the aforementioned scenario involving consensual partners, there is no third party.

This bill is simply not controversial. It exists in 49 other states, states that are able to leverage local law enforcement to help their children who are being trafficked. Senate Bill 13 has bipartisan support. It passed the Ohio Senate unanimously earlier this year and also overwhelmingly passed the Ohio House in the 132nd General Assembly as HB 461.

That is why numerous law enforcement officers, attorneys, and others support this legislation. They know many traffickers are not receiving penalties equal to their crimes. Detective Aaron Dennis of the Columbus Police Department stated that since 2012, of the juvenile cases investigated by the Central Ohio Human Trafficking Task Force, 16 and 17 year olds accounted for 90% of the victims.

Furthermore, in his professional opinion, 16 and 17 year olds were "purposely being targeted" by traffickers "due to gaps and lack of protections in the current Ohio Trafficking Persons statute, R.C. § 2905.32." That's because pimps and traffickers know our laws. They are planning their criminal enterprises around them.

Prosecutors are being held back by this arbitrary distinction in the law. In order to adequately prosecute these crimes, they must either be brought in Federal Court, or the traffickers must be charged with lesser penalties. Because the states surrounding Ohio have tougher penalties for those who traffic 16 and 17 year olds, Ohio is a more welcoming environment to traffickers.

It is important that Ohio do what it can to end demand and create exit strategies for victims. Our focus needs to be on supporting survivors and furthering these types of opportunities. We need the Protect Trafficked Minors Act and to put our children who are victimized by human trafficking, first. This victim-centered approach provides them with support, minimizes their trauma, and empowers them to participate in the criminal justice process while lowering the probability they will be trafficked again. Our children are our most vulnerable population. They need to be rescued from the horrors of human trafficking.

² RC 2905.32 (C)

Thank you for the opportunity to provide testimony on this important bill. I am happy to answer any questions you may have at this time.