



Office of the Ohio Public Defender

Timothy Young, State Public Defender

Testimony in Support of SB13 Applying Human Trafficking Laws to All Victims Under 18 Sponsors Senator Fedor

Chairman Eklund, Vice Chair Manning, Ranking Member Thomas, and members of the Senator Judiciary Committee, thank you for the opportunity to testify on behalf of the Ohio Public Defender as a proponent of Senate Bill 13.

Last week, I had the privilege of attending the 10th Annual Human Trafficking Awareness Day hosted by Representative Galonski and Senator Fedor. The event was as educational and informative as it was shocking and emotional. The most inspirational part was hearing from the survivors of human trafficking. Their bravery was awe-inspiring as they talked about being sold for sex by family members, foster parents, or other trusted adults. They explained how pimps use everything from drugs, to force, to feigned love to coerce, control, and manipulate young vulnerable children. Senate Bill 13 is the next necessary step in Ohio's war against human trafficking.

As this committee knows, the bill lowers the legal standard for a child to receive a guardian ad litem (GAL). Under current law, the court is to appoint a GAL if the charge is prostitution-related or the court has reason to believe the child is a victim of trafficking and the charged offense is related to that victimization. The bill removes the requirement that the court find that charged offense is related to the trafficking. This change will make GALs available to more victims.

SB13 enables victims of trafficking to receive a defense attorney and GAL, who will serve different functions for the case. Pursuant to Ohio Superintendence Rule 48, GALs are

required to perform important tasks such as interviewing the child, visiting the child's residence, interviewing other significant individuals in the child's life, and reviewing school, medical, mental health, and criminal records. Further, the GAL makes recommendations to the court based on the child's "best interest." Defense attorneys, on the other hand, provide representation, legal advice, and expertise. Defense attorneys defend the child against the charges and are bound by the child's wishes for their case. Having a GAL provides an extra layer of protection for the child's interest and rehabilitation.

The bill also removes the distinction among minors so that the elements of "trafficking in persons" are applicable to all minor victims. Under the bill, the state will no longer need to prove that the offender was in a place of authority or control over the child by nature of their relationship or employment when the victim is sixteen or seventeen-years-old. To quote Chief Justice O'Connor "minors are less mature and responsible than adults...they are lacking in experience, perspective, and judgment, and...they are more vulnerable and susceptible...than are adults."¹ As the members of this committee have heard in testimony many times, the human brain is not fully developed until the individual reaches their mid-twenties.² Biologically there is little difference between a sixteen-year-old and a fifteen-year-old. The stricter requirements for prosecution when the victim is older is arbitrary. The distinction assumes that a sixteen or seventeen-year-old may be a consensual participant in their own repeated selling and rape and ignores the fact that pimps, including those who did not previously know the victim, are excellent at grooming, manipulating, and controlling vulnerable children. In Ohio,

¹ *State v. Aalim*, 2017-Ohio-2956, ¶109 (O'Connor, dissenting), quoting *State v. Long*, 138 Ohio St.3d 478, ¶133 (O'Connor, concurring).

² Nancy Guberti, M.S., C.N., *5 Stages of Human Brain Development*, <http://nancyguberti.com/5-stages-of-human-brain-development/>



we have decided everyone under eighteen is a minor, and as a minor, they all deserve equal protection. When you hear victims talk about the skillful manipulation of a pimp, including plying them with drugs, you quickly realize that sixteen and seventeen-year-olds need the same protections as younger minors.

I do want to briefly mention that OPD has reached out to Senator Fedor regarding our concern that the bill removes the child's ability to consent or refuse to participate in safe harbor diversion. While most kids chose to take advantage of this opportunity, OPD feels it important to give them the autonomy to make that decision for themselves. We are currently working with Senator Fedor regarding our suggestion.

It may sound odd to hear the Office of the Ohio Public Defender testify in support of bill that will make it easier to prosecute some individuals. However, the benefits of SB13 far outweigh any concerns we may have in that regard. Human trafficking is a travesty and occurs far too frequently. While Ohio has made great strides, SB13 is important legislation for providing these victims with necessary protections under the law. Thank you for the opportunity to submit written testimony.



