

“Oversight of Federal Efforts to Combat Human Trafficking”

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**TESTIMONY TO THE U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND
SECURITY ON “OVERSIGHT OF FEDERAL EFFORTS TO
COMBAT HUMAN TRAFFICKING”**

APRIL 27, 2022

Dear Chairwoman Jackson Lee, Ranking Member Biggs, and Members of the Subcommittee on Crime, Terrorism, and Homeland Security:

Thank you for providing us with the opportunity to submit this written testimony for the official record before the committee on one of the most pressing moral issues of our time. My name is James Dold. I am the CEO and Founder of Human Rights for Kids, a Washington, D.C.-based non-profit organization dedicated to the promotion and protection of the human rights of children.

Human Rights for Kids works to inform the way the nation understands Adverse Childhood Experiences (ACEs) from a human rights perspective, to better educate the public and policymaker's understanding of the relationship between early childhood trauma and negative life outcomes. We use an integrated, multi-faceted approach which consists of research & public education, coalition building & grassroots mobilization, and policy advocacy & strategic litigation to advance critical human rights on behalf of children in the United States. Human Rights for Kids is unique in that our Board of Directors is comprised mostly of current and former state legislators from around the country, including 6 Republicans and 5 Democrats from states as diverse as Arkansas, West Virginia, Utah, Nevada, Maryland, Vermont, Oklahoma, and Hawaii.

Our legislator-board members have championed various human rights issues impacting children in their home states, including efforts to combat child trafficking and abuse, as well as reforming the way in which children who have experienced trauma are treated in the criminal legal system. It is quite often that these two issues overlap which is why they are a central focus of our work.

Throughout my career I have worked to advance human rights protection for child trafficking victims, having written more than a dozen anti-trafficking laws myself, and having served as an adviser to the Uniform Law Commission during the development of the Prevention of and

Remedies for Human Trafficking Act that was adopted in 2013.¹ I have worked closely with Republican and Democrat lawmakers across the country and in the U.S. Congress on measures to protect child victims of trafficking, abuse, and neglect in every system they come into contact with.

This issue is also personal for me, as I am a survivor of child sexual abuse and child labor trafficking myself. When I was 13 years old I was abused and exploited by a volunteer parent in my Boy Scout Troop.² I was groomed by this individual during the summer after my seventh grade year in middle school. The sexual abuse began later that fall and continued through my sophomore year in high school. During that time, I developed what clinicians call a traumatic bond with my abuser, which is where a dysfunctional attachment occurs in the presence of danger, shame, or exploitation. Trauma bonding often includes a pattern of seduction or grooming, deception or betrayal and some form of danger being present. Traumatic bonds result in misplaced loyalty as found in situations of domestic violence, exploitative cults, abusive families, or in hostage or kidnapping situations.

My abuser created a cycle of physical, emotional, and sexual abuse which was exacerbated by the inherent power imbalance between a young teenage boy and a woman in her late twenties. With the promise of love and protection, I was convinced to run away from my home and to live instead with her family. That is when, however, the abuse and exploitation worsened. The traumatic bond I developed in the face of persistent and repeated physical, emotional, and sexual abuse left me willing to do anything my abuser asked of me. She exploited this vulnerability and turned me into a live-in domestic servant where I cooked, cleaned, and took care of younger children in the house, while continuing to live through the cycle of abuse, trauma, and violence she had created to control me.

My personal experiences as a survivor, as well as my professional experiences as an advocate and human rights lawyer have given me a unique perspective into child trafficking in the United States, including the most glaring gaps in our national response to this tragic epidemic. It is my intention for my testimony to illuminate several issues impacting child trafficking victims that desperately require Congressional attention and action.

The Criminalization of Child Sex Trafficking Victims

When a child is a victim of sex trafficking, they are forced or exploited into committing an underlying criminal offense. That is, prostitution or solicitation for prostitution. Despite the fact that federal law recognizes all children exploited in prostitution as victims of sex trafficking, many are still arrested and prosecuted across the country.

Between 2010 and 2020, more than 6,200 children were arrested for prostitution and commercialized vice in the United States.³ Approximately 690 of these children were 14 years of age or younger.⁴ In theory, the federal government's recognition of children exploited in

¹ <https://www.uniformlaws.org/committees/community-home?CommunityKey=0c541796-903d-450a-bb0e-8485650bf360>

² https://link.springer.com/chapter/10.1007/978-3-319-47824-1_3

³ OJJDP Statistical Briefing Book,

https://www.ojjdp.gov/ojstatbb/crime/ucr.asp?table_in=1&selYrs=2010&rdoGroups=1&rdoData=c

⁴ *Id.*

prostitution as victims should pre-empt conflicting state laws. It should have also prompted states to pass reforms protecting these vulnerable children from prosecution. Yet, only 27 states and the District of Columbia have removed all criminal liability for children exploited in prostitution.⁵

This patchwork of legislative protections has prompted State Supreme Courts to begin grappling with the issue of whether or not a child can be prosecuted as a result of their own victimization. In 2010, the Texas Supreme Court became the first in the nation to hold that children under 14 lack capacity to understand the significance of agreeing to sex, cannot legally consent to sex, and cannot be tried for prostitution.⁶ But just four years later, the California Court of Appeals ruled that children between the ages of 14 and 17 are “legally able to form the requisite intent to engage in an act of prostitution,” and can be prosecuted accordingly.⁷ One of the most disturbing aspects of this particular case, was how prosecutors portrayed the 15 year old minor victim, which prompted this statement in a footnote by the court:

“We feel compelled to admonish respondent for the many comments made throughout its brief to the effect that M.V. is a “victim of her own dangerous willfulness” and that she “repeatedly exposed herself to being a sexually exploited minor.” These statements seriously misapprehend the nature of sexual exploitation and are not well taken. As both state and federal law make clear, a minor's status as a sexually exploited youth operates independently of any notion that a minor has somehow consented to her own victimization.”⁸

Despite the recognition by the court of the child’s status as a victim under both state and federal law, the court nevertheless concluded that she could be prosecuted and upheld the disposition in her case.⁹ Without sufficient protections in place, child victims across the country like M.V. remain vulnerable to arrest and prosecution for a crime they cannot legally consent to.

Many Child Sex Trafficking Victims Are Also Victims of Labor Trafficking Where the Underlying “Labor” is Forced Criminality

Too often in the United States we embrace a myopic view of human trafficking where we sort victims under the label of either labor or sex trafficking; but the complicated reality is that many sex trafficking victims are also victims of labor trafficking, which stems from them being forced by their traffickers to commit additional crimes, aside from prostitution.

The crimes that child sex trafficking victims are forced to commit are varied, but can include both non-violent, as well as violent offenses. This raises a myriad of issues at both the state and federal level about how the legal system should proceed in such cases, particularly when violent crimes are involved. The simpler cases often involve non-violent offenses such as drug possession, drug trafficking, loitering, theft, possession of stolen property, etc., in which child victims are forced by their traffickers to engage in. The Uniform Law Commission and the American Bar Association, along with several states, have embraced three unique protections for these dual victims of child sex and labor trafficking.

⁵ <https://reportcards.sharedhope.org/wp-content/uploads/2022/01/SafeHarborLawsMapRevD.pdf>

⁶ *In re B.W.*, 313 S.W.3d 818, 824, 826 (Tex. 2010).

⁷ *In re M.V.*, 225 Cal.App.4th 1495, 1526 (Cal. Ct. App. 2014).

⁸ *Id.* at 1518 (footnote 16).

⁹ *Id.* at 1526.

The first is colloquially known as “safe harbor” and is focused on granting complete immunity from criminal liability to children exploited in prostitution, as well as for all other “non-violent” offenses a child may be forced to commit. The Uniform Law Commission explains that, “immunity is provided because minor victims of human trafficking should not be viewed as legally capable of consenting to their own commercial sexual exploitation” and that “the real culpability for the offenses of the minor resides with the coercing or exploiting party.”¹⁰ (emphasis added). The second is known as “affirmative defense” and applies to “prostitution” or “other nonviolent offenses,” which victims can raise as a bar to their prosecution.¹¹ The third is a post-conviction relief mechanism, commonly referred to as Vacatur Laws, which “permits victims to file a motion to vacate convictions for prostitution or other nonviolent offenses which arose as a direct result of being a human-trafficking victim.”¹² In New York, which was the first state to adopt Vacatur in 2010, courts have removed convictions for prostitution, as well as for other nonviolent offenses such as criminal trespass and drug possession.¹³ But these protections have their shortcomings, particularly for child victims accused of committing violent offenses as a result of being trafficked.

Child Sex Trafficking Victims Are Also Forced to Commit Violent Crimes

“Labor or services” as defined under 18 U.S.C. §1589 and §1590, includes activities that are both legal and illegal under the law. Yet, when it comes to child sex and labor trafficking victims who are forced to commit violent offenses, they are left unprotected by the existing statutory framework at both the federal and state levels.

Last year, for example, a California judge finally granted the release of Keiana Aldrich who had been sentenced to nearly 10 years in prison for kidnapping a man who was attempting to “buy” sex from her and create “child pornography” when she was just 17 years old.¹⁴ Despite acting at the behest of her trafficker who pulled the gun on the “buyer” and forced him into the trunk of the car, Keiana was still prosecuted as an “adult” and given a lengthy prison sentence.¹⁵

Another teenage girl, Zephaniah “Zephi” Trevino, is currently being prosecuted for her alleged role in an attempted robbery-turned murder that was carried out by her trafficker in 2019.¹⁶ At 16 years old, Zephi’s trafficker had arranged for 24-year-old Carlos Arajeni-Arriaza Morillo to purchase her for sex at a local apartment complex in Dallas.¹⁷ Prosecutors acknowledge that Zephi’s was not the “trigger person” and that her role was that of “luring” the victim to the apartment by promising sex.¹⁸ Instead of being treated as a victim of both sex and labor

¹⁰ See Uniform Act, Section 15, <https://www.uniformlaws.org/committees/community-home?CommunityKey=0c541796-903d-450a-bb0e-8485650bf360>

¹¹ *Id.*, Section 16.

¹² *Id.*, Section 17.

¹³ See *People v. G.M.*, 922 N.Y.S.2d 761, 761–62 (Crim. Ct. 2011).

¹⁴ “How California is failing vulnerable victims of systemic racism,” Maggy Krell & Maheen Kaleem, October 28, 2020 (<https://www.washingtonpost.com/opinions/2020/10/28/how-california-is-failing-vulnerable-victims-systemic-racism/>).

¹⁵ *Id.*

¹⁶ #SheWas16 Trends on Twitter Over Murder Case Against Zephi Trevino, Alleged Trafficking Victim, Aila Slicco, April 21, 2021 (<https://www.newsweek.com/shewas16-trends-twitter-over-murder-case-against-zephi-trevino-alleged-trafficking-victim-1584370>).

¹⁷ *Id.*

¹⁸ *Id.*

trafficking, who was forced to help her trafficker rob a would-be buyer, Zephi is being prosecuted as an adult for an offense prosecutors argue she willingly participated in.

Another Texas teenager, 15-year-old Jordan Hampton, is also awaiting trial for a robbery-turned-murder that his trafficker, 24-year-old Breez Collier, forced him to commit alongside his 18-year-old sister, both of whom are victims of child sex trafficking.¹⁹ The victim in their case, 24-year-old Shareef Raekwon Ali-Barnett, had responded to an online advertisement for commercial sex at the time of the attempted robbery.²⁰ Despite being a victim of child sex trafficking and being forced into committing the underlying criminal offense, Jordan is being prosecuted as an adult where he faces a potential life sentence.

Child trafficking victims who participate in or commit violent offenses as a result of their victimization are often subject to harsh treatment and punishment in the criminal legal system. Many are transferred to the jurisdiction of adult courts where they receive the same mandatory sentences than an adult would, including life imprisonment. Barbara Hernandez was just 16 years old when she was sentenced to life without the possibility of parole in Michigan.²¹ Barbara's trafficker used her as "bait" to lure 28-year-old James Cotaling to an area where he had planned to steal his car, but instead ended up killing him.²² Barbara, like so many sex trafficking victims, was forced by her trafficker to assist in the commission of a crime – a form of labor trafficking.

Overlooking the fact that sex trafficking victims who are forced to commit crimes are also victims of labor trafficking is a common occurrence in the United States. It is perhaps most prevalent in cases involving "bottom girls," who are forced to commit acts of sex trafficking themselves in furtherance of their pimp or trafficker's operation. Bottoms engage in a variety of activities that can range from recruiting and obtaining other victims, to using violence and threats against victims themselves to maintain their trafficker's operation. Bottoms are the quintessential example of dual sex and labor trafficking victims. They are forced by their traffickers into the commercial sex trade and are also forced to help run their trafficker's operation by compelling other victims into the commercial sex trade as well.

Instead of seeing bottom girls as victims of sex trafficking and offenders of sex trafficking, the U.S. anti-trafficking apparatus should treat these victims for what they truly are: victims of sex and labor trafficking, where the underlying labor is committing sex trafficking offenses in furtherance of their trafficker's operation.

This is particularly important for child trafficking victims. No child should be prosecuted for a crime they commit as a result of being trafficked. The criminal responsibility for every underlying offense a child trafficking victim commits rests solely with the trafficker themselves and not with the child.

¹⁹ The state of Ohio vs. a sex-trafficked teenager, Jessica Contrera, June 1, 2021, (<https://www.washingtonpost.com/dc-md-va/interactive/2021/child-sex-trafficking-alexis-martin-ohio/>).

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

Child Sex Trafficking Victims Who Commit Crimes Against Their Traffickers

Obtaining a minor for the purposes of engaging in a commercial sex act is a violation of 18 U.S.C. §1591. That is to say that individuals who attempt to “purchase” a child, like in the case examples above, are in fact complicit in furthering child sex trafficking. This is relevant because it speaks directly to the various forms of exploitation that these child victims were experiencing at the hands of their traffickers, as well as the men who were attempting to rape and exploit them. However, rarely is this complexity taken into account by prosecutors and judges when the full weight of the criminal justice system is brought down upon these children.

Perhaps nowhere are victims of child trafficking treated worse than in cases where they commit violent crimes against their traffickers and rapists. In 1994, at the age of 16, Sara Kruzan killed George Gilbert Howard, a man in his thirties who first raped Sara when she was an 11-year-old elementary school student.²³ Howard forced Sara into prostitution when she turned thirteen.²⁴ For three brutal years he maintained Sara in his sex trafficking operation through the use of force and threats of force. Sara was tried as an adult and sentenced to life without the possibility of parole, plus 4 years.²⁵ The sentencing court ordered her to pay \$10,000 in victim restitution and told the young teenager that she “lacked moral scruples.” Sara’s case came into the national spotlight in 2010, prompting then-Governor Schwarzenegger to commute her sentence. Her case also brought into focus the cases of similarly situated child trafficking victims who, like her, had committed violent offenses against the men who had raped and trafficked them.

In 2020, child sex trafficking survivor Patrice Smith was released under the Domestic Violence Survivors Justice Act in New York after serving more than 20 years in prison. Like Sara, Patrice was convicted of killing a man who had threatened her life and who had been exploiting her for commercial sex for more than a year. A year before that, Cyntoia Brown was released after Governor Haslam of Tennessee commuted her life sentence. Cyntoia had killed a man who was alleged to have taken her back to his home to rape the then-16-year-old sex trafficking victim. Fifteen-year-old Alexis Martin was also given a life sentence in Ohio for her participation in the botched-robbery of her sex trafficker. Despite the fact that at the time of the crime the victim’s brother was committing a sex offense against Alexis in the next room, prosecutors still decided to charge her with first degree murder.

In Pennsylvania, fourteen-year-old Ajahnae Smaugh is awaiting trial after killing a man who repeatedly raped and purchased her for sex in 2019. Similarly, Chrystul Kizer, who killed the man who raped and trafficked her is still awaiting trial in Kenosha, Wisconsin. Earlier this year, the Wisconsin Supreme Court heard oral arguments on whether or not the affirmative defense statute for human trafficking victims extends to cases involving homicide.²⁶ Despite efforts by the prosecutor to downplay the significance of Chrystul being raped and trafficked by the man she killed, the Wisconsin Supreme Court was having none of it. Justice Jill Karofsky admonished

²³ Congress Needs to Pass Sara’s Law so the next Sara Kruzan is met with empathy, fairness, Sara Kruzan, April 16, 2019, (<https://thehill.com/blogs/congress-blog/politics/439011-congress-needs-to-pass-saras-law-so-the-next-sara-kruzan-is-met/>)

²⁴ *Id.*

²⁵ *Id.*

²⁶ Chrystul Kizer, the Wisconsin Supreme Court and a watershed sex-trafficking case, Jessica Contrera, March 4, 2022 (<https://www.washingtonpost.com/dc-md-va/2022/03/04/chrystul-kizer-sex-trafficking-wisconsin-supreme-court/>).

the state: “The constitution says that we need to treat victims with dignity and respect. And part of that is acknowledging what actually happened to them, and Ms. Kizer undeniably here was a victim of human trafficking.”²⁷

Sadly, our criminal legal system’s sympathy, respect, and care for child trafficking victims ends at the point when we criminalize them for acting out as a result of their own victimization. The reasons why sexually abused or trafficked children may lash out against their offenders can be understood by examining psychological research. According to psychologist Dr. Michael Welner, “...a skillful abuser, gets into the child’s DNA and becomes a part of the child, and the child can’t cast him off regardless of the age.” Grooming leads to traumatic bonding and this phenomenon, coupled with the fact that children’s brains are not fully developed, prevent them from understanding the consequences of their actions as it relates to individuals who have committed severe abuse against them. For some children who suffer from repeated and brutal victimization, they do not understand that they could be incarcerated for an action that they believe is self-defense against their abuser.

While psychological research shows that children who have been victimized have real feelings of danger triggered by their abusers, the law does not always recognize this under the theory of self-defense. A self-defense claim is usually valid in the law only when the individual feels that “the danger of being killed or suffering serious bodily harm is imminent” and the use of force was not “unreasonable and excessive.” Many child trafficking victims are not always in “imminent danger” under the legal definition when they commit crimes against their traffickers. Sometimes these crimes are premeditated on the part of the child victim. Nevertheless, sound public policy should dictate that children who commit crimes against their abusers are provided with treatment and services, not criminal punishment.

President Trump’s former U.S. Attorney for the Eastern District of Tennessee, Doug Overbey (R-TN), and elected District Attorney, George Gascon (D-CA), articulated all of these issues well in their bipartisan Op-Ed last year, when they wrote:

“Several states . . . have sentenced child sex trafficking victims to life imprisonment, without regard for the mitigating circumstances surrounding their actions. Injustices against children like this are far too common. If we care about child victims of abuse and neglect, we must care about and change the way we treat children in our criminal legal system.”²⁸

Gang-Involved Youth Are Victims of Forced Criminality & Child Labor Trafficking

The U.N. Committee on the Rights of the Child published General Comment 24 in 2019, where it verified numerous cases of recruitment and exploitation of children by non-State armed groups, in conflict and non-conflict areas, including in children’s countries of origin. Under the control of such groups, the Committee noted that these children can become victims of several human rights violations, including being used in hostilities, trafficking, sexual exploitation, child marriage, or being used to transport or sale drugs. For the most part, the U.S. anti-trafficking apparatus has not examined gang-involved youth within our borders to determine the extent of

²⁷ *Id.*

²⁸ Lawmakers Cannot Ignore the Victimization of Children in the Justice System, Douglas Overbey and George Gascon, November 4, 2021, (<https://www.newsweek.com/lawmakers-cannot-ignore-victimization-children-justice-system-opinion-1644726>).

the problem in the U.S. or how these children meet the criteria for being victims of human trafficking.

In some instances, children who have been forced to commit crimes by gangs have been viewed as human trafficking victims. Most notably children from Central and South America, who, under threat of serious harm from armed gangs and against their will, traffic drugs across the U.S.-Mexico border. However, there have not been many investigations of forced criminality or labor trafficking of children in gangs in the United States.

Yet, there are children demonized as inner-city “gang-members” who commit drug trafficking, assault, battery, carjacking, and robbery who meet the legal definition of labor trafficking victims. These youths have much more in common with children in “armed conflict” zones than we care to admit. And many of them, like most trafficking victims who are unaware of their exploitation, would never describe themselves as “victims.”

One example, is Xavier McElrath-Bey who joined a neighborhood gang in Chicago, Illinois, when he was 11 years old. He joined the gang to seek out love, affection, and attention that he wasn’t receiving at home. He lived in dire poverty in one of the worst neighborhoods in America where his alcoholic-step father routinely beat him, his siblings, and their mother. The gang, which was run by a 27-year-old man, offered 11-year-old Xavier the most basic and fundamentally of human needs – protection, affection, and belonging. From there, Xavier carried out orders given to him by the 27 year-old. Any questioning of the orders would be met with punishment, commonly referred to as a “violation.” A violation is often physical violence as a form of punishment for wrongdoing, such as not following orders.

It became a way of life until he received a lengthy prison sentence for his involvement in a murder ordered and carried out by his gang leader. On the night of the murder, Xavier was posted as a look-out to warn if rival gang members were venturing into their territory. Although he did not commit the murder himself, nor did he plan to kill anyone, he was nevertheless charged as an adult and given two 25 year sentences when he was just 13 years old. After the crime occurred, Xavier sobbed himself to sleep and prayed to God for forgiveness.

Ironically, the 27-year-old gang leader who ran the gang of elementary and middle school children beat the charges in the case, despite being the actual killer. Similar dynamics play out across the country.

According to the National Gang Center, there are approximately 30,000 gangs and 850,000 gang members across the United States.²⁹ Roughly two-thirds of those members are adults and one-third are children.³⁰ This equates to approximately 283,000 children in the U.S.³¹ The power imbalance in the social hierarchy of gang leadership between children and adults, as well as the fact that gangs use violence and threat of violence as a means of control, especially when it

²⁹ <https://nationalgangcenter.ojp.gov/about/faq#faq-4-how-extensive-is-the-current-gang-problem>

³⁰ *Id.*

³¹ *Id.*

comes to carrying out orders,³² reveals an obvious truth: street gang leadership operates in a very similar way to street level pimps and other human traffickers in the United States.

Xavier, and children like him, who are recruited into gangs and are forced to commit crimes under threat of severe violence and retribution are victims of child labor trafficking. These children have much more in common with child soldiers and children recruited in armed militias in developing nations than previously realized.

Children who have been victims of labor or sex trafficking can be a very difficult victim population to work with. They have experienced severe trauma of repeated physical and/or sexual violence. It is paramount for Congress to understand that many child trafficking survivors are forced to commit crimes during their victimization. This can include prostitution, as well as more serious crimes like robbery, trafficking, and even homicide.

The criminal justice system is woefully ill-equipped to handle most of these cases, as too many child victims are still seen as criminals instead of as victims. The law enforcement and prosecutorial responses to crimes involving youth need to focus more on investigating the relationship between child and adult co-defendants. For example, examining age discrepancies between defendants and the nature of the adult-child association would be useful in determining if red flag indicators of human trafficking exist. When a child has been forced to commit crimes every effort should be made to treat them as a victim, instead of prosecuting them as a criminal or delinquent offender. If public safety concerns are implicated, at the very least these children should be kept in the juvenile justice system and not subject to prosecution as adults.

What Congress Can Do

(1) **PASS H.R. 2858** - Republican Congressman Bruce Westerman (R-AR) and Democratic Congresswoman Karen Bass (D-CA) have introduced Sara's Law and the Unfair Sentencing of Minors Act (H.R. 2858), named after survivor Sara Kruzan, which creates the following protections for child trafficking victims:

- Allows judges to deviate from mandatory minimums and suspend any sentence down to three years for child victims who commit offenses against their traffickers or abusers;
- Requires judges to consider the differences between child and adult offenders, and allows courts to deviate up to 35% away from mandatory minimums when sentencing children who have been convicted as adults; and
- Allows individuals who have been given lengthy prison sentences for crimes committed as children to have their sentences reviewed after 20 years.

This legislation has the full support of the National District Attorneys Association and has been incorporated into S. 3946, the Abolishing Human Trafficking Reauthorization Act of 2022, by Senator Cornyn (R-TX) and Senator Klobuchar (D-MN) in the U.S. Senate.

³² 15 Latin King Gang Members Brutally Jump A Fellow Gang Member As Punishment For Failing To Shoot A Rival, uploaded June 1, 2018 (video link: <https://worldstarhiphop.com/videos/wshh6L4kT9MELXGidrBE/15-latin-king-gang-members-brutally-jump-a-fellow-gang-member-as-punishment-for-failing-to-shoot-a-rival-rewind-clip>).

- (2) **PASS H.R. 2908** - Congresswoman Karen Bass (D-CA) has introduced H.R. 2908, the Childhood Offenders Rehabilitation and Safety Act, which accomplishes the following:
- Establishes a grant block program for treatment and services for children under 12 and child victims of commercial sexual exploitation;
 - Establishes a minimum age of 12 for criminal culpability for children;
 - Increases the minimum age for a child to be tried as an adult from 13 to 16;
 - Eliminates the felony murder rule for children;
 - Prohibits the placement of children in adult jails or prisons; and
 - Require data collection on youth who come into the federal criminal justice system
- (3) **Affirmative Defense for All Child Trafficking Victims or Prohibit Child Trafficking Victims from Being Tried As Adults** – Enact legislation to ensure that child victims of labor and sex trafficking who commit criminal offenses as a result of being trafficked are protected from criminal liability; or, at a minimum, ensure that these children are not prosecuted as adults and remain in the juvenile justice system.
- (4) **Prioritize Prosecution of Criminal Gangs Engaged in Labor Trafficking of Minors Through Forced Criminality** – Incentivize law enforcement agencies to prosecute older adult gang leaders who recruit young children into gangs and force them to commit crimes through the use of violence and threat of violence. At the same time, ensure that minor victims of forced criminality are treated as victims rather than as offenders.
- (5) **Withhold Federal Funding from States that Prosecute Children for Prostitution** – It is well past time for U.S. States to stop prosecuting children for prostitution-related offenses. Congress should make all federal anti-human trafficking funding for states contingent on ending the practice of arresting and prosecuting children for prostitution and/or solicitation. These children are victims, but their continued prosecution sends the opposite message.

Children who commit crimes against their traffickers or as a result of their trafficking situation are especially deserving of our support and compassion. They are categorically different than other types of offenders in the criminal legal system. We urge Congress to recognize these children as victims and give judges the flexibility to fashion an outcome that is more just and compassionate in all of these cases. Our children deserve better. And we owe it to them to be better.

Child victims deserve our understanding, empathy, and love. They don't deserve to be demonized and thrown away by the justice system. For too long, we've thrown too many of these children away under the guise of "public safety" or not knowing that many children who commit serious crimes are actually victims of human trafficking themselves. As the famed abolitionist William Wilberforce once said, "you may choose to look the other way but you can never say again that you did not know."

Thank you very much for the opportunity to submit this written testimony for the record. If you have any questions, please don't hesitate to contact me at jdold@humanrightsforkids.org or by phone at (202) 573-7758.

With appreciation,

A handwritten signature in black ink, appearing to read 'James L. Dold', with a long horizontal flourish extending to the right.

James. L. Dold, J.D.
CEO & Founder
Human Rights for Kids