

Dear Senator Sears, Representative Grad and Michele,

I hope that this finds you all well. Last session, Act 32 charged the Vermont Network, the Attorney General's Office and the Vermont Center for Crime Victim Services with reviewing the prostitution, human trafficking, unlawful sheltering and shelters for runaway children statutes to make recommendations related to modernization and best practices responses to prostitution and human trafficking. The individuals designated to complete this work included:

- Domenica Padula, Office of the Attorney General
- Elizabeth Anderson, Office of the Attorney General
- Sarah Robinson, Vermont Network
- Kira Krier, Vermont Center for Crime Victim Services

Over the course of the summer and early fall, we worked together to discuss these statutes and potential changes. Over the course of this inquiry we discussed many complex issues related to these statutes, sought input from several partners and stakeholders in Vermont, and gathered some information about how other states have modernized similar statutes. Below you will find some recommendations for potential statutory changes. There are also several places where we recommend further study, or a broader set of stakeholders be engaged in forming more comprehensive recommendations.

### **Expungement**

Currently individuals convicted of any crime other than a "big twelve" offense, which are enumerated at 33 VSA 5204(a), may seek to vacate their conviction if the offense was committed as a result of having been a victim of human trafficking. The committee supports this provision in current law and believes that it provides important relief for victims of trafficking. At this time, the committee opposes expanding this relief to those convicted of serious violent ("big twelve") felonies. Until a clearer legal standard is devised, the appeal of last resort for those convicted of a "big twelve" offense should continue to be a governor's pardon.

Assessing the degree of individual culpability within a human trafficking organization can be extremely difficult. Individual roles in such an organization may evolve, such that a person's culpability in the organization's decision-making increases to a point where an expungement for their offense would be inappropriate even if there were a time when the person may have qualified as a victim. Further, human trafficking organizations can be highly sophisticated and aware of legal provisions that may shield people, thereby persuading someone to take actions that a fear of legal consequence would otherwise have prevented. Until a legal standard can be developed that clearly contemplates and defines culpability in human trafficking operations this expungement provision should not be expanded to include "big twelve" offenses.

The Vermont Network recommends that this expungement relief be expanded to include victims of domestic and sexual violence who are convicted of any crime other than a "big twelve" offense if the crime was committed as a result of having been a victim of domestic or sexual violence at the time of the offense. At this time, the Attorney General's office is open to a discussion surrounding expungement for victims of domestic and sexual violence, however they believe that further study is needed into the issue, including possibly a working group.

### **Human Trafficking**

Since the human trafficking statute is still relatively new and the State is working to expand its response to human trafficking, the committee recommends that there are no changes made to the statute at this time.

### **Prostitution**

The committee makes a consensus recommendation that Vermont adopt a Good Samaritan law similar to California's [SB233](#). This law would prohibit the arrest for certain crimes for a person if that person, who in good faith and in a timely manner, is reporting that they are a victim of or witness to a crime that arose from their involvement in prostitution and/or human trafficking. This law would prohibit an arrest on prostitution, prohibited acts and other specified laws related to the possession and control of regulated drugs.

We would propose including the following criminal offenses be included prohibited from arrest in this context:

- 18 VSA §4230(1)(A) – Marijuana Possession
- 18 VSA §4231(a)(1) & (a)(2) – Cocaine Possession
- 18 VSA §4232 (a)(1) & (a)(2)– LSD
- 18 VSA §4233 (a)(1) & (a)(2) – Heroin
- 18 VSA §4234 (a)(1) & (a)(2) – Depressant, stimulant, and narcotic drugs
- 18 VSA §4234a(a)(1) & (a) – Methamphetamine
- 18 VSA §4235(b)(1) – Hallucinogenic drugs
- 18 VSA §4235a(a)(1) – Ecstasy
- 13 VSA § 2632 – Prostitution
- 13 VSA § 2601a – Prohibited Conduct

We are open to discussions on adding additional crimes if appropriate.

The committee also recommends that the legislature create a study committee to examine laws related to sex work and prostitution. We recommend that this study group include a wider array of stakeholders.

### **Unlawful Sheltering and Shelters for Runaway Youth**

The committee recommends no changes be made to these statutes at this time.

We would be happy to discuss any of these recommendations with you.