

Dear Governor Kemp,

In 2000, the United States adopted the Trafficking Victims Protection Act, which articulated the understanding that trafficking survivors should not be punished when they are the victims of a crime:

“Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked...”

In 2015, Georgia became a leader in the fight against the trafficking of children by passing the Safe Harbor/Rachel's Act and committing to ending the criminalization of child victims. However, many victims of sex trafficking in Georgia are still charged and prosecuted with sex trafficking offenses that are directly linked to their victimization. This phenomenon, known as victim-offender intersectionality, ignores the realities of sex trafficking victimization and related trauma and both reflects and results in the misidentification and unjust treatment of survivors. The criminalization of child sex trafficking victims for conduct related to their trafficking victimization is contrary to the purpose and intent of anti-trafficking laws and requires measures to remedy the consequential revictimization and harm caused.

Georgia, and you personally, again lead the nation in passing a vacatur law in 2020, “The Survivors First Act” allowing criminalized survivors of sex trafficking to petition the court to vacate convictions sustained as direct result of their victimization. The vacatur law essentially applies to any crime committed and can be sought at any time.

As The Survivors First Act recognizes, increasingly, cases are coming to light where child sex trafficking survivors have been prosecuted and convicted. Child sex trafficking survivors are often treated as adults and ushered into the criminal justice system rather than identified as victims of trafficking and directed to restorative care and support. Not only does this response cut off child survivors’ access to needed services and deny the underlying trauma that led to their involvement in criminal activity, but it also raises the stakes exponentially. Legal frameworks often favor direct file or transferring minors accused of violent felonies, including trafficking, to criminal court. Thus, child survivors commonly proceed through adult courts without an opportunity to assert a defense to the charges or to avert adult court involvement entirely. Child sex trafficking survivors who are convicted as adults face substantially longer sentences—sometimes 10, 20 or even 50 times longer than what they would receive in juvenile court—as well as collateral consequences that are wholly inappropriate in light of their age and status as trafficking victims.

The scope of harm is immense, but governors across the country are in a unique position to remedy this injustice. And you are given an opportunity to lead yet again in an area we know you are committed to personally.

Shared Hope International, with over 20 years of experience, is addressing the ongoing injustice of trafficking survivors being criminally charged and prosecuted as a result of their own trafficking victimization, especially when that results in trafficked children facing prosecution and incarceration in the adult criminal justice system.

*“I wanted to be treated like a person, like the victim that I am, instead of the perpetrator that is on the surface that they chose to perceive.” – Tiffany Simpson, Survivor; served 11 years in Georgia.*

As the top executive leaders in their states, governors hold the power to locate child sex trafficking victims currently incarcerated within their prison systems or placed under the oversight of probation departments. Survivors on probation face the risk of being incarcerated for even minor missteps, which frequently occur due to survivors' trauma backgrounds and responses and the compounded harm caused by unjust criminal justice involvement. Governors are increasingly called on to right historical criminal justice wrongs, granting clemency or providing pardons to survivors who were unjustly criminalized for the offenses related to their victimization. The Georgia Governor does not have this authority. However, you can still proactively take action to respond to this injustice in Georgia. Shared Hope calls on you to take the following action steps to identify those who are eligible for the vacatur law you championed.

- Screen all minors who have been prosecuted as an adult to determine if they have experienced trafficking victimization. This screening should include individuals who are now adults but were initially charged or prosecuted when they were a minor, and should include individuals committed to adult prisons or juvenile facilities, or under the oversight of adult probation services.
- Provide access to appropriate services, including re-entry services that support survivors after they are released from prison.
- Provide access to legal services that help survivors address the short and long-term consequences of being criminalized.
- Advance legal protections including non-criminalization, immunity, and affirmative defenses, to provide relief from unjust criminalization and ideally prevent it at the outset. Not only will an immunity defense for those who commit crimes as a direct result of being trafficked prevent further trauma of victims, it will also save the State resources used to prosecute a case only to have the conviction vacated under Georgia's Survivors First Act.
- Expand access to funded community-based services to provide alternatives to prosecution and incarceration for responding to child trafficking survivors.

Again, Georgia is one of the few states that has taken action to address this ongoing injustice that we hope other states will follow. Georgia's planned initiative to assess its prison population for trafficking victimization and connect identified survivors with legal services so that incarcerated survivors can seek post-conviction relief is promising. For that, we are grateful for Georgia's leadership and commitment to a survivor-centered and trauma-informed approach to identifying and responding to trafficking survivors.

The Shared Hope Institute for Justice and Advocacy released [Responding to Sex Trafficking Victim Offender Intersectionality: A Guide for Criminal Justice Stakeholders](#) to promote trauma-informed responses to sex trafficking victims, such as the efforts we are now urging governors to take across the country.

Governor Kemp, we hope Georgia will continue to lead the charge in taking action on this and help right some of the wrongs experienced by this particularly vulnerable population of trafficking survivors. We look forward to working alongside you and supporting your efforts to take on this critical issue.

Sincerely,

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Margie Quin, Commissioner of the Tennessee Department of Children's Services

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