

Legal Options for Victims of Human Trafficking

Although new laws in Ohio were enacted to provide support and protection for juvenile human trafficking victims, juveniles are not required to utilize these laws. Ohio's Safe Harbor law requires the child to agree to the Safe Harbor hearing, though it does not require the child to admit he is a victim, testify against his trafficker, or cooperate with police investigations.

A lawyer should still apprise her client of all of his options and this includes those options available under the law for victims. Only then can the client make an informed decision about how he wishes to proceed.

Proceed on delinquency

The client may choose to proceed on the delinquency charge. This decision could be affected by concerns for safety, privacy, lack of interest in diversion, plea offers, and availability of services by the court. A client choosing to proceed upon the delinquency charges should be made aware of how this outcome could differ from that available under Safe Harbor. (Consider whether other diversion options are also available.)

Move to dismiss delinquency and file dependency instead

Some attorneys have argued that a child who has been victimized should not be charged based on that victimization. For example, a child being forced into commercial sex should never be charged with prostitution. Attorneys use this argument to move for a dismissal of the charges with an expectation that a dependency be filed instead so services can be provided to the child while avoiding the creation of or addition to a juvenile record.

Pursue Safe Harbor

Ohio's Safe Harbor law was passed in 2012 and recognizes that juveniles charged with crimes like solicitation or prostitution are victims and should be given support services instead of facing the more traditional judicial approach. Under Safe Harbor, a qualifying child is able to receive supervision, services, and placement with the goal of a future dismissal of the charges pending successful completion of diversion by the child. Safe Harbor can be used on multiple charges, and the 90-day period for diversion can be renewed twice (i.e. diversion can last for 270 days).

There is not one "right" way to approach a juvenile human trafficking case. Advising your client about his best option necessitates an understanding of the applicable laws, the availability of services in your county, the likelihood of success in diversion, and the type of diversion available to your client. Evaluate the specifics of your case and ensure the client is aware of advantages and disadvantages.

The Greif Fellowship in Juvenile Human Trafficking was established through a generous grant from the Greif Packaging Charitable Trust. These materials were researched and written by Nikki Trautman Baszynski, the inaugural fellow. The Fellowship is housed at The Ohio State University Moritz College of Law and is supervised by Kimberly P. Jordan, Director of the Justice for Children Project.