

North Carolina Survivors' Justice Act

Between 74 and 95% of women incarcerated in the U.S. have experienced domestic or sexual violence. North Carolina can join states like Oklahoma and Georgia that have demonstrated bipartisan support in: (1) empowering survivors of human trafficking and domestic violence whose charged criminal act is entwined with their victimization; and (2) reducing instances of survivors serving long sentences for offenses resulting from their abuse.

The North Carolina Domestic Violence Commission has endorsed the NC Survivors' Justice Act as part of its FY2025-26 legislative agenda. While this bill will not have broad-sweeping impacts on the criminal justice system, it will make a life-changing difference for the small population of survivors in NC state prisons who would qualify for sentencing relief.

The Need

Society's understanding of the dynamics of human trafficking and domestic violence has evolved greatly in the past decades, but the law has not caught up. North Carolina's current laws fail to adequately consider the unique circumstances of survivors who face prosecution for acts they committed because of abuse they suffered. Sentencing mitigation for survivors is essential to the fair administration of justice.

Key Impacts of the NCSJA:

Sentencing Mitigation: If a court determines that: (1) the defendant was subjected to acts of domestic violence, human trafficking, psychological abuse, or was an abused or neglected juvenile; (2) the abuse was a significant contributing factor to the offense; and (3) it is in the interest of justice, the court will impose a lesser sentence in accordance with the Act. Such relief will be available at initial sentencing and for the resentencing of incarcerated individuals who qualify for relief.

- **Consideration of Evidence:** Survivors may present a range of relevant evidence to demonstrate they qualify for an alternative sentence under the Act.
- **Request for Consideration:** Incarcerated survivors may request resentencing based on meeting a high evidentiary standard or the exercise of prosecutorial discretion.
- **Additional Mitigating Factor:** During sentencing, the court may consider as a mitigating factor that the defendant suffered a continuing pattern of abuse, and that abuse was a factor in the commission of the offense.

Self-Defense: Evidence of domestic violence or human trafficking against the defendant by the victim is relevant to the defendant's objective and subjective reasonableness in assessing the threat of harm posed by the victim. If the defendant was an abused or neglected juvenile, and the victim perpetrated past acts against the defendant, reasonableness will be considered from the perspective of an abused or neglected juvenile who has been a victim of those past acts.

- **Consideration of Evidence:** Expert testimony about domestic violence and its effects is admissible and is relevant to prove the justification of self-defense, substantial contributing factors, or to negate malice, or to mitigate the imposition of a sentence.

Lead Partners (partial list): North Carolina Domestic Violence Commission; North Carolina Coalition Against Domestic Violence (NCCADV); North Carolina Coalition Against Sexual Assault (NCCASA); Conservatives for Criminal Justice Reform; Benevolence Farm.