

# SENATE BILL 480

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7lr1626  
CF HB 502

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By: **Senators Lee, Benson, Kelley, Muse, Pinsky, Smith, and Young**

Introduced and read first time: January 30, 2017

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Shieldable Conviction – Motion to Vacate Judgment**

3 FOR the purpose of altering the type of conviction on which a certain motion to vacate a  
4 conviction may be based; altering the contents of a certain motion to vacate;  
5 requiring a certain person to provide the State’s Attorney with a copy of a certain  
6 motion; authorizing the State’s Attorney to file a response to a certain motion at a  
7 certain time; altering the court’s authority with regard to a motion to vacate; making  
8 conforming changes; and generally relating to motions to vacate judgments.

9 BY repealing and reenacting, with amendments,  
10 Article – Criminal Procedure  
11 Section 8–302  
12 Annotated Code of Maryland  
13 (2008 Replacement Volume and 2016 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
15 That the Laws of Maryland read as follows:

16 **Article – Criminal Procedure**

17 8–302.

18 (a) A person convicted of [prostitution under § 11–306 of the Criminal Law  
19 Article] **A SHIELDABLE CONVICTION, AS DEFINED IN § 10–301 OF THIS ARTICLE**, may  
20 file a motion to vacate the judgment if[, when the person committed the act or acts of  
21 prostitution, the person was acting under duress caused by an act of another committed in  
22 violation of the prohibition against] **THE PERSON’S PARTICIPATION IN THE OFFENSE**  
23 **WAS A RESULT OF HAVING BEEN A VICTIM OF:**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(1)** human trafficking under § 11–303 **(A) OR (B)** of the Criminal Law  
2 Article or [under federal law] **§ 1589, § 1590, § 1591, OR § 1594(A) OF TITLE 18 OF THE**  
3 **UNITED STATES CODE; OR**

4           **(2)** **EXTORTION UNDER § 3–701(B) OF THE CRIMINAL LAW ARTICLE.**

5           **(b)** A motion filed under this section shall:

6           **(1)** be in writing;

7           **(2)** [be signed and consented to by the State’s Attorney] **CONTAIN AN**  
8 **AFFIRMATION OF COMPLIANCE WITH SUBSECTION (C) OF THIS SECTION;**

9           **(3)** be made within a reasonable period of time after the conviction; and

10           **(4)** describe the evidence and provide copies of any documents showing that  
11 the [defendant] **MOVANT** is entitled to relief under this section.

12           **(C) (1) THE MOVANT SHALL PROVIDE THE STATE’S ATTORNEY WITH A**  
13 **COPY OF THE MOTION.**

14           **(2) THE STATE’S ATTORNEY MAY FILE A RESPONSE TO THE MOTION**  
15 **WITHIN 30 DAYS AFTER THE MOTION IS FILED OR AS OTHERWISE ORDERED BY THE**  
16 **COURT.**

17           **[(c) (D) [(1) Except as provided in paragraph (2) of this subsection, the] THE**  
18 **court shall:**

19           **(1)** hold a hearing on a motion filed under this section if the motion satisfies  
20 the requirements of subsection (b) of this section[.];

21           **(2)** [The court may]dismiss a motion without a hearing if the court finds  
22 that the motion fails to assert grounds on which relief may be granted; **OR**

23           **(3) GRANT A MOTION WITHOUT A HEARING IF BOTH THE MOVANT AND**  
24 **THE STATE’S ATTORNEY AGREE ON VACATUR OF THE JUDGMENT OR, WHEN**  
25 **APPLICABLE, SENTENCE MODIFICATION.**

26           **[(d) (E) [(1) In ruling on] IF THE COURT GRANTS** a motion filed under this  
27 **section, the court [may] SHALL:**

28           **(1)** vacate the conviction[,] **OR** modify the sentence[, or grant a new trial.];  
29 **AND**

1                   (2)    [The court shall] state the reasons for its ruling on the record.

2                   [(e)] (F)    [A defendant in a proceeding] **THE MOVANT** under this section has the  
3 burden of proof.

4                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2017.