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BILL NO: House Bill 242
TITLE: Criminal Procedure – Motion to Vacate
Judgment of Conviction (True Freedom Act
of 2020)
COMMITTEE: Judiciary
HEARING DATE: January 28, 2020
POSITION: SUPPORT

To the Honorable Luke Clippinger and esteemed members of the committee:

I write on behalf of FreeState Justice, a nonprofit legal services and advocacy organization whose mission is to provide direct legal services at no cost to low-income lesbian, gay, bisexual, and transgender (LGBT) Marylanders. FreeState Justice supports this bill because it will enhance the effectiveness of Maryland’s human trafficking framework by proving access to justice for survivors who have been criminalized as a result of their involvement with a trafficker.

Traffickers frequently target marginalized populations and individuals with particular vulnerabilities. Studies have shown that LGBT homeless youth are at the highest risk for sex trafficking and sexual exploitation. According to the U.S. National Coalition for the Homeless (www.nationalhomeless.org), homeless LGBT youth are much more vulnerable to sexual exploitation and trafficking than other homeless youths. For instance, only 20 percent of homeless youth are LGBT in the United States, and 58.7 percent of them are exploited through sexual prostitution. This is a much higher rate than the 33.4 percent of heterosexual homeless youth that are at risk of sexual exploitation on the street. Indeed, in 2017 alone, the National Human Trafficking Hotline identified 80 cases of trafficking involving gender minorities.

In addition to the abuse, coercive control and manipulation victims of trafficking routinely face, many victims are convicted of crimes they were forced to commit by their trafficker. Maryland responded to this injustice in 2011, becoming the second state in the country to enact a “vacating convictions” law, which allows survivors of sex trafficking to vacate (set aside) their prostitution convictions. Since that time, all but six states and

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*FreeState Justice, Inc. (formerly FreeState Legal Project, Inc., merging with Equality Maryland)
is a social justice organization that works through direct legal services, legislative and policy advocacy, and community
engagement to enable Marylanders across the spectrum of lesbian, gay, bisexual, transgender, and queer identities to be
free to live authentically, with safety and dignity, in all communities throughout our state.*

the District of Columbia offer some form of criminal record relief specific to survivors of trafficking.

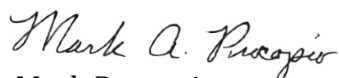
In the years since its enactment, however, Maryland's vacatur law has proved inadequate in meeting the needs of Maryland's survivors, the majority of whom have trafficking-related convictions other than prostitution, such as trespassing and drug possession. Maryland's law also does not expressly include survivors of labor trafficking, who are similarly convicted of crimes they were forced to commit. Additionally, Maryland is one of only two states in the country requiring the consent of the agency that prosecuted the victim before the victim can file a vacatur request.

Data recently obtained from a national survey of both sex and labor trafficking survivors echoes the need for access to broader relief, with 91% of survivors reported being arrested during the time they were being trafficked, the majority for crimes *other than* prostitution. Of those surveyed, 73% reported barriers to employment because of their criminal records, while 58% reported barriers to accessing housing.

In recent years, Maryland has shown its strong support for remedying the impact a deeply flawed criminal justice system has on the ability of its citizens to escape poverty and lead productive lives. Criminalized survivors of trafficking suffer similarly if they are unable to obtain such relief, as they too struggle with being unable to obtain safe housing and gainful employment. These consequences carry with them the additional risk of continued exploitation by a trafficker or the inability to exit the commercial sex trade. Survivors who were unjustly convicted of forced criminal activity deserve better in our state.

HB 242 would remedy these significant legal gaps by expanding the post-conviction relief available to survivors of human trafficking, including many LGBT survivors, who are already recognized as lacking the criminal intent to commit the crimes they were convicted of. For these reasons, FreeState Justice supports HB 242. We respectfully urge a favorable report.

Respectfully,



Mark Procopio
Executive Director