



January 28, 2020

Delegate Luke Clippinger
Chair, Judiciary
House Office Building
6 Bladen Street
Annapolis, MD 21401

Re: Support for Criminal Procedure - Motion to Vacate Judgment - Human Trafficking (True Freedom Act of 2020)

Dear Chairman Clippinger and Committee Members:

As the State's Attorney for Baltimore City, I support Senate Bill 206, which expands eligibility to file a motion to vacate a judgment under § 8-302 of the Criminal Procedure Article by authorizing a person convicted of a "qualifying offense" to file a motion to vacate the judgment if the person's participation in the offense was a direct result of being a "victim of human trafficking." In addition, this bill also authorizes a person whose conviction is vacated to petition for expungement of the conviction under § 10-105 of the Criminal Procedure Article.

Currently, a person convicted of prostitution may file a motion to vacate the judgment if the person committed the act or acts of prostitution while under duress caused by an act of another committed in violation of State prohibitions on sex trafficking and marriage trafficking or the prohibitions against human trafficking under federal law. The motion must (1) be in writing; (2) be signed and consented to by the State's Attorney; (3) be made within a reasonable period of time after the conviction; and (4) describe the evidence and provide copies of any documents showing that the defendant is entitled to have the judgment/conviction vacated.

Aptly referenced as the True Freedom Act of 2020, this bill addresses many of the aforementioned logistical and process related barriers to vacating offenses committed by individuals resulting from the horror they experienced as victims of human trafficking, including removal of the current requirement that the motion to vacate be signed and consented to by the State's Attorney. Instead, the bill requires that the motion be (1) served on the appropriate State's Attorney, as specified, and (2) mailed to any victim or victim's representative, if the qualifying offense occurred within five years before the filing of the motion.

Due to the abuse, coercive control and manipulation victims of human trafficking routinely face, many victims are also arrested for and convicted of crimes they are forced to commit by their traffickers. The consequences of a run-in with the law can persist for decades after the formal sentence has been served. People with records face major barriers to employment, housing and education, effectively condemning them to second-class citizenship.

In recent years, criminal justice reform efforts have increasingly focused on finding policy tools that can lower these barriers. However, Maryland's criminal record relief law has proved woefully inadequate, as the law fails to provide relief for trafficking-related convictions other than prostitution, such as trespassing and drug possession. Maryland is one of only three states in the country requiring the consent of the agency that prosecuted the victim before the victim can file a request for criminal record relief. Since 2010, over 40 states have enacted criminal record relief laws, the vast majority of which provide far greater legal relief to criminalized survivors with far fewer hurdles than Maryland's law.

STATE'S ATTORNEY
Marilyn J. Mosby



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Trafficking survivors who have trafficking-related criminal records often experience difficulties obtaining safe housing and gainful employment, which keeps them trapped in poverty and vulnerable to continued exploitation. The stain on their criminal record is a constant, daily reminder of the acts they were forced to commit as a direct result of their exploitation. For this reason, I urge a favorable vote on House Bill 242.

Sincerely,

A handwritten signature in blue ink that reads "Marilyn J. Mosby". The signature is written in a cursive style.

Marilyn J. Mosby
State's Attorney for Baltimore City