

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 767
Criminal Procedure – Human Trafficking – Vacatur and
Expungement
DATE: March 2, 2022
(3/8)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes Senate Bill 767, as drafted. This bill would amend § 8-302 of the Criminal Procedure Article. The bill would alter the requirements and procedures for moving to vacate a conviction on the basis that it was committed as a direct result of being a victim of human trafficking. The bill would shorten the required waiting time from 60 days to 30 days. It would also require the court, upon granting the motion to vacate, to dismiss the underlying charge, inform the movant of the procedure to expunge the court record, and seal the court records relating to the conviction.

Although the Judiciary has no position on the policy aims of this legislation as that falls within legislative prerogative, waiver of the movant's appearance at any hearing should be at the discretion of the court, not the movant. Further, the Judiciary is concerned about the language at Criminal Procedure §8-302 which requires filings to be sealed and hearings on those filings to be closed which is in conflict with the general principle of judicial transparency. Finally, it provides that the movant has the burden of proof but allows the movant to be voluntarily absent from the hearing.

cc. Hon. Susan Lee
Judicial Council
Legislative Committee
Kelley O'Connor