

Amara Legal Center Written Testimony- SB767.pdf

Uploaded by: Caitlyn Burnitis

Position: FAV



BILL NO: Senate Bill 767

TITLE: Criminal Procedure - Human Trafficking - Vacatur and Expungement

COMMITTEE: Judicial Proceedings

HEARING DATE: March 8, 2022

SUBMITTED BY: Caitlyn Burnitis, Lead Maryland Attorney, Amara Legal Center

POSITION: SUPPORT

The Amara Legal Center writes to support Senate Bill 767 (SB767). We are grateful that Senator Lee introduced this important legislation to enhance the effectiveness of Maryland's trafficking-specific criminal record relief law by improving privacy protections for survivors seeking to vacate their trafficking-related convictions, as well as clarifying judicial procedures relating to motions practice.

The Amara Legal Center ("Amara") provides free legal services in Washington, D.C., Maryland, and Northern Virginia to survivors of sex trafficking and to anyone whose rights are violated while involved in commercial sex. Since 2013, Amara has served over 500 clients with more than 800 legal matters. Although many believe that sex trafficking only occurs overseas or among foreign nationals, the vast majority of Amara's clients are U.S. citizens, both juveniles and adults born and raised in the D.C. metro area. Amara provides brief legal advice, partial, and full representation for civil legal issues such as civil protection orders, divorce, child custody and support, and name changes. In addition to civil legal services, Amara provides victim-witness advocacy for clients working with law enforcement, criminal/juvenile defense, and representation in criminal record sealing and expungement cases.

In addition to the abuse, coercive control and manipulation that victims of trafficking routinely face, many victims are convicted of crimes they were forced to commit by their trafficker. Data recently obtained from a national survey of both sex and labor trafficking survivors demonstrates the need for easily accessible criminal record relief, with 91% of survivors reported being arrested during the time they were being trafficked.¹ Of those surveyed, 73% reported barriers to employment because of their criminal records, while 58% reported barriers to accessing housing.²

Maryland responded to this injustice in 2011, becoming just the second state in the country to enact a trafficking-specific criminal record relief law, which allowed survivors of sex trafficking to vacate, or, set aside their prostitution convictions. In 2020, the Maryland General Assembly passed the "True Freedom Act," a much-needed revision to the state's vacatur law which significantly expanded the list of convictions that were eligible for vacatur and eliminated certain procedural hurdles that were impeding trafficking survivors from accessing this crucial form of legal relief.

However, implementation of Maryland's updated vacatur law has not been without its challenges, particularly around privacy protections for survivors and how to dispose of convictions that are vacated without a hearing. The lack of consistency and clarity surrounding the process has created

¹ National Survivor Network, National Survivor Network Members Survey: Impact of Criminal Arrest and Detention on Survivors of Human Trafficking (2016)

<https://mvslaw.org/wp-content/uploads/2017/06/NSN-Survey-on-Impact-of-Criminalization-2017-Update.pdf>.

² *Id.*



confusion for the court, the attorneys, and the survivors themselves. In an attempt to safeguard the confidentiality of the survivors as well as to reduce the risk of retraumatizing them during the legal process,³ SB 797 would require the following: (1) that all vacatur petitions be filed under seal without requiring a separate hearing to determine whether the filings qualify for sealing; (2) closing the court to the public while hearings on these motions are being held; and (3) allowing survivors to waive their appearance at any hearing scheduled on their petition. Additionally, SB 767 would clarify that the initial charge underlying any conviction vacated by the court *without a hearing*⁴ must also be dismissed, as well as require that the court alert the survivor of their right to expunge the resulting non-conviction, an often-forgotten part of the process.

In recent years, Maryland has shown its strong support for remedying the impact a deeply flawed criminal legal system has on the ability of its citizens to escape poverty and lead productive lives. Further refining Maryland's vacatur law to protect survivor confidentiality and to make the process less onerous for both survivors *and* the court is an example of this commitment. For these reasons, the Amara Legal Center supports SB767. We respectfully urge a favorable report.

³ See Erin Marsh et. al., *State Report Cards: Grading Criminal Record Relief Laws for Survivors of Human Trafficking* 18, 19 (2019), <https://polarisproject.org/wp-content/uploads/2019/03/Grading-Criminal-Record-Relief-Laws-for-Survivors-of-Human-Trafficking.pdf> (citing best practices around allowing survivors to waive their right to appear in criminal record relief hearing as well as the necessity of building in confidentiality provisions designed to protect survivor safety).

⁴ MD CODE ANN., CRIM. PROC. § 8-302(e) (West, 2020).

SB767(22)S.pdf

Uploaded by: Edwin Thomas

Position: FAV



EASTERN SHORE HUMAN TRAFFICKING TASK FORCE

Moving forward to combat this evil together

The Honorable William C. Smith Jr.
Chairman, Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

March 7, 2022

Dear Chairman Smith,

Senate Bill 767 - Criminal Procedure - Human Trafficking - Vacatur and Expungement
Hearing Date March 8, 2022
Favorable with Sponsor Amendments

Strengthening Maryland's statute that enables vacating convictions of human trafficking victims is needed. Therefore, the Eastern Shore Human Trafficking Task Force supports SB 767 with sponsor amendments. It will improve privacy protections for survivors seeking relief from forced trafficking-related crimes leading to convictions. SB 767 will also clarify judicial procedures relating to motions practice.

There are victims/survivors of human trafficking on the eastern shore and more so throughout Maryland. For the pimps and traffickers, it is highly profitable. For the victims/survivors and their families, it is a far-reaching tragedy with a long road to recovery. Improving their ability to vacate convictions for crimes they were forced into by their predators is a required step toward improving the future lifestyle of trafficking victims/survivors.

For these reasons, the Eastern Shore Human Trafficking Task Force urges the Committee to give SB 767 including sponsor amendments a favorable report.

Yours Truly

A handwritten signature in black ink that reads 'Edwin Thomas'.

Edwin Thomas, Co-Chair
1562 Efford Road
Pasadena, MD 21122

***The MISSION of the Eastern Shore Human Trafficking Task Force is to:
Combat human trafficking (sex and labor exploitation) by encouraging, supporting, and promoting
awareness, prevention, and education throughout the Eastern Shore.***

MVLS Testimony SB 767 Vacatur Fix_Support with Ame

Uploaded by: Heather Heiman

Position: FAV

MARYLAND SENATE JUDICIAL PROCEEDINGS COMMITTEE
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE
IN SUPPORT OF SB 767: CRIMINAL PROCEDURE – HUMAN TRAFFICKING –
VACATURE AND EXPUNGEMENT (with Sponsor Amendments)
MARCH 8, 2022

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Chair Smith and distinguished members of the Committee, thank you for the opportunity to testify in support of Senate Bill 767.

My name is Heather Heiman, and I am the Project Manager for the Human Trafficking Prevention Project at Maryland Volunteer Lawyers Service (MVLS). MVLS is the oldest and largest provider of pro bono civil legal services to low-income Marylanders. Since MVLS' founding in 1981, our statewide panel of over 1,700 volunteers has provided free legal services to over 100,000 Marylanders in a wide range of civil legal matters. In FY21, MVLS volunteers and staff lawyers provided legal services to 3,353 people across the state. In fiscal year 2017, MVLS started the Human Trafficking Prevention Project, a co-grant project through the Governor's Office of Crime, Control and Prevention with the University of Baltimore School of Law Human Trafficking Prevention Project Legal Clinic. For the reasons explained below, MVLS respectfully requests the committee return a favorable report on SB 767 (with Sponsor Amendments).

The Human Trafficking Prevention Project (HTPP) at MVLS is a pro bono project that provides post-conviction relief such as expungement, shielding, and vacatur as well as assistance with additional civil legal matters to those who meet the legal definition of a victim of human trafficking and others who are at high risk for exploitation. Since its inception, the HTPP at MVLS has served over 200 clients who were survivors of human trafficking or at high risk for exploitation, many of whom sought legal help with criminal record relief under Maryland's vacatur law.

Senate Bill 767 would strengthen Maryland's "vacating convictions" law by adding protections necessary to support survivor safety and confidentiality as well as provide guidance to the court on motions granted without a hearing. Maryland Volunteer Lawyers Service supports this bill because it will enhance the effectiveness of Maryland's trafficking-specific criminal record relief law by improving privacy protections for survivors seeking to vacate their trafficking-related convictions, as well as clarifying judicial procedures relating to motions practice.

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. Data recently obtained from a national survey of both sex and labor trafficking survivors demonstrates the need for easily accessible criminal record relief, with 91% of survivors reported being arrested during the time they were being trafficked, the majority

for crimes other than prostitution.¹ Of those surveyed, 73% reported barriers to employment because of their criminal records, while 58% reported barriers to accessing housing.²

Maryland responded to this injustice in 2011, becoming just the second state in the country to enact a trafficking-specific criminal record relief law, which allowed survivors of sex trafficking to vacate, or, set aside their prostitution convictions. In 2020, the Maryland General Assembly passed the "True Freedom Act," a much-needed revision to the state's vacatur law which significantly expanded the list of convictions that were eligible for vacatur and eliminated certain procedural hurdles that were impeding trafficking survivors from accessing this crucial form of legal relief.

However, implementation of Maryland's updated vacatur law has not been without its challenges, particularly around privacy protections for survivors and how to dispose of convictions that are vacated without a hearing. The lack of consistency and clarity surrounding the process has created confusion for both the court and the attorneys representing the survivors seeking access to this form of relief, as well as for the survivors themselves. In an attempt to safeguard the confidentiality of the survivors as well as to reduce the risk of retraumatizing them during the process, both of which are considered best practices in the design of trafficking-specific criminal record relief statutes,³ SB 797 would require the following: (1) that all vacatur petitions be filed under seal without requiring a separate hearing to determine whether the filings qualify for sealing; (2) closing the court to the public while hearings on these motions are being held; and, (3) allowing survivors to waive their appearance at the hearing on their petition should one be required. Additionally, SB 767 would clarify that the initial charge underlying any conviction vacated by the court *without a hearing*⁴ must also be dismissed by the court, as well as require that the court alert the survivor of their right to expunge the resulting non-conviction, an often-forgotten part of the process.

In recent years, Maryland has shown its strong support for remedying the impact a deeply flawed criminal legal system has on the ability of its citizens to escape poverty and lead productive lives. Further refining Maryland's vacatur law to protect survivor confidentiality and make the process less onerous for both survivors *and* the court is an example of this commitment. For these reasons, Maryland Volunteer Lawyers Service supports SB 767 with sponsor amendments. We respectfully urge a favorable report.

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⁴ MD CODE ANN., CRIM. PROC. § 8-302(e) (West, 2020).

HPP Vacatur Fix Testimony- FAV WITH SPONSOR AMEND

Uploaded by: Jessica Emerson

Position: FAV

Testimony of the Human Trafficking Prevention Project

BILL NO: Senate Bill 767
TITLE: Criminal Procedure – Human Trafficking – Vacatur and Expungement
COMMITTEE: Judicial Proceedings
HEARING DATE: March 8, 2022
POSITION: **FAVORABLE WITH SPONSOR AMENDMENTS**

Senate Bill 767 with sponsor amendments would strengthen Maryland’s “vacating convictions” law by adding protections necessary to support survivor safety and confidentiality as well as provide guidance to the court on motions granted without a hearing. The Human Trafficking Prevention Project at the University of Baltimore School of Law supports this bill because it will enhance the effectiveness of Maryland’s trafficking-specific criminal record relief law by improving privacy protections for survivors seeking to vacate their trafficking-related convictions, as well as clarifying judicial procedures relating to motions practice.

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. Data recently obtained from a national survey of both sex and labor trafficking survivors demonstrates the need for easily accessible criminal record relief, with 91% of survivors reported being arrested during the time they were being trafficked, the majority for crimes other than prostitution.¹ Of those surveyed, 73% reported barriers to employment because of their criminal records, while 58% reported barriers to accessing housing.²

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However, implementation of Maryland’s updated vacatur law has not been without its challenges, particularly around privacy protections for survivors and how to dispose of convictions that are vacated without a hearing. The lack of consistency and clarity surrounding the process has created confusion for both the court and the attorneys representing the survivors seeking access to this form of relief, as well as for the survivors themselves. In an attempt to safeguard the confidentiality of the survivors as well as to reduce the risk of retraumatizing them during the process,³ SB 797 would require the following: (1) that, upon request of the survivor or the State’s Attorney, a survivor’s vacatur petition be filed under seal without requiring a separate hearing to determine whether the filings qualify for sealing; (2) closing the court to the public while hearings on these motions are being held, also upon request of the survivor or the State; and, (3) allowing survivors to waive their appearance at any hearing scheduled on their petition. Additionally, SB 767 would clarify that the initial charge underlying any conviction vacated by the court *without a hearing*⁴ must also be dismissed, as well as require that the court alert the survivor of their right to expunge the resulting non-conviction, an often-forgotten part of the process.

In recent years, Maryland has shown its strong support for remedying the impact a deeply flawed criminal legal system has on the ability of its citizens to escape poverty and lead productive lives. Further refining Maryland’s vacatur law to protect survivor confidentiality and to make the process less onerous for both survivors and the court is an example of this commitment. For these reasons, the Human Trafficking Prevention Project at the University of Baltimore School of Law supports SB 767 with sponsor amendments. We respectfully urge a favorable report.

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SB 767 - OPD Support.pdf

Uploaded by: Mary Denise Davis

Position: FAV



PAUL DeWOLFE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
DIRECTOR OF POLICY AND DEVELOPMENT

KRYSTAL WILLIAMS
DIRECTOR OF GOVERNMENT RELATIONS DIVISION

ELIZABETH HILLIARD
ASSISTANT DIRECTOR OF GOVERNMENT RELATIONS DIVISION

POSITION ON PROPOSED LEGISLATION

BILL: SB 767 -- Criminal Procedure -Human Trafficking- Vacatur and Expungement

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 3/7/22

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 767.

Over 15 years ago, the Public Defender's Office began offering a weekly expungement clinic that was available to former clients throughout Maryland. We assisted thousands during this time; and one of the hardest clients to address were victims of human trafficking. So often the person was ashamed and did not want to discuss the cases. The emotional hurt was still present even with years having passed. You could not simply inform the client - " here's your eligible cases and sign the dotted line." It was important to listen to them , take time, and offer guidance.

It may seem like a small thing to add the option for the Courts to "dismiss" the charges but it is not. When a disposition is not a disposition that is specially listed under the Expungement Statute, too often Judges have felt their hands tied. This addition to Md. Code, Crim Proc § 8-302 will make clear that a conviction vacated under this section will now be eligible and any confusion will be eliminated. It will make it so much easier for a victim of human trafficking to have their cases expunged WITHOUT having to once again "tell their story." Since that is what will happen, if the State objects due to an ineligible disposition and a hearing is scheduled.

The Public Defender has advocated for change to allow our clients to move forward and not be burdened with the stigma of a criminal record years after the act - including not just what is on a person's RAP sheet but what is available on Maryland Judiciary Case Search and the information that has been obtained and disseminated by private databases. I like to refer to expungement as a form of legal redemption that should be accessible to all who have changed their lives and their stories for themselves and their families.

The Maryland Office of the Public Defender strongly supports these additional changes to the existing law. And, for these reasons, the Maryland Office of the Public Defender strongly urges this Committee to issue a favorable report on Senate Bill 767.

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

Written by: Mary Denise Davis, Chief Attorney of the Central Booking and Bail Unit at the Maryland Office of the Public Defender.

SB 767_MNADV_FAV.pdf

Uploaded by: Melanie Shapiro

Position: FAV



BILL NO: Senate Bill 767
TITLE: Criminal Procedure - Human Trafficking - Vacatur and Expungement
COMMITTEE: Judicial Proceedings
HEARING DATE: March 8, 2022
POSITION: **SUPPORT**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judicial Proceedings Committee to issue a favorable report with sponsor amendments on SB 767.**

Senate Bill 767 with sponsor amendments would strengthen Maryland's "vacating convictions" law by adding protections necessary to support survivor safety and confidentiality as well as provide guidance to the court on motions granted without a hearing. This bill will enhance the effectiveness of Maryland's trafficking-specific criminal record relief law by improving privacy protections for survivors seeking to vacate their trafficking-related convictions, as well as clarifying judicial procedures relating to motions practice.

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. Data recently obtained from a national survey of both sex and labor trafficking survivors demonstrates the need for easily accessible criminal record relief, with 91% of survivors reported being arrested during the time they were being trafficked, the majority for crimes other than prostitution.¹ Of those surveyed, 73% reported barriers to employment because of their criminal records, while 58% reported barriers to accessing housing.²

Maryland responded to this injustice in 2011, becoming just the second state in the country to enact a trafficking-specific criminal record relief law, which allowed survivors of sex trafficking to vacate, or, set aside their prostitution convictions. In 2020, the Maryland General Assembly passed the "True Freedom Act," a much-needed revision to the state's vacatur law which significantly expanded the list of convictions that were eligible for vacatur and eliminated certain procedural hurdles that were impeding trafficking survivors from accessing this crucial form of legal relief.

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² *Id.*

For further information contact Melanie Shapiro • Public Policy Director • 301-852-3930 • mshapiro@mnadv.org



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For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report with sponsor amendments on SB 767.**

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For further information contact Melanie Shapiro • Public Policy Director • 301-852-3930 • mshapiro@mnadv.org

2022 Vacatur Fix Testimony - Maryland Survivor Ne

Uploaded by: Shamere McKenzie

Position: FAV



MARYLAND SURVIVOR NETWORK

BILL NO: Senate Bill 767
TITLE: Criminal Procedure - Human Trafficking - Vacatur and Expungement
COMMITTEE: Judicial Proceedings
HEARING DATE: March 8, 2022
POSITION: **FAVORABLE WITH SPONSOR AMENDMENTS**

Senate Bill 767 with sponsor amendments would strengthen Maryland's "vacating convictions" law by adding protections necessary to support survivor safety and confidentiality as well as provide guidance to the court on motions granted without a hearing. The Maryland Survivor Network supports this bill because it will enhance the effectiveness of Maryland's trafficking-specific criminal record relief law by improving privacy protections for survivors seeking to vacate their trafficking-related convictions, as well as clarifying judicial procedures relating to motions practice.

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. Data recently obtained from a national survey of both sex and labor trafficking survivors demonstrates the need for easily accessible criminal record relief, with 91% of survivors reported being arrested during the time they were being trafficked, the majority for crimes other than prostitution.¹ Of those surveyed, 73% reported barriers to employment because of their criminal records, while 58% reported barriers to accessing housing.²

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dismissed, as well as require that the court alert the survivor of their right to expunge the resulting non-conviction, an often-forgotten part of the process.

In recent years, Maryland has shown its strong support for remedying the impact a deeply flawed criminal legal system has on the ability of its citizens to escape poverty and lead productive lives. Further refining Maryland's vacatur law to protect survivor confidentiality and to make the process less onerous for both survivors *and* the court is an example of this commitment. For these reasons, the Maryland Survivor Network supports SB 767 with sponsor amendments. We respectfully urge a favorable report.

SB767_FAV_Lee_2022.pdf

Uploaded by: Susan Lee

Position: FAV

SUSAN C. LEE
Legislative District 16
Montgomery County

MAJORITY WHIP

Judicial Proceedings Committee

Joint Committee on
Cybersecurity, Information Technology,
and Biotechnology

Chair

Maryland Legislative Asian American
and Pacific Islander Caucus

President Emeritus

Women Legislators of the
Maryland General Assembly, Inc.



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

March 8, 2022

Senate Judicial Proceedings Committee

Senate Bill 767- FAVORABLE- Criminal Procedure - Human Trafficking - Vacatur and
Expungement

Senate bill 767 contains technical fixes to the “True Freedom Act of 2020” which resides in Maryland code under Criminal Procedure § 8-302, human trafficking vacatur and expungement. The practitioners who use this vacatur process requested this tweak to our current law as a follow up to issues they have encountered utilizing this statute in their practice.

The bill first reduces the notice to prosecutors from 60 to 30 days. The current 60 days serves only to delay the vacatur process unnecessarily as the advocates for survivors work in collaboration with the State’s Attorney’s and report that 30 days allows ample time for motion review. The court is also granted plenty of time to notify any victims in the 30 day period.

SB 767 also adds color to section § 8-302 (g) (1) with language to clarify the court procedure after granting a motion to vacate. There is additional guidance that the court is to dismiss any underlying charges related to the relevant commission of the crime, as well as notify the moving party that they may file for expungement of the vacated conviction.

We ensure that the survivor’s records and identity are kept from the public eye. The bill adds the sealing of all pleadings and records associated with the trafficking-related crime. Also added, hearings on motions are also to be kept closed to the public.

Finally, this legislation provides that a trafficking survivor may waive the right to be present at hearings on motions if the absence is agreed to by the survivor or counsel or is voluntary.

These technical fixes allow for a hastened and clarified vacatur process for those who this committee has recognized so deserving. For these reasons, I respectfully urge your favorable report on Senate Bill 767.

Maryland Catholic Conference_FWA_SB767.pdf

Uploaded by: Jenny Kraska

Position: FWA



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

March 8, 2022

Senate Bill 767

Criminal Procedure - Human Trafficking - Vacatur and Expungement

Senate Judicial Proceedings Committee

Position: Favorable w/ Sponsor Amendments

The Maryland Catholic Conference represents the public policy interests of the three Roman Catholic (arch)dioceses serving Maryland: the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington, which together encompass over one million Marylanders.

Senate Bill 767 with sponsor amendments would strengthen Maryland’s “vacating convictions” law by adding protections necessary to support survivor safety and confidentiality as well as provide guidance to the court on motions granted without a hearing. The Maryland Catholic Conference supports this bill because it will enhance the effectiveness of Maryland’s trafficking-specific criminal record relief law by improving privacy protections for survivors seeking to vacate their trafficking-related convictions, as well as clarifying judicial procedures relating to motions practice.

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. Data recently obtained from a national survey of both sex and labor trafficking survivors demonstrates the need for easily accessible criminal record relief, with 91% of survivors reported being arrested during the time they were being trafficked, the majority for crimes other than prostitution.¹ Of those surveyed, 73% reported barriers to employment because of their criminal records, while 58% reported barriers to accessing housing.²

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² *Id.*

certain procedural hurdles that were impeding trafficking survivors from accessing this crucial form of legal relief.

However, implementation of Maryland's updated vacatur law has not been without its challenges, particularly around privacy protections for survivors and how to dispose of convictions that are vacated without a hearing. The lack of consistency and clarity surrounding the process has created confusion for both the court and the attorneys representing the survivors seeking access to this form of relief, as well as for the survivors themselves. In an attempt to safeguard the confidentiality of the survivors as well as to reduce the risk of retraumatizing them during the process,³ SB 767 would require the following: (1) that all vacatur petitions be filed under seal without requiring a separate hearing to determine whether the filings qualify for sealing; (2) closing the court to the public while hearings on these motions are being held; and, (3) allowing survivors to waive their appearance at any hearing scheduled on their petition. Additionally, SB 767 would clarify that the initial charge underlying any conviction vacated by the court *without a hearing*⁴ must also be dismissed, as well as require that the court alert the survivor of their right to expunge the resulting non-conviction, an often-forgotten part of the process.

In recent years, Maryland has shown its strong support for remedying the impact a deeply flawed criminal legal system has on the ability of its citizens to escape poverty and lead productive lives. Further refining Maryland's vacatur law to protect survivor confidentiality and to make the process less onerous for both survivors *and* the court is an example of this commitment. For these reasons, the Conference appreciates your consideration and, for these reasons, respectfully requests a favorable report with sponsor amendments on **SB 767**.

³ See Erin Marsh et. al., *State Report Cards: Grading Criminal Record Relief Laws for Survivors of Human Trafficking* 18, 19 (2019), <https://polarisproject.org/wp-content/uploads/2019/03/Grading-Criminal-Record-Relief-Laws-for-Survivors-of-Human-Trafficking.pdf> (citing best practices around allowing survivors to waive their right to appear in criminal record relief hearing as well as the necessity of building in confidentiality provisions designed to protect survivor safety).

⁴ MD CODE ANN., CRIM. PROC. § 8-302(e) (West, 2020).

Trafficking - vacatur tech fixes - testimony - sen

Uploaded by: Lisae C Jordan

Position: FWA



Working to end sexual violence in Maryland

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Testimony Supporting Senate Bill 767 with Amendments
Lisae C. Jordan, Executive Director & Counsel
March 8, 2022

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judicial Proceedings Committee to report favorably on Senate Bill 767 with Amendments.

Senate Bill 767 – Human Trafficking – Vacatur and Expungement

This bill improves the current law permitting survivors of sex trafficking to vacate convictions when the underlying act was directly caused by the trafficking. Specifically, it directs the court to dismiss the underlying charge and to inform the victim of trafficking of their right to seek expungement of the charge. This is an important technical change that will help support a survivor's ability to recover and move on with their lives without the challenges caused by having a criminal record.

SB767 also proposes automatic sealing of records and closed court proceedings. MCASA fully appreciates that there are cases when sealed records and closed courtrooms are appropriate and necessary to protect the survivor from violent traffickers. We respectfully oppose automatic sealing and closure, however, because this would deprive court-watchers and other advocates from the ability to monitor the proceedings and the judges presiding over proceedings. Automatic closure may have the unintended consequence of shielding poor treatment of survivors, particularly self-represented survivors. We suggest that SB767 be amended to shield records and close courtrooms only upon request of the movant or State's Attorney Office:

Inserting on page 4, in line 27, following (H) “ UPON REQUEST OF A MOVANT OR THE STATE'S ATTORNEY:”

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to
report favorably on Senate Bill 767 with Amendments**

Vacatur Testimony SB 767.pdf

Uploaded by: Sophie Aron

Position: FWA



UNIVERSITY OF MARYLAND
SAFE CENTER

BILL NO: Senate Bill 767
TITLE: Criminal Procedure - Human Trafficking - Vacatur and Expungement
COMMITTEE: Judicial Proceedings
HEARING DATE: March 8, 2022
POSITION: **FAVORABLE WITH SPONSOR AMENDMENTS**

TESTIMONY IN SUPPORT OF SB767:

Criminal Procedure - Human Trafficking - Vacatur and Expungement

From: Sophie Aron, MSW, Research and Program Coordinator, University of Maryland SAFE Center for Human Trafficking Survivors

Date: March 8, 2022

The University of Maryland Support, Advocacy, Freedom, and Empowerment (SAFE) Center for Human Trafficking Survivors provides survivor-centered and trauma-informed services that empower trafficking survivors to heal and reclaim their lives. The SAFE Center offers a one-stop-shop for survivors of sex and labor trafficking of all nationalities, ages, and genders to access multi-disciplinary services, including four direct services programs: social services, legal, behavioral health, and economic empowerment.

The SAFE Center aims to prevent trafficking and better serve trafficking survivors through research and policy advocacy. The SAFE Center is an initiative of the University of Maryland Strategic Partnership: MPowering the State – a collaboration between the University of Maryland, Baltimore and the University of Maryland, College Park. We are part of the Graduate School, University of Maryland, Baltimore.

Since opening in May 2016, we have supported more than 270 human trafficking survivors, plus more than 75 of their immediate family members, referred from law enforcement, other service providers, and the National Human Trafficking Hotline. We serve a diverse population of clients from the United States, El Salvador, Honduras, the Philippines, Guatemala, and other countries. Fifty-five percent of our clients have experienced sex trafficking, 29% labor trafficking, 8% sex and labor trafficking, 8% have demonstrated high risk indicators of trafficking.

Senate Bill 767 with sponsor amendments would strengthen Maryland’s “vacating convictions” law by adding protections necessary to support survivor safety and confidentiality as well as provide guidance to the court on motions granted without a hearing. The SAFE Center supports this bill because it will enhance the effectiveness of Maryland’s trafficking-specific criminal record relief law by improving privacy protections for survivors seeking to vacate their trafficking-related convictions, as well as clarifying judicial procedures relating to motions practice.

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. Data recently obtained from a national survey of both sex and labor trafficking survivors demonstrates the need for easily accessible criminal record relief, with 91% of survivors reported being arrested during the time they were being trafficked, the majority for crimes other than prostitution.¹ Of those surveyed, 73% reported

¹ National Survivor Network, National Survivor Network Members Survey: Impact of Criminal Arrest and Detention on Survivors of Human Trafficking (2016) <https://mvslaw.org/wp-content/uploads/2017/06/NSN-Survey-on-Impact-of-Criminalization-2017-Update.pdf>.

barriers to employment because of their criminal records, while 58% reported barriers to accessing housing.¹

Maryland responded to this injustice in 2011, becoming just the second state in the country to enact a trafficking-specific criminal record relief law, which allowed survivors of sex trafficking to vacate or set aside their prostitution convictions. In 2020, the Maryland General Assembly passed the "True Freedom Act," a much-needed revision to the state's vacatur law which significantly expanded the list of convictions that were eligible for vacatur and eliminated certain procedural hurdles that were impeding trafficking survivors from accessing this crucial form of legal relief.

However, implementation of Maryland's updated vacatur law has not been without its challenges, particularly around privacy protections for survivors and how to dispose of convictions that are vacated without a hearing. The lack of consistency and clarity surrounding the process has created confusion for both the court and the attorneys representing the survivors seeking access to this form of relief, as well as for the survivors themselves. In an attempt to safeguard the confidentiality of the survivors as well as to reduce the risk of retraumatizing them during the process,² SB 767 would require the following: (1) that all vacatur petitions be filed under seal without requiring a separate hearing to determine whether the filings qualify for sealing; (2) closing the court to the public while hearings on these motions are being held; and, (3) allowing survivors to waive their appearance at any hearing scheduled on their petition. Additionally, SB 767 would clarify that the initial charge underlying any conviction vacated by the court *without a hearing*³ must also be dismissed, as well as require that the court alert the survivor of their right to expunge the resulting non-conviction, an often-forgotten part of the process.

In recent years, Maryland has shown its strong support for remedying the impact a deeply flawed criminal legal system has on the ability of its citizens to escape poverty and lead productive lives. Further refining Maryland's vacatur law to protect survivor confidentiality and to make the process less onerous for both survivors *and* the court is an example of this commitment.

For these reasons, the UMD SAFE Center supports with sponsor amendments the passage of SB767:
Criminal Procedure - Human Trafficking - Vacatur and Expungement.

Sophie Aron, MSW
Research and Program Coordinator
University of Maryland SAFE Center
Sophie.aron@umaryland.edu
410-200-6259

¹ *Id.*

² See Erin Marsh et. al., *State Report Cards: Grading Criminal Record Relief Laws for Survivors of Human Trafficking* 18, 19 (2019), <https://polarisproject.org/wp-content/uploads/2019/03/Grading-Criminal-Record-Relief-Laws-for-Survivors-of-Human-Trafficking.pdf> (citing best practices around allowing survivors to waive their right to appear in criminal record relief hearing as well as the necessity of building in confidentiality provisions designed to protect survivor safety).

³ MD CODE ANN., CRIM. PROC. § 8-302(e) (West, 2020).

sb767.pdf

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Position: UNF

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