

Testimony of the Human Trafficking Prevention Project

BILL NO: Senate Bill 37
TITLE: Criminal Procedure – Expungement – Waiting Periods
COMMITTEE: Judicial Proceedings
HEARING DATE: February 2, 2023
POSITION: **SUPPORT**

Senate Bill 37 would amend Maryland’s expungement law by shortening the required waiting periods for applying for expungement. As an organization whose mission it is to support criminalized survivors of human trafficking, 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 expungement framework by providing improved access to criminal record relief for all Marylanders, including survivors of human trafficking.

Maryland has drastically longer expungement waiting periods than most other states in the nation, which creates major obstacles for any Marylander hoping to petition for relief,¹ including criminalized survivors of trafficking. Longer waiting periods have historically reflected the belief that individuals should only be eligible for expungement after successfully showcasing their rehabilitation through a period of crime-free behavior.² However, many states have since shortened waiting periods in recognition of the inverse, which is that record clearing actually plays a constructive role in facilitating the crime-free rehabilitation most expungement statutes require,³ and that lengthy waiting periods may actually contribute to recidivism rather than discourage it.⁴ SB 710 would support this research by reducing waiting periods for both non-convictions and convictions alike.

It is also important to note that criminal records are both a predictor *and* the result of exposure to human trafficking. Criminal convictions create significant barriers to individuals who seek to find lawful employment, safe housing and education and continue to haunt trafficking survivors long after they escape their trafficking situation. Data obtained from a national survey of both sex and labor trafficking survivors shows 91% of survivors reporting having been arrested at some point in their lives with over 50% of those survivors stating that every single arrest on their record was a direct result of their trafficking experience. Of the 24.6% of respondents who reported they had cleared, or had begun to clear their records, all reported it was a long and painful process. Given the fundamental injustice that so many survivors are already forced to endure due to the consequences of a criminal record that so often stems from crimes they were compelled to commit, it is essential that any state-based remedy allow for the broadest possible relief, rather than impose additional hurdles that prevent survivors from

¹ Margaret Love & David Schlüssel, *Waiting for Relief, A National Survey of Waiting Periods for Record Clearing*, Collateral Consequences Resource Center, 1-5 (2022) (showing 42 other states have shorter waiting periods for misdemeanor expungement, including Texas, Alabama, Mississippi, and Utah. With regards to non-violent felonies, Maryland ranks 35th in the nation on expungement waiting periods, far behind Colorado, Arkansas, North Dakota, and Oklahoma).

² Brian M. Murray, *Retributive Expungement*, 169 U. Pa. L. Rev. 665, 683 (2021), https://www.pennlawreview.com/wp-content/uploads/2021/05/Murray_Final.pdf.

³ J.J. Prescott & Sonja B. Starr, *Expungement of Criminal Convictions: An Empirical Study*, 133 Harvard L. Rev. 2460, 2479 (2020), <https://harvardlawreview.org/2020/06/expungement-of-criminal-convictions-an-empirical-study/>.

⁴ *Research on Recidivism and Employment*, Nat’l Inst. Of Justice, <http://www.nij.gov/topics/corrections/reentry/pages/employment.aspx>.

moving forward with their lives.

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. Reducing excessive expungement waiting periods supports proactive rehabilitation and will allow all Marylanders, including criminalized survivors, to escape the shadow of their criminal records. For these reasons, the Human Trafficking Prevention Project supports Senate Bill 37, and respectfully urges a favorable report.

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