

Testimony of the Human Trafficking Prevention Project

BILL NO: Senate Bill 454
TITLE: Criminal Procedure – Expungement – Completion of Sentence
COMMITTEE: Judicial Proceedings
HEARING DATE: February 9, 2024
POSITION: FAVORABLE

Senate Bill 454 would eliminate probation violations as a permanent roadblock to criminal record expungement. [The Human Trafficking Prevention Project](#) (“HTPP”) supports this bill because it will remove yet another unnecessary barrier preventing all Marylanders, including sex workers and survivors of human trafficking, from expunging their records, enabling them to more readily access the opportunities they need to better their lives.

In 2008, Abhishek I. was placed on one year of supervised probation after pleading guilty to a misdemeanor theft charge. During his period of probation, he was arrested for cannabis possession which was, at that time, illegal in Maryland. As a result of his arrest, he was sentenced to four days’ incarceration and his probation was closed “unsatisfactorily.” In 2020, after having waited the full 10 years as required under [Section 10-110\(c\) of the Maryland Criminal Procedure Code](#), he filed for expungement of his now-12-year-old conviction, which was denied due to what the court termed as his failure to satisfy the terms of his probation. In 2022, [the Court of Special Appeals affirmed the lower court’s decision](#), ruling that *any* post-conviction probation violation renders that conviction *indefinitely* ineligible for expungement because the individual has not “satisfactorily completed the sentence.”

As a result of this decision, known colloquially as [the Abhishek Case](#), any Marylander who has violated the terms of their probation at any point post-conviction is permanently barred from expunging that conviction in the State of Maryland, despite the “age” of the conviction or the circumstances of the violation. Since this ruling, the Maryland General Assembly passed the REDEEM Act, which cuts most criminal record expungement waiting times in half, only to find that millions of Marylanders are *still* barred from seeking expungement of their 5-15 year-old convictions due to the Abhishek ruling.

Senate Bill 454 seeks to resolve this unnecessary barrier by removing the terms “satisfies” and “satisfactorily” from the the expungement statute, meaning that those seeking expungement of eligible convictions will be able to do so at “the time when a sentence has expired, including any period of probation, parole, or mandatory supervision,” and the proscribed waiting period is complete. Given that the State’s Attorney’s Office and any applicable victim in the case [still retains the right to object to the expungement](#), this leaves the courts to make the final decision as to whether or not the expungement is in the interest of justice, as opposed to upholding a blanket ban on all violations.

Given that sex workers and survivors of trafficking are two of the groups [put at highest risk of arrest and incarceration](#) due to their disproportionate experiences with [poverty, substance use, and trauma](#), the HTPP believes it to be essential that any state-based criminal record relief remedy allow for the broadest possible relief, rather than impose additional hurdles that prevent survivors from moving forward with their lives post-arrest. SB 454 represents a rational and balanced approach that will allow *all* Marylanders, including sex workers and survivors of trafficking, who have waited the appropriate amount of time *and* who have not been barred from expungement due to a subsequent conviction, to remain eligible for the legal relief necessary to allow them to properly reacclimate into society. For these reasons, the Human Trafficking Prevention Project supports Senate Bill 454 and respectfully urges a favorable report.

The Human Trafficking Prevention Project is dedicated to ending the criminalization of sex workers and survivors of human trafficking through access to civil legal services and support for policies that dismantle harmful systems and increase access to basic human rights and legal relief.

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