



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BILL: House Bill 242 – Criminal Procedure
– Motion to Vacate Judgment of Conviction (Tree
Freedom Act of 2020)

SPONSOR(S): Delegate Atterbeary

HEARING DATE: January 28, 2020

COMMITTEE: Judiciary

CONTACT: Intergovernmental Affairs Office, 301-261-1735

POSITION: SUPPORT

Summary

The Prince George's County Human Trafficking Task Force (PGCHTTF) asks for a favorable report to HB 242. The PGCHTTF has been in existence for almost seven years, formed by the County Council through legislation in response to the growing issue of human trafficking in and around Prince George's County. The Prince George's County Human Trafficking Task Force urges a favorable report for this legislation as it will enhance the effectiveness of Maryland's human trafficking framework by improving access to justice for survivors who have been criminalized as a result of their involvement with a trafficker.

Background

In addition to the abuse, coercive control, and manipulation victims of trafficking routinely face, many victims also face criminalization for crimes they were forced to commit by their trafficker. Maryland responded to this injustice in 2011 when it became one of two states in the country to enact a vacating convictions law, which allows survivors of sex trafficking to vacate or set aside their prostitution convictions. Since that time, an additional forty-two states have enacted similar legislation.

Testimony

Why does Maryland need an improved Vacating Convictions Law?

In the years since its enactment, Maryland's vacatur law has proved inadequate in meeting the needs of Maryland's survivors. The majority of criminalized trafficking survivors have trafficking-related convictions other than prostitution, such as trespassing or drug conviction. Additionally, Maryland's law does not specifically include survivors of labor trafficking who are similarly convicted of crimes they were forced to commit.

Maryland is one of only two states in the entire country to require the consent of the prosecuting agency before the victim can file a petition for vacatur with the court. This is a particularly problematic provision in that it essentially puts a prosecutor in the role of a judge, demanding they determine whether the survivor was trafficked at the time of conviction. This eliminates the ability of the court to act independently, which is the very function of the court in the legal process. In addition, this step often adds months to what is often already a lengthy and re-traumatizing process. This additional struggle is not in the best interest of the survivors seeking relief nor the neighborhoods and communities that house them.

Data recently obtained from a national survey of both sex and labor trafficking survivors echoes the need for access to broader relief. Ninety-one percent of survivors reported being arrested during the time they were being trafficked for crimes other than prostitution. Of those surveyed, seventy-three percent reported barriers to employment due to their criminal records while fifty-eight percent reported barriers to securing housing.

In recent years, Maryland has shown its strong support for remedying the impact the criminal justice system has on its citizens attempting to escape poverty and lead productive lives. Criminalized survivors of trafficking suffer similarly if they are unable to obtain such relief, as they too struggle with securing safe housing and gainful employment. These consequences carry with them the additional risks of continued exploitation by a trafficker or inability to escape the commercial sex trade. Survivors of human trafficking deserve better in the State of Maryland.

Conclusion

House Bill 242 would remedy these significant legal gaps by expanding the post-conviction relief available to survivors of human trafficking.

For these reasons, the Prince George's County Human Trafficking Task Force supports House Bill 242. We respectfully urge a favorable report.