

Testimony of the Human Trafficking Prevention Project

BILL NO: House Bill 997
TITLE: Criminal Procedure – Restorative Justice Program
COMMITTEE: Judiciary
HEARING DATE: February 22, 2022
POSITION: **OPPOSE**

House Bill 997 would establish a Restorative Justice Program within the Victim Services Unit of the Governor's Office of Crime Prevention, Youth, and Victim Services. While we support restorative justice measures as an alternative to the criminal legal system for survivors of human trafficking, the Human Trafficking Prevention Project at the University of Baltimore School of Law opposes this bill as written because it is not sufficiently victim-centered or informed by survivors of control-based crimes like human trafficking.

With the passage of the Trafficking Victims' Protection Act in the year 2000, criminal laws designed to penalize traffickers were enacted, as were provisions designed to provide access to supportive services for survivors. However, what justice "looks like" with regard to human trafficking has largely been viewed through the lens of the criminal legal system, despite the fact that for survivors, justice often "looks" quite different.

Through funding received from the National Institute of Justice, the Urban Institute sought to shed light on this issue by interviewing survivors, legal/social service providers, justice stakeholders, and other relevant policy actors. The resulting study, "Bending Towards Justice: Perceptions of Justice Among Human Trafficking Survivors," revealed that survivors of human trafficking overwhelmingly lack faith in the U.S. criminal legal system, primarily due to the impact of criminalization and the coercive tactics commonly used by prosecutors to convict their traffickers.¹ Survivors also overwhelmingly favored alternative forms of justice to that which is offered by the criminal legal system, including restorative justice practices.²

However, as drafted, we have many concerns with HB 997. Most notable is that the bill does not take a sufficiently victim-centered approach. At its most basic, restorative justice is about repairing a harm that was caused to a victim or victims by criminal behavior by centering the needs of victims, not perpetrators. Permitting a person who was convicted of a crime and sentenced to incarceration to initiate a restorative justice process without buy-in from the victim, as HB 997 would, is counter to a victim-centered approach. It could be incredibly psychologically harmful to a victim and triggering for them to have the person convicted of the crime committed against them to initiate this process.

In addition to this concern, HB 997 also lacks clarity regarding the following: the presence of safeguards preventing offenders from manipulating the system to learn of the survivor's whereabouts, how information learned during the restorative justice process can be used in related legal proceedings, qualifications for facilitators including requiring training or professional licensure, the presence of only one victim representative on the restorative justice council, whether certain power and control-based crimes like human trafficking should have additional limits or protections applied during the process, whether serial offenders would be limited or prohibited from accessing the restorative justice program, and ensuring survivors have appropriate supports, including access to crime victim rights counsel.

While the HTPP and our partner organizations are committed to exploring options for restorative justice, there must be necessary safeguards for victims that are not present in the legislation as written. Additionally, there must be significant input from the human trafficking survivors leader community as well as the many other victim communities that this bill would impact, which was also absent from the process. For these reasons, the Human Trafficking Prevention Project at the University of Baltimore School of Law opposes House Bill 997. We respectfully urge an unfavorable report.

¹ Jeanette Husseman, et. al., *Bending Towards Justice: Perceptions of Justice Among Human Trafficking Survivors* (2018), <https://www.ojp.gov/pdffiles1/nij/grants/251631.pdf>.

² *Id.*