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Testimony of the Human Trafficking Prevention Project

BILL NO:	House Bill 906
TITLE:	Occupational Licensing and Certification – Criminal History – Prohibited Disclosures and Predetermination Process
COMMITTEE:	Economic Matters
HEARING DATE:	February 21, 2023
POSITION:	**SUPPORT**

House Bill 906 would prohibit certain departments of State Government from denying an occupational license or certificate to an applicant solely on the basis of the applicant's criminal history, limiting the requirement that applicants disclose certain types of criminal records, and establishing a predetermination review process. As an organization whose mission it is to support criminalized survivors of human trafficking, the Human Trafficking Prevention Project supports this bill because it will provide improved access to employment for all Marylanders, including criminalized trafficking survivors.

The Institute for Justice ranks Maryland as 11th in most burdensome licensing laws and 20th in most broadly and onerously licensed state, with almost 60% of all low-income occupations requiring an occupational license. In 2015, the Obama administration released a framework for reforming occupational licensing policy. The subsequent FY2016 Budget included $15 million for Department of Labor funding to identify, explore, and address areas where licensing requirements create barriers to labor market entry and labor mobility. This funding was used in part to establish a multi-year study of a consortium of 11 states, including Maryland. The Consortium final report, released in 2020, identified three populations facing significant barriers to employment due to licensure requirements, including individuals with a criminal record. House Bill 906 would begin addressing this undue burden by allowing individuals to seek meaningful employment in fields in which they are otherwise qualified to work.

Not only does Maryland receive poor grades on onerous licensing requirements, but it is one of the lowest rated on scales of barriers to professional licensing imposed on individuals with a criminal record. Although the statute requires a "direct relationship" between the applicant's convictions and the license for which they are applying, the statute also allows for Boards to deny applicants who they deem an "unreasonable risk to property or to the safety or welfare of specific individuals[.]" Such unfettered discretion allows for decisions to be made based on stereotypes or assumptions relating to certain convictions, as many HTPP clients have experienced attempting to obtain licensure to care for children or the elderly with prostitution, drug possession, and/or theft charges on their records.

While the Division of Occupational and Professional Licensing has found no records of anyone denied a license based solely on a criminal record from 2014 through 2018, this data suggests that individuals are deterred from even applying. Of the 613,034 license applications received over this period of 8 years, only 0.13%, or 803, had a criminal record. Given that over 35,000 individuals were released from prison in this period, that many more acquired criminal records during this time, and that most low-income professions require a license, evidence points to Maryland laws around restrictions for licensure being a barrier for applicants even just considering obtaining a license.

Finally, it should be noted that licensing laws and restrictions on individuals with a criminal record disproportionately affect survivors of human trafficking, given 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.[1]   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."[2]   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 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. Increasing the availability of employment licenses 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 House Bill 906, and respectfully urges a favorable report.

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[1] National Survivor Network, *National Survivor Network Members Survey: Impact of Criminal Arrest and Detention on Survivors of Human Trafficking* 3 (2016), https://nationalsurvivornetwork.org/wp-content/uploads/2017/12/VacateSurveyFinal.pdf

[2] *Id* at 9.