

MARYLAND SENATE JUDICIAL PROCEEDINGS COMMITTEE  
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE  
IN SUPPORT OF SB 762 CRIMINAL LAW – DRUG PARAPHERNALIA  
FOR ADMINISTRATION – DECRIMINALIZATION

March 7, 2023

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Chairman Smith and distinguished members of the Committee thank you for the opportunity to testify in support of Senate Bill 762.

My name is Heather Heiman, and I am the Project Manager for the Human Trafficking Prevention Project at Maryland Volunteer Lawyers Service (MVLS). MVLS is the oldest and largest pro bono civil legal service provider to low-income Marylanders. Since MVLS' founding in 1981, our statewide panel of over 1,700 volunteers has provided free legal services to over 100,000 Marylanders in a wide range of civil legal matters. In FY22, MVLS volunteers and staff lawyers provided legal services to 7,652 people across the State.

In FY17, MVLS started the Human Trafficking Prevention Project, a co-grant project through the Governor's Office of Crime, Control, and Prevention with the University of Baltimore School of Law Human Trafficking Prevention Project Legal Clinic. The Human Trafficking Prevention Project (HTPP) at MVLS is a pro bono project that provides post-conviction relief such as expungement, shielding, and vacatur, as well as assistance with consumer, housing, and family law matters to those who meet the legal definition of a victim of human trafficking, and others who are at high risk for exploitation. Since its inception, the HTPP at MVLS has served over 200 clients who were survivors of human trafficking or at high risk for exploitation, many of whom sought legal help with criminal record relief for drug-related charges and convictions, including possession of paraphernalia. For reasons explained below, MVLS respectfully requests that the Committee returns a favorable report on SB 762.

For many individuals the HTPP serves, substance use is a common predictor of and reaction to their experiences of being trafficked. Many trafficking survivors report self-medicating to cope with what has happened to them while being trafficked. Moreover, traffickers frequently use drugs to recruit and control their victims. Being able to receive and retain safe and sterile supplies without fear of arrest for their possession will improve the health outcomes of trafficking survivors and create further opportunities for their engagement with support services.

The broad understanding that drug supplies are illegal in Maryland, and fear of arrest and convictions for paraphernalia possession, creates additional barriers to trafficking survivors seeking help from law enforcement. After an arrest or conviction for paraphernalia possession, trafficking survivors must then contend with the collateral consequences of involvement with the criminal justice system and proactively seek criminal record relief, a process often acutely re-traumatizing for the survivor.

Through our expungement work, which is a vital part of the HTPP, MVLS has assisted several clients who faced the following scenario:

Law enforcement officers arrest a trafficking victim on suspicion of drug possession, often due to having a mostly empty Ziploc bag, a used pipe, or even remnants of cigar paper discovered in a drawer or glove compartment. Despite the lack of evidence of actual drug possession, the prosecution moves forward with just a paraphernalia charge and drops the possession charge. The person then accepts a plea deal, pleading guilty to the paraphernalia charge; despite the State not meeting their burden of proof that the individual possessed drugs, this person now has a drug-related criminal record that will follow them for ten years or more.

These collateral consequences only trap people in a cycle of abuse and poverty since a criminal record makes it harder to obtain housing or employment.

Moreover, SB 762 helps further the State's efforts to align current law with the Marijuana Legalization Amendment, which allows for the use, distribution, regulation, and taxation of marijuana. Under the current drug paraphernalia criminal statute, law enforcement officers can arrest persons for having paraphernalia used for a drug that (effective July 2023) will be legal.

Senate Bill 762 would reduce this current harm by clarifying the law and lessening the risk of criminalization and negative health outcomes for trafficking survivors. For these reasons, MVLS supports Senate Bill 762. We respectfully urge a favorable report.