

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 754
Criminal Law – Sex Trafficking - Felony
DATE: February 15, 2023
(2/28)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes House Bill 754, as drafted. HB 754 would amend § 3-1102 of the Criminal Law Article to make two enumerated misdemeanor offenses, § 3-1102(a)(1)(v) and (vi), felonies. Additionally, the bill would create a new subsection, (f)(1), which states that “in a prosecution under this section, it is an affirmative defense of duress if the defendant committed the alleged violation as a result of being a victim of the act of another who was charged with violating the prohibition against sex trafficking under this section or under federal law.”

Although the Judiciary has no position on the policy aims of the legislation, the Judiciary has concerns with Criminal Law § 3-1102(f)(1) of the bill which conditions the affirmative defense on whether another has been “charged” with a violation of the statute. That effectively gives to the State the ability to control whether the affirmative defense is available to a given defendant.

In addition, the Judiciary has several questions about implementation of the affirmative defense provision, specifically with regard to jury instructions.

cc. Hon. Brian Crosby
Judicial Council
Legislative Committee
Kelley O’Connor