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MARYLAND HOUSE JUDICIARY COMMITTEE
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE
IN SUPPORT OF HB242: CRIMINAL PROCEDURE – MOTION TO VACATE JUDGEMENT –
HUMAN TRAFFICKING (TRUE FREEDOM ACT OF 2020)
TUESDAY, JANUARY 28, 2020

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Chairman Clippinger and distinguished members of the Committee, thank you for the opportunity to testify in support of House Bill 242.

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 provider of pro bono civil legal services to low-income Marylanders. Founded in 1981 by a group of concerned Maryland lawyers, legal services providers and leadership of the Maryland State Bar Association. Since then, our statewide panel of over 1,700 volunteer lawyers, has provided free legal services to over 85,000 Marylanders in a wide range of civil legal matters. In fiscal year 2017, 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. For the reasons explained below, MVLS respectfully requests the committee return a favorable report on HB242.

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 has served over 100 clients who were survivors of human trafficking or at high risk for exploitation. Eight of these individuals received assistance with vacatur petitions.

The purpose of filing vacatur motions is to remove convictions for prostitution from a human trafficking victim's criminal record because the trafficking victim had no control over their conduct when arrested. Removing criminal convictions from trafficking victims' records reduces barriers to a new life they commonly face, such as access to legal employment, housing, public benefits, and obtaining loans. The HTPP also offers post-conviction services as well as assistance with consumer, housing, and family law matters to those who do not meet the legal definition of human trafficking, but who are at high risk for exploitation, so that they may gain access to these benefits as well. This prevents initial exploitation by reducing risk factors that may lead a vulnerable person to succumb to a trafficking situation.

A vacatur motion benefits trafficking survivors immensely, because it allows survivors to vacate prostitution convictions going back to the time they were trafficked. This kind of relief is largely unavailable through other post-conviction remedies. Survivors also often have convictions other than prostitution that are a result of being trafficked. There is currently no legal remedy under vacatur to remove these convictions from their record, even though they stem from the same trafficking situation. These convictions

are largely non-violent misdemeanors such as drug related crimes, trespassing, or fourth degree burglary. The lack of a legal remedy under vacatur for these convictions often leaves survivors vulnerable to future exploitation as they are unable to completely remove the barriers they face in rebuilding their lives.

For example, Ms. J, a survivor of human trafficking from Baltimore, came to MVLS in 2017 to remove criminal charges from her record. With help from a volunteer attorney, Ms. J was able to expunge 10 non-guilty charges. In addition, Ms. J was able to vacate an additional 10 prostitution convictions, all stemming from when she was trafficked by four different traffickers. Despite the successful vacatur motion, Ms. J's record is not yet completely clear—she still has two convictions stemming directly from her being trafficked: perverted practice and indecent exposure. The police reports from these two incidents state that Ms. J was engaging in prostitution at the time she was arrested, and the charging dates correlate directly to when Ms. J was trafficked. Due to the current language of the vacatur law, which only allows removal of prostitution charges, Ms. J will still have these crimes on her record, even though she had no control over what was happening to her.

Ms. J has a passion for caring for the elderly and hopes to be able to receive her Nursing Assistant Certification. With these convictions on her record, however, Ms. J will continue to face difficulty getting into school and securing student loans. Furthermore, Ms. J has sought, and continues to seek, employment outside of the medical field but to no avail. Ms. J has applied for dozens of jobs and has yet to get a call back for an interview. In addition, Ms. J has been working tirelessly to have more parenting time with her daughter, who was placed in the care of a family friend, in order to provide a safer and more stable home environment when Ms. J was under the control of her traffickers. Due to Ms. J's past criminal involvement, lack of employment, and current housing situation, she has been unsuccessful in the family court system in gaining more parenting time. Ms. J is likely to continue to face obstacles demonstrating that she is a fit parent because she will still have convictions for perverted practice and indecent exposure on her record, hindering her ability to secure housing and gainful employment. Lastly, Ms. J is approximately 40 years old, and has never been able to secure housing of her own through public or private landlords because of her criminal record. Even after exhausting all post-conviction remedies currently available, Ms. J will be unable to secure a home for her and her children with the residual charges remaining on her record.

Another survivor of human trafficking, Ms. W. from Salisbury, also came to MVLS to remove criminal charges from her record. Ms. W faces similar obstacles to Ms. J in obtaining employment and housing due to her criminal record. Ms. W is in the process of vacating a prostitution conviction and expunging several charges. However, even if these motions are successful, Ms. W will be left with convictions on her record for drug related offenses, obstructing and hindering, giving a false statement to an officer, burglary in the fourth degree and trespassing, of which all stem from when she was trafficked. Ms. W currently relies on friends and family for housing and income because she is unable to find work or secure housing due to her criminal record.

Ms. J and Ms. W are just two of the many human trafficking survivors throughout the state of Maryland facing additional obstacles under the current vacatur law. Without the ability to vacate convictions other than prostitution under the current vacatur statute, many victims of trafficking are in the same position they were in prior to seeking post-conviction relief—susceptible to exploitation or re-exploitation because they lack access to housing, employment, and public benefits. Our current vacatur law is based on the idea that human trafficking victims have no control over the crimes they are forced to commit while being trafficked. HB242 follows the intent and spirit of the existing law by acknowledging that prostitution is not the only crime victims are forced to commit, and will provide a remedy that is essential for trafficking survivors trying to rebuild their lives. For these reasons, MVLS urges a favorable report on HB242.

Mister Chairman and members of the Committee, thank you again for the opportunity to testify.