



BILL NO: House Bill 1001
TITLE: Criminal Law – Indecent Exposure With Lascivious or Prurient Intent
COMMITTEE: Judiciary
HEARING DATE: March 2, 2021
POSITION: OPPOSE

The Amara Legal Center writes to oppose House Bill 1001 (HB1001). We believe that this bill will negatively impact survivors of sex trafficking in Maryland by requiring individuals with indecent exposure convictions to register as sex offenders. Thank you for giving us the opportunity to share our thoughts.

The Amara Legal Center (“Amara”) provides free legal services in Washington, D.C., Maryland, and Northern Virginia to individuals impacted by sex trafficking or involved in sex work. Since 2013, Amara has served over 500 clients. Although many believe that sex trafficking only occurs overseas or among foreign nationals, the vast majority of Amara’s clients are U.S. citizens. Amara’s clients are both juveniles and adults born and raised in the D.C. metropolitan area. Amara provides brief legal advice, and partial and full representation for civil legal issues such as civil protection orders, divorce, child custody and support, and name changes. In addition to civil legal services, Amara provides victim-witness advocacy for clients working with law enforcement, criminal/juvenile defense, and representation in criminal record sealing and expungement cases.

Sex trafficking occurs when a trafficker uses force, fraud, or coercion to induce another person to engage in commercial sex. Traffickers prey upon others’ vulnerabilities and often use threats, emotional manipulation, and physical violence to maintain control. As a result of the power and control exercised by their traffickers, victims engage in activities in which they would not have otherwise engaged. These activities often lead to victims’ arrests, which create victim-defendants in the criminal legal system. Involvement in the criminal legal system impacts most of Amara’s clients, regardless of the legal issues clients are seeking to resolve. A majority of our criminal defense cases involving victim-defendants are found in Maryland. Involvement may come from being arrested for prostitution or solicitation; arrests for drug use; mental illness that may precede, occur during, or be exacerbated by sex trafficking; struggles with housing insecurity and homelessness; and a variety of crimes related to survival such as shoplifting and trespassing. The vast majority of crimes for which Amara’s clients are arrested are low level misdemeanors.

Due to the nature of sex trafficking, victims are especially susceptible to being arrested and charged with indecent exposure. For example, victims may be arrested for soliciting buyers on the street or engaging in commercial sex in public locations, such as a car. In recognition that indecent exposure is a charge that trafficking survivors face as a result of their victimization, the Maryland legislature included indecent exposure as an offense eligible for vacatur under the True Freedom Act of 2020. Vacatur of indecent exposure convictions enables survivors to pass background checks and subsequently, obtain housing, employment, and public benefits. Requiring individuals with indecent exposure convictions to register as sex offenders would defeat the purpose of vacatur because it would prevent survivors from passing background checks and achieving stability after leaving a trafficking situation.



Indecent exposure is already a criminal offense carrying penalties as severe as three years incarceration and a \$1000 fine. It is neither necessary nor beneficial to add sex offender registration to the pre-existing penalties. The Amara Legal Center urges the committee to consider the impacts of this legislation on trafficking survivors, as well as on Black and minority populations in Maryland. It is well-established that people of color are overrepresented in prisons and as defendants in the criminal legal system. Similarly, a sex offender registration requirement will likely disproportionately impact Black and minority populations. The Amara Legal Center's client population, for example, consists primarily of Black and Latinx cis and trans women, a historically marginalized and disenfranchised group. In addition, as a result of deep-seated systemic racism, Black and minority populations are more likely to experience homelessness and housing insecurity. Throughout the COVID-19 pandemic, unemployment rates have skyrocketed, shelters have closed, and public restrooms are no longer widely available. For individuals experiencing homelessness, these conditions leave no alternative but public urination. While urination by itself does not fall under the "lascivious or prurient intent," the statute allows law enforcement to exercise wide discretion in determining intent at the time of arrest. Unfortunately, law enforcement officers do not exercise discretion uniformly and communities of color are frequently over-criminalized. As a result, this bill puts Black and minority populations, who are disproportionately impacted by homelessness and by biased policing, at greater risk of being arrested and required to register as sex offenders, simply because they are unable to access restrooms during the pandemic.

It is imperative to recognize the structural and systemic racism that already prevents Black and minority populations from accessing the same resources and opportunities as their white counterparts. The addition of a sex offender registration requirement to the indecent exposure statute would pose yet another barrier for people of color to overcome. For these reasons, the Amara Legal Center opposes HB1001. We are available to answer any questions the committee may have. Thank you for the opportunity to provide our testimony.