



Office of the Ohio Public Defender

Timothy Young, State Public Defender

Testimony in Opposition of Sub. SB4 Expungement-Human Trafficking Sponsors Senators Kunze and Oelslager

Chairman Manning, Vice Chair Rezabek, Ranking Member Celebrezze and members of the House Criminal Justice Committee, thank you for the opportunity to testify on behalf of the Ohio Public Defender as a proponent of Substitute Senate Bill 4.

The Ohio Public Defender supports allowing individuals who have been victims of human-trafficking to have the records of their criminal offenses related to their trafficking expunged. A criminal record can severely hinder an individual's ability to obtain employment, housing, financial aid, professional licenses, and social services. Ohio has made considerable strides in crafting laws that protect individuals from being trafficked, and acknowledge that individuals who escape this life are victims. OPD supports HB56 and Sub. SB4 because expungement of these criminal records will allow these victims the opportunity to move past the criminal activity, of which they were forced to engage, and become productive members of society. That said, OPD has concerns that neither bill goes far enough.

OPD previously testified that a pitfall of Substitute SB4 is that it requires victims to have convictions for prostitution and/or solicitation before applying to have other convictions expunged. This is also a requirement under HB56, and remains a concern that OPD has with both bills. There may be victims who do not have prostitution and/or solicitation convictions because they were never caught or convicted of these offenses.

Additionally, HB56 prohibits victims of human trafficking to expunge offenses that cannot be sealed under current law. This category of offenses is far too broad, and includes any

conviction for an offense that carries mandatory prison time or is an offense of violence among other restrictions. Sub. SB4 allows expungement for all criminal offenses except aggravated murder, murder, and rape. This is also too broad an exception. There are cases in Ohio where a human-trafficking victim is forced to kill their pimp or a john because they have no other option and no escape from enslavement. Currently, there is a case pending before the Ohio Supreme Court where a 16-year-old girl was forced by her new pimp to participate in a robbery of her old pimp who was killed in the incident. The girl was charged and plead guilty to murder. There are also cases where victims of human-trafficking are charged with complicity to commit rape because their pimp forces them to assist in the trafficking of other girls, usually younger than the victim. Because of the force, coercion, and desperation in these cases, these victims should, at a minimum, have a court consider whether expungement is appropriate in their case.

Sub. SB4 allows felonies of the first and second degree to be expunged if, after considering the delineated factors, the court finds that the individual's interest in having their record expunged outweighs the state's interest in keeping the record. OPD is concerned that the factors specified in the bill will result in no felonies of the first and second degree being expunged. For instance, the court is required to consider the seriousness of the offense. All felonies of first and second degree are serious, that is inherent in the offense. Victims of human-trafficking are sometimes forced to commit offenses like robbery or burglary. In some instances, their pimp makes them participate in these offenses – in other instances they commit these offenses so they can get money to avoid being forced to have sex for money. While these offenses are of a serious nature, when put into the context of a human being forced into sex or labor - the offenses may be comprehensible. Furthermore, if the court is required to give extra scrutiny to felonies of the first and second degree then the court should not consider



the seriousness of the offense when deciding to grant the expungement. The seriousness has already been addressed by the need for the additional scrutiny.

Instead of allowing victimized people to move past this horrible time in their lives become productive members of society, the overly broad restrictions in both bills greatly reduce the chances that victims will benefit from these bills. Victims of human-trafficking have survived unthinkable suffering. An expungement could be the fresh start they need to obtain adequate housing and good jobs to support their families.

Thank you for the opportunity to speak today before your committee. I am happy to answer questions at this time.

