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To: Criminal Justice Committee

Nathan H. Manning, Chair
Jeffrey S. Rezabek, Vice Chair
Nicholas Celebrezze, Ranking Member
Jim Butler
Robert R. Cupp
John M. Rogers

Bill Seitz
Tavia Galonski
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Laura Lanese
Robert McColley
Dorothy Pelanda

Greetings Chairman Manning, Vice Chair Rezabek, Ranking Member Celebrezze, and members of the House of Representatives Criminal Justice Committee. I urge you to support S.B. 4 so that survivors of sex trafficking are able to move on from their victimization and lead fulfilling lives with meaningful access to housing, employment, and other opportunities.

I submit this testimony on behalf of the Human Trafficking Law Clinic of Case Western Reserve University School of Law, a nonprofit law clinic whose mission is to advocate for sex-trafficking victims, promote legislative reform, and raise awareness by educating the public on human-trafficking issues. The Clinic has represented many victims of sex trafficking and advocates for survivors in their efforts to attain justice, reintegrate in society, and restore their lives. I am a Professor of Law and, as the co-Director and founder of the Clinic, I teach a Human Trafficking Lab course to law students on relevant human-trafficking topics, including the need for legislative reform. I am also a member of the Legislative Sub-Committee of the Human Trafficking Commission and am the Board President of the Renee Jones Empowerment Center, a non-profit center that serves the needs of sex-trafficking victims.

Background:

Human trafficking, in particular sex-trafficking, is the fastest-growing crime in the United States and world-wide. It is a $150 billion industry that's growth is attributed to many factors, including the increasing drug epidemic and the spread of internet and social media usage. Ohio ranks fourth in the number of human trafficking cases reported to the national hotline. Northeast Ohio has seen a significant increase in the number of sex-trafficking victims in the past few years. More pointedly, once victims are identified, many are unable to get the legal, psychological, financial and other services they need to stay "out of the life" and begin the restorative process. In 2012, the legislature passed the Safe Harbor Act (H.B. 262), which allowed for the expungement of prostitution-related offenses in certain circumstances.

S.B. 4 Solves Several Problems:

(1) While the Safe Harbor Act recognized that expungement of crimes was appropriate when one was a trafficking victim, the crimes were limited to misdemeanor crimes of prostitution, loitering to prostitute, and solicitation. This is problematic because nearly all sex-trafficking victims have additional **felonies** that have a much greater effect on their ability to obtain a job, housing, and other restorative services than the record of their misdemeanor prostitution-related offenses. For example, with the current drug epidemic, nearly all of the adult victims of sex-trafficking on Cuyahoga County's human trafficking docket are are grappling with drug addiction issues (and related drug-felony convictions) that are directly related to their trafficking victimization. Many pimps/traffickers use drugs to recruit, control, and punish their victims.

(2) Senate Bill 4 recognizes that, while being victimized, many survivors of human trafficking were coerced to engage in crimes *other* than prostitution, including drug offenses, theft offenses, assault offenses, and others. In fact, it would be difficult for me to name a *single* sex-trafficking client who has obtained *only* prostitution-related convictions during the time of his/her victimization. Such a supposition fails to acknowledge the brutal realities of the lives of sex-trafficking survivors. Senate Bill 4's limited list of exemptions (rape, murder, and aggravated murder) acknowledges the fact that—if a victim is able to prove his or her victimization—she should not be held criminally responsible for offenses that were the related to her victimization. This is contrary to the House Bill 56's current list of exemptions, which would leave many victims without recourse because of the laundry list of exemptions. *See, e.g.*, Elizabeth Nolan Brown, "Child Sex-Trafficking Victim Sentenced to Nearly Six Years in Prison for Child Sex-Trafficking," reason.com (Aug. 30, 2017) (Kansas teen who messaged friend about getting into prostitution with her was sentenced to 71 months in prison for aggravated human trafficking of a minor –even though the girl herself was a minor at the time and operating under the influence of a coercive and violent older man/trafficker); *State of Ohio v. Alexis Williams,* CR-585539 (Cuyahoga Cty. 2014) (defendant was trafficked by her husband and, when she was prosecuted as his "bottom" for simply collecting money for him, she plead guilty to three counts of attempted abduction).

Suggested Change

Prior to its passage, SB4 added an amendment prompted by the Ohio Prosecuting Attorneys' Association's concerns. This amendment requires a showing of duress for each and every first and second-degree felony and seriously affects advocates' ability to expunge first and second-degree felonies for many human-trafficking victims. This amendment conflicts with Ohio's human-trafficking statute, which does **not** require proof of duress in order to show that one was a victim of human trafficking. Instead, Ohio Revised Code 2905.05.32(B) provides:

> "For a prosecution under division (A)(1) of this section, the element 'compelled' does not require that the compulsion be openly displayed or physically exerted. The element "compelled" has been established if the state proves that the victim's will was overcome by force, fear, duress, or intimidation, or **fraud."**

The legislature explicitly clarified that the definition of "compulsion" was such that ***duress was only one of many ways to prove trafficking*** and compulsion included "fraud." This is significant because many, if not most, sex-trafficking victims are recruited and controlled by their pimps by fraudulent means (through the provision of love, affection, etc.).

As such, I would propose the following change to this language:

Rather than stating that the court must assess:

> "The degree of duress under which the applicant acted in committing the subject offense"

This language should be changed to:

> **"The degree of "force, fear, duress, intimidation, or fraud** under which the applicant acted in committing the subject offense"

Conclusion:

Senate Bill 4 provides a road to recovery for many, if not most, sex-trafficking survivors that has not been present in the past. The importance of providing them a "clean slate" moving forward so they can rebuild their lives cannot be understated. The Human Trafficking Law Clinic of Case Western Reserve University School of Law urges you to vote in support of this bill.

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