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**INTERESTED PARTY TESTIMONY OF CHIP McCONVILLE,
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Mr. Chairman Manning, Vice-Chair Rezabek, Ranking Member Celebreeze, and members of the House Criminal Justice Committee, my name is Chip McConville, and I am the Knox County Prosecuting Attorney. Thank you for the opportunity to provide interested party testimony on Senate Bill 4.

Revised Code Section 2953.38 currently authorizes the expungement of criminal records for soliciting, loitering to engage in solicitation, and prostitution -- if those offenses were the result of a person being a victim of human trafficking. These crimes range from third-degree misdemeanors to third-degree felonies. Senate Bill 4 would expand the scope of expungement to allow a victim of human trafficking, whose offenses were the result of their being such a victim, to seek to expunge records any offenses other than aggravated murder, murder, and rape.

Ohio prosecutors are as sympathetic as anyone to the victims of human trafficking, and we recognize that it happens everywhere. In 2012, Knox County had one of the first convictions under Ohio's human trafficking law. Ohio prosecutors, however, have three specific concerns with Senate Bill 4.

First, the bill authorizes, with some limited exclusions, the destruction of records of first and second degree felonies. This creates the possibility that records of offenses like voluntary manslaughter, felonious assault, kidnapping, abduction, aggravated robbery, and aggravated burglary, among others, will be destroyed. The ability to seek to expunge these records is based on the premise that victims of human trafficking commit such offenses under duress. We have no doubt that many such victims do commit offenses while under duress or at least while under some sort of pressure from their trafficker or traffickers. The problem though is that if the person's participation in an offense was the result of duress, there should have been a duress defense raised prior to the conviction for that offense. If such a defense was successful, there would be nothing to expunge. If such a defense was not successful, it means the judge or jury did not believe that the act was committed while under duress. The bill then allows a person to

seek to expunge records based on duress even though at trial the factfinder did not believe that the acts were committed under duress.

Admittedly, the possibility of this is narrowed by an amendment that was added to the bill in the Senate outlining factors that a court must weigh before ordering the expungement of these records. This will inevitably lead to an uneven application of the law. Some applicants will have their records sealed and others will not, even though they may have been similarly victimized and committed the same offenses. Prosecutors also feel that it is a disservice to the victims of the crimes for which the records will be destroyed who could still be suffering the consequences of their own victimization. We recommend excluding first and second degree felonies from the scope of the bill.

Second, Senate Bill 4 authorizes the victim of human trafficking to file the application for expungement "at any time." This means that an application to expunge the records of an offense could be filed and potentially granted while a person is still serving a sentence for the offense. We recommend providing that the application may be filed only after the completion of any sentence for the offense and final discharge by the court or ODRC.

Finally, the bill creates a separate process for victims of human trafficking to seek to expunge records of cases which were dismissed or in which the individual was found not guilty. Sometimes cases are dismissed without prejudice and prosecuted at a later date. Senate Bill 4 would allow a victim of human trafficking to seek to have the records in the case destroyed even though charges may be refiled. While the bill makes this a factor for the court to consider, expungement should be possible if charges may be refiled. We recommend explicitly providing that the court cannot order an expungement if the dismissal was without prejudice and the statute of limitations for the offense has not expired.

Thank you for your consideration of these comments. I would be happy to answer any questions that you might have.