



House Criminal Justice Committee
Proponent Testimony for House Bill 385
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Chair Abrams, Vice Chair Williams, Ranking Member Brown and members of the House Criminal Justice Committee:

Thank you for the opportunity to provide proponent testimony for House Bill 385. The Ohio Alliance to End Sexual Violence (OAESV) is Ohio's statewide sexual violence coalition. We advocate for comprehensive responses and rape crisis services for survivors and empower communities to prevent sexual violence. OAESV works with survivors, rape crisis centers, other statewide coalitions, and national partners to understand, respond to, and prevent human trafficking. Through this work, we know the facts – traffickers are skilled manipulators who strategically target vulnerable individuals and trafficking victimization puts significant, often life-long barriers in front of survivors. As such, it is critical that we understand the lifelong consequences for trafficking victims and enact laws like House Bill 385, that seek to improve outcomes for victims.

Victims of trafficking may be charged with crimes they were coerced or forced to commit by a trafficker, or as accessories to crimes committed by a trafficker. As a result, survivors are overwhelmingly charged with prostitution, theft, trespassing, or related charges, and face expensive legal fines and jail time. Survivors also face tremendous challenges once they leave an abusive situation and are ready to restart their lives. The legacy of their involvement with the criminal legal system expands far beyond a prison or courtroom, with these remnants of a survivor's past blocking opportunities for stability, services, and well-being.

This legislation creates critical expansions to Ohio's current expungement system that will improve outcomes for many survivors of human trafficking. Specifically, under current law, human trafficking survivors may apply for expungement for soliciting or prostitution offenses. This small list does not even begin to scratch the surface of offenses traffickers impose on their victims and the consequences to the victim's future are seemingly endless. An individual's criminal record often dictates their potential to seek opportunities related to employment, education, housing, benefits, and other essential resources. For survivors of trafficking, criminal records can also determine future involvement with the criminal legal system; this interplay can easily become a self-perpetuating cycle, setting survivors up to lose.

When it works properly, expungement can disrupt these cycles, and combat stigma and poverty by increasing access to employment, housing, and other fundamental rights. That is why OAESV believes that this bill is essential to helping support survivors in rebuilding their lives and reducing risk of further harm presented by the barrier of a criminal record.

In order for an expungement process to actually work for survivors, it must be meaningfully accessible. As currently written, House Bill 385 would require a survivor to prove by clear and convincing evidence that they were a victim of trafficking. This standard of evidence creates a restrictive pathway to expungement, which means that a survivor must prove that it is highly probable that their claim is true.¹

Following a comprehensive review of human trafficking expungement statutes in the United States, the Polaris Project reports that an ideal expungement statute should utilize a “preponderance of evidence” standard, which means that a survivor must prove that it is more likely than not that they were a victim of trafficking at the time they were arrested for a criminal offense. The less restrictive burden of proof is recommended because of the variation that exists across survivors’ experiences and their ability to provide evidence of their trafficking experience. While some survivors may be able to provide more tangible proof because they have been connected with knowledgeable service providers, have testified in court against their traffickers, or have received certification of their victimization from a governmental agency, ***the majority of survivors will not be able to do so.***

It is essential that any criminal record relief statute in Ohio reflect the reality that the crime of human trafficking is by its very nature covert and stigmatizing, and because of that the evidence a survivor will be able to offer will vary significantly from case to case. Thus, OAESV recommends House Bill 385 be amended to change “clear and convincing evidence” to a “preponderance of the evidence” standard. This change will align the bill with its intended purpose of providing an accessible pathway to expungement for victims in Ohio.

OAESV sincerely thanks Representatives Richardson and Williams for sponsoring House Bill 385 and this Committee for the opportunity to provide testimony as the legislation takes shape.

¹ Polaris Project. (2019). *State report cards: Grading criminal record relief laws for survivors of human trafficking*. <https://polarisproject.org/wp-content/uploads/2019/03/Grading-Criminal-Record-Relief-Laws-for-Survivors-of-Human-Trafficking.pdf>