



OHIO JUSTICE & POLICY CENTER

RECLAIMING LIVES • RENEWING COMMUNITIES • RESTORING JUSTICE

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To: Ohio Senate Criminal Justice Committee

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From: Sasha Appatova, Second Chance Legal Clinics Director, OJPC

Date: May 18, 2016

Re: In Support of S.B. 284

Greetings Chairman Eklund, Vice Chair Hughes, Ranking Member Thomas, and members of the Senate Criminal Justice Committee. Thank you for the chance to provide proponent testimony for S.B. 284. I urge you to support this bill so that survivors of sex trafficking get a meaningful opportunity to achieve **recovery, empowerment, and community reintegration**.

First, a brief introduction: the Ohio Justice & Policy Center is a nonprofit law firm whose mission is to promote fair, intelligent, and redemptive criminal justice systems. OJPC has represented victims of human trafficking in filing successful expungement applications under R.C. 2953.38 (Safe Harbor expungement). OJPC also advocates for policy reforms, like S.B. 284, that allow trafficking-survivors to remove criminal-records-based barriers.

BACKGROUND

Human trafficking in Ohio is a fast growing and highly underreported form of modern day slavery. Victims – usually women and children – are compelled to commit crimes, like prostitution, theft, and drug-sales, for traffickers' financial gain. The trauma and abuse they suffer is tremendous. When survivors break free, their criminal records create serious barriers to employment, housing, education, family reunification, and more. In 2012, the Ohio Legislature created a new expungement process (Safe Harbor Act, H.B. 262) to **reverse the damage created by arresting victims of sex trafficking**. The law allows survivors to erase conviction records resulting from the trafficking situation.¹

Governor Kasich released a statement underscoring the goals and values of Safe Harbor expungement: **“Victims of human trafficking don’t deserve to be treated as criminals, but deserve our compassion and support so they can retake control of their lives, put the past behind them and begin getting their lives back on track.”**

¹ Before granting an expungement application, the court must determine that: 1) the applicant has previously been convicted of at least one enumerated predicate offense (prostitution, soliciting, or loitering to solicit) associated with sex trafficking; 2) the conviction(s) in the application resulted from the applicant being a trafficking victim; and 3) the interests of the applicant in the expungement are not outweighed by the government’s interest in keeping the criminal record(s).

SOLVING TWO PROBLEMS

Based on OJPC's experience and our conversations with advocates statewide, there remain **two significant problems or gaps in the expungement law**. While the 2012 expungement provision aimed to remove criminal-records-based barriers that result from being a victim of human trafficking, **S.B. 284 is necessary** to truly achieve this goal.

First, survivors should be able to apply to expunge **any criminal convictions** – from theft to drug charges to prostitution and beyond – if the person's participation in the offense was a result of being a victim of human trafficking. The current language of R.C. 2953.38 is ambiguous, so some courts and prosecutors may think that expungement is available *only* for convictions of prostitution, loitering to solicit, and solicitation. In reality, after being subjected to tremendous abuse (e.g., rape, forced heroin use), victims have criminal records far exceeding these three charges. For example, traffickers exploit their victims to transport drugs, steal items for resale, and hide from police. If only three offenses can be expunged, survivors are left with dozens of records that create the very barriers that the Safe Harbor law was meant to erase. S.B. 284 remedies this ambiguity.

Second, survivors need to expunge records of **arrest that did not lead to conviction**. Under the current R.C. 2953.38, survivors of sex trafficking can erase convictions but cannot erase other case records. The non-convictions continue to appear on background checks, online clerk-of-courts sites, etc. Survivors have to take a separate action to seal these records – and even then, the records stay with the court and are accessible in the future (in limited situations). It is necessary for non-convictions to also be expunged to fully realize the purpose of the original Safe Harbor Act.

CONCLUSION

S.B. 284 presents a simple and convenient remedy for two problems in the expungement law. Essentially, S.B. 284 empowers trafficking survivors to remove the shackles forged by their traffickers – truly eliminating the criminal records that resulted from the trafficking situation. The bill clears up any past ambiguities and creates one of the strongest forms of redemption that has ever existed for survivors of sex trafficking in Ohio. OJPC urges each of you to vote for S.B. 284.