



Ohio Prosecuting Attorneys Association

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Senate Bill 183
Interested Party Testimony
October 19, 2021

Chairman Manning, Vice-Chair McColley, Ranking Member Thomas and members of the Senate Judiciary Committee, thank you for the opportunity to offer interested party testimony on Senate Bill 183 to expand eligibility for record expungement for victims of human trafficking. We support repealing the requirement that an applicant have a conviction for one of the offenses related to prostitution. We agree that there are victims of human trafficking who otherwise qualify to have records expunged but who were never convicted of one of these predicate offenses. Those who are truly victims should be able to apply without being automatically barred. Our support for the repeal of the predicate offense requirement comes with a qualification because the predicate offenses do serve a couple of important related purposes. This is why we are here today as an interested party rather than as a proponent of the bill.

First, the predicate offense requirement provides some guardrails on who can apply to have records expunged. Second, they provide some objective indicia of an applicant's status as a victim of human trafficking. Taken together, the requirement to have an underlying offense provides a gatekeeping function that results in a more efficient use of limited prosecutor and court time and resources and prevents unwarranted applications, thereby reducing the opportunity for mistakes. Given the seriousness of some of the offenses for which an application can be made (e.g. voluntary manslaughter, involuntary manslaughter, aggravated arson, aggravated robbery, aggravated burglary, kidnapping, abduction, weapons under disability) and the irreversible nature of expungement, we believe the General Assembly should provide some other form of gatekeeping to help ensure that prosecutors and courts have the information they need to get these decisions right. Many of these offenses that are eligible for expungement under this law are, after all, offenses where someone else has been victimized. While we want to be fair and just to the victims of human trafficking we should be mindful of the victims of their crimes too and should also be mindful of the fact that there are people who voluntarily commit crimes and who are not victims of human trafficking who will be able to apply for expungement under this bill.

To this end, we have suggested the following improvements to the bill:

- 1) A higher evidentiary bar of clear and convincing evidence. If not for all offenses, then at least where the applicant does not have one of the predicate offenses and for all F1s, F2s, F3s and any violent offenses or sex offenses.
- 2) An amendment to 2953.38(E)(2) that would make the more rigorous review process and balancing test in this division a requirement for all F1s, F2s, F3s, violent offenses and sex offenses.

- 3) A mandatory requirement that the court direct its probation department to make inquiries and reports concerning the applicant and that the report be shared with the prosecutor in advance of the hearing.
- 4) An amendment to the timing of when the application can be made. An applicant should have to wait until their sentence has been completed and they have received final discharge from the court or ODRC.

It has been suggested that our concerns about this change are overblown because advocacy organizations work with small numbers of victims, that the hardest thing for victims of trafficking to do is tell their story, and that the prosecutor can just object if an application is unwarranted. The victims who work with these advocacy organizations, receive services from them, and are vetted by them are the people who should be allowed to apply for record expungement. They are the people who we support repeal of the predicate offenses for. But the legislation isn't limited to applications from people who have worked with such organizations. It allows any person to apply at any time and leaves our prosecutors and courts to sort through it even though they may not have had any interaction with the applicant since sentencing. I think it is not unreasonable for us to ask that the General Assembly help ensure that only the right people receive relief and that mistakes get minimized.

Thank you again for the opportunity to testify. I would be happy to answer any questions.