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To: Ohio House Criminal Justice Committee
From: Kevin Werner, Policy Director
Date: May 7, 2024
Re: Proponent testimony for H.B. 385

Greetings Chair Abrams, Vice Chair Williams, Ranking Member Brown, and members of the House Criminal Justice Committee. My name is Kevin Werner and I am the Policy Director at the Ohio Justice & Policy Center, a nonprofit law firm whose mission is to promote fair, intelligent, and redemptive criminal justice systems. OJPC has represented multiple victims of human trafficking in filing successful Safe Harbor expungement applications under R.C. 2953.36 (formerly R.C. 2953.38). We believe H.B. 385 will allow all survivors of human trafficking to be empowered with meaningful opportunities to achieve **recovery, gainful employment, stable housing, and community reintegration.**

BACKGROUND

In 2012, the Ohio Legislature created the Safe Harbor expungement process (Safe Harbor Act, H.B. 262) to reverse the damage created by arresting victims of sex trafficking. In 2017, the Safe Harbor expungement law was significantly expanded (S.B. 4) and, among its changes, the law was clarified to provide that a person may apply to expunge *any criminal convictions*—except for aggravated murder, murder, and rape—where the person’s participation was a result of being a victim of human trafficking. This expansion created one of the strongest forms of redemption that has ever existed for survivors of sex trafficking in Ohio. Despite this great progress, **the current law is still not fully accessible to all survivors of human trafficking**, and it needs to evolve to address the challenges of modern human trafficking victimization.

SOLVING TWO SIGNIFICANT PROBLEMS

While the Safe Harbor expungement provision has helped to remove criminal-records-based barriers for survivors, **H.B. 385 is necessary** to truly achieve this goal for all victims. Based on OJPC’s experience filing Safe Harbor expungements and our conversations with clients, there remain **two significant problems in the law, which are solved by H.B. 385.**

First, not all survivors of human trafficking are able to apply to expunge their records that resulted from their trafficking victimization. The current language of R.C. 2953.36 only authorizes survivors who are or have been



convicted of soliciting, loitering to engage in solicitation, or prostitution (hereinafter “predicate offenses”) to apply for expungement.¹ If a survivor does not have one of these predicate offenses, Safe Harbor expungement is automatically unavailable regardless of evidence of trafficking victimization. This not only shuts out many victims of sex trafficking, but also excludes victims of labor trafficking who were subjected to involuntary servitude. **The current law arbitrarily limits who can apply for expungement relief, but H.B. 385 rightfully corrects this problem by eliminating the predicate offense requirement.**

Second, the current language of R.C. 2953.36 does not fully take into consideration the complex nature of human trafficking victimization as it occurs in the current, modern world. For example, many victims of sex trafficking are now trafficked online. Websites like Backpage have moved sexual activity for hire from the streets to the internet, lessening the chances that a victim ever has contact with law enforcement. Many victims who were trafficked online often do not have the necessary predicate offense conviction, and therefore are barred from applying for Safe Harbor expungement. Additionally, the current law only legitimizes the experiences of certain victims of sex trafficking. Victimization experiences can be complex, even if trafficked by the same trafficker. Survivors could be victimized by the same trafficker, but if one survivor has a predicate offense conviction and the other does not, only that one survivor with the predicate offense will have the opportunity to apply for Safe Harbor expungement. This keeps an entire population of victims left behind and unable to fully heal, find gainful employment, acquire stable and safe housing, and reintegrate into the community. **H.B. 385 makes sure that no victim of human trafficking is left behind.**

CONCLUSION

H.B. 385 is the necessary remedy to address and correct the current shortcomings in the Safe Harbor expungement law. This bill allows for all survivors of human trafficking to have the chance to access this important form of relief. This bill also allows for the law to evolve to meet the realities of what human trafficking victimization looks like in our advanced, modern world.

¹ See R.C. 2953.38(B).