

Bill	HB /SB : Affirmative Defense to Victims of Human Trafficking Charged with Prostitution
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Sponsors	Delegate / Senator Lee House Co-sponsors:
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The Issue

- In addition to the abuse, coercive control and manipulation victims of human trafficking routinely face, many victims are arrested and convicted for crimes they are forced to engage in by their traffickers. This is particularly true for victims exploited through commercialized sex, who are commonly arrested for the crime of prostitution.
- Survivors of sex trafficking should be able to use the fact they were trafficked as an affirmative defense to their prostitution charges. An affirmative defense limits or excuses a defendant's responsibility for the crime they are being charged with.
- Other affirmative defenses, such as the defense of duress, do not reflect the lived experiences of many victims of sex trafficking, whose relationships with their traffickers are characterized by coercive control rather than direct threats of imminent physical harm, and are therefore limited in their usefulness.
- To date, 19 states allow individuals charged with prostitution to use their trafficking experience as an affirmative defense to a charge of prostitution. Currently, Maryland does not allow survivors of sex trafficking this defense.

Legislative Solution

Allow victims of sex trafficking to introduce evidence that they are the victim of human trafficking as an affirmative defense to a charge of prostitution.

How This Bill Addresses the Issue

- This bill recognizes that survivors of human trafficking should not be held criminally liable for crimes they have been forced to commit by their traffickers. Prostitution convictions contain a significant societal stigma and impact a survivor's ability to obtain gainful employment, safe housing and to heal from trauma.
- This legislation compliments Maryland's "vacating convictions" law by reducing the likelihood that survivors of trafficking will acquire a criminal record, reducing the need for post-conviction judicial intervention.
- This victim-centered legislation has been endorsed by the American Bar Association, and was developed with the support of a broad coalition of organizations, including the National Association of Attorneys General, the Polaris Project, the Uniform Law Commission and the U.S. State Department's Office to Monitor and Combat Trafficking in Persons.

