



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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The Honorable John Carney
Governor

John A. McNeal
Director

MEMORANDUM

DATE: April 16, 2019

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Mr. J. Todd Webb, Chairperson
State Council for Persons with Disabilities

RE: H.B. 102 (Criminal Record Relief for Survivors of Human Trafficking)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 102 which proposes to amend §787, Title 11 of the Delaware Code to expand the list of offenses that may be vacated, expunged, or pardoned for a survivor of human trafficking. SCPD endorses the proposed legislation given that people with disabilities face increased risk of human trafficking (see below). This bill would greatly expand access to criminal record relief for human trafficking survivors who committed crimes as a result of their victimization. In doing so, this bill will help survivors avoid the far-reaching consequences of a criminal record and help maximize their ability to secure independence and stability. SCPD also has the following observations.

Human trafficking can be defined as the practice of exploiting a person via force, fraud, or coercion for labor, services, or commercial sexual activity. Currently, the Delaware Code only allows persons “arrested or convicted of prostitution, loitering or obscenity committed as a direct result of being a victim of human trafficking” to file an application for a pardon or expungement or to make a motion to vacate judgment. HB 102, on the other hand, would allow a person arrested or convicted of “*any crime...committed as a direct result of being a victim of human trafficking*” (except for violent felonies) to seek a pardon, expungement, or vacated judgment. This bill also removes the requirement that a motion to vacate judgment be made two years after the person’s last conviction and within a reasonable period of time after the person ceases to be a human trafficking victim.

This bill reflects the recommendation of Delaware’s Human Trafficking Interagency

Coordinating Council, which in 2018 advised the state to expand the list of offenses eligible to be vacated, expunged, or pardoned for persons who committed offenses as a direct result of human trafficking. (See Report on Actions and Recommendations on Human Trafficking in Delaware, available at dhss.delaware.gov/dhss/admin/files/humantraffic_102018.pdf.) Survivors of trafficking are often forced to commit a wide range of crimes by their traffickers. Although statistics are not available about crimes committed as a result of victimization, a 2016 survey by the National Survivor Network found that 91% of trafficking survivor respondents had a criminal record. Even if survivors manage to escape their traffickers, having a criminal record can cause profound harm and keep survivors from achieving stability in their lives. A criminal record can prevent a survivor from securing employment, finding housing, furthering her education, applying for a loan, obtaining immigration relief, and more.

People with disabilities face increased risk of human trafficking. The Office for Victims of Crime Training and Technical Assistance Center has outlined the factors that make individuals with disabilities particularly vulnerable to being trafficked. Some of these factors include:

- Traffickers may seek out people with disabilities to gain access to their Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits.
- Traffickers may target individuals with disabilities, especially those with intellectual disabilities or mental health diagnoses that may make it difficult for them to report abuse. These victims may also face increased skepticism if they do try to seek help.
- Individuals with disabilities may require a caregiver to meet their basic needs, and caregivers may exploit this dependency and become the trafficker. Even if the caregiver is not the trafficker, people with disabilities may be accustomed to an unequal power dynamic in relationships, which can carry over into relationships with abusers.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed legislation.

cc: Ms. Laura Waterland, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

HB 102 human trafficking 4-16-19