

July 27, 2017

Joint Committee on the Judiciary  
Massachusetts State Legislature  
The Statehouse  
Boston, MA 02108

RE: Support for HB 766  
An Act to reduce sexual exploitation of victims of human trafficking

Dear Members of the Joint Committee of the Judiciary:

Strategies for Youth strongly urges the Committee to favorably vote out House Bill 766, an Act to reduce sexual exploitation of victims of human trafficking. Massachusetts will be the 32<sup>nd</sup> state to enact such a law; better late than never.

Strategies for Youth (SFY) is a national nonprofit organization dedicated to improving police/youth interactions and reducing disproportionate minority contact. SFY works with law enforcement agencies across the United States, and trains officers to use developmentally appropriate, trauma-informed, equitable approaches to policing youth. Additionally, SFY works with youth on ways to avoid arrest, court involvement and to avoid the records that result and that cut short future education and employment opportunities.

SFY strongly supports HB 766 for its recommendation to streamline the sealing of court records of survivors of human trafficking and commercial sexual exploitation for offenses that were committed directly as a result of their victimization. These offenses include prostitution and possession of a Class A, B, C, and D controlled substance.

On behalf of SFY, I write to make three key points, based on our experiences nationwide with law enforcement agencies and criminal justice systems that aim to protect victims of trafficking.

**1) Convicting victims of human trafficking for offenses that were committed directly as a result of their victimization is a misguided route to aiding survivors.**

It should be axiomatic that we do not want to charge and convict victims of human trafficking and commercial sexual exploitation for offenses such as prostitution and possession as survivors should not be criminalized as a result of their victimization. A commitment to vacating convictions for victims of trafficking is the key strategy to enabling survivors to find noncriminal work and achieve economic independence—in

short, get out of “the life.” Presently, such victims must go through costly and time consuming legal processes to free themselves of the marginalization resulting from having such records.

The current legal process to obtain sealing of a record acts as another form of bondage; the only way out is through rescue by a major law firm. This bill would help level the playing field and make real other pro-trafficking victims policies of the Commonwealth.

## **2) Survivors of human trafficking who have criminal records have an extremely difficult time seeking employment, a living space, higher education, etc.**

The clear majority of trafficking victims are recruited during their youth, often between the ages of 11 and 15, when they are the most vulnerable to coercion and most dependent on others for support. Upon exiting a coercive relationship with one’s trafficker, most survivors are left without any source of support or shelter. They are traumatized, frightened, and easily demoralized. The additional burden of a criminal conviction makes it extremely difficult to pursue employment, housing assistance, loans, medical care, education, immigration relief, etc. It is hard to understand how the Commonwealth, which failed to protect young victims from traffickers, finds it fair or reasonable to demand that victims jump through such hoops before they can begin seeking employment, stable housing and education. Ultimately, the conduct of the Commonwealth serves as a second punishment towards trafficked victims.

In view of the fact that 80% of employers in the U.S. use criminal background checks<sup>1</sup> in their employment process, even in a “ban-the-box” state like Massachusetts, the impact of a record derails prospects from escaping “the life.” Therefore, this bill dramatically increases a survivor’s chance to escape “the life” and find work if their criminal record is sealed through this vacatur law.

## **3) HB 766 is modeled on similar legislation in other states.**

With New York leading the way in 2010, *vacatur* laws have become a movement that has swept the nation with **31 states** enacting either expungement or *vacatur* statutes for human trafficking victims. This movement came about as part of states’ comprehensive approach to protect survivors flee the clutches of their traffickers and support economic independence for victims.<sup>2</sup> Survivors should be able to attain and strive for their own unique and individual goals in life devoid of the burden that a criminal records bears.

States such as California, Florida, Illinois, New York and North Carolina have enacted legislation that protects the wellbeing of survivors of trafficking by providing vacatur of

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<sup>1</sup> Blumstein, Alfred and Kiminori Nakamura. “Redemption in the Presence of Widespread Criminal Background Checks.” *American Society of Criminology* 47, no. 2 (2009): 327- 359.

<sup>2</sup> Castillo, Rudy. “Vacatur Laws: Decriminalizing Sex Trafficking Survivors. *American University Journal of Gender, Social Policy, and the Law*, (2016).

their records. What is the reasoning for Massachusetts not being the 32<sup>nd</sup> state to actively protect survivors through use of vacatur laws?

For these reasons, we urge the Joint Committee on the Judiciary to favorably vote out House Bill 766 as it would greatly benefit the lives and futures of many individuals who have endured such traumatizing and inhumane experiences.

Thank you for your consideration of our concerns and please feel free to contact Strategies for Youth if you would be willing to discuss this matter in greater detail.

Very truly yours,

A handwritten signature in blue ink that reads "Lisa H. Thurau". The signature is written in a cursive, flowing style.

Lisa H. Thurau,  
Executive Director