


Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: September 19, 2018

SUBJECT: Fiscal Impact Statement – Trafficking Survivors Relief Amendment Act of 2018

REFERENCE: Bill 22-329, Draft Committee Print as shared with the Office of Revenue Analysis on September 19, 2018

Conclusion

Funds are sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill.

Background

The bill creates an opportunity for victims of human trafficking to motion to the Superior Court (Court) to have convictions vacated and criminal records¹ expunged for eligible offenses² which resulted from the trafficking activity. The bill details how an individual must file a motion and what must be included in the motion. An individual can only file a motion after all criminal proceedings have completed and the individual serves any sentence that is subject to the motion.

The bill gives the prosecutor ninety days to file a motion in support of, or in opposition to, a motion to vacate or expunge if the Court does not dismiss or deny the motion.³ Following the prosecutor's response, the Court may hold a hearing.⁴ If the individual proves and the Court determines, by clear

¹ Includes arrest and court proceeding records.

² Eligible offenses are all offenses except those defined as ineligible in the bill. Ineligible offenses include assault with the intention to kill or poison, first- and second-degree sexual abuse, child sexual abuse, murder, solicitation of murder, armed carjacking, acts of terrorism, and the manufacture, possession, use, or dissemination of a weapon of mass destruction.

³ The Court may dismiss or deny the motion after an initial review if, in the Court's determination, the individual is not eligible for relief.

⁴ The Court must hold a hearing within 90 days if the prosecutor opposes the motion.

The Honorable Phil Mendelson

FIS: Bill 22-329, "Trafficking Survivors Relief Amendment Act of 2018," Draft Committee Print as shared with the Office of Revenue Analysis on September 19, 2018

and convincing evidence, that the individual was a victim of human trafficking and that such trafficking was the direct cause of the individual's arrest or conviction for an eligible offense, then the Court may grant the motion to vacate or expunge. If the Court denies a motion to vacate or expunge, the Court must state the reasons for denial or offer the individual a reasonable period of time to correct any deficiencies and refile the motion.

The bill requires the relevant government entities, upon the granting of an order to vacate a conviction or expunge criminal records, one year to certify to the Court and notify the affected individual that all references to the individual have been removed from all government records related to the conviction or arrest for the eligible offense. In lieu of a request to expunge criminal records, an individual whose motion was successful may petition the Court to seal his or her criminal records. All Court decisions are considered final regarding an opportunity to appeal.

An individual can avail themselves of the bill's opportunity to vacate or expunge criminal records for any arrest or conviction that occurs before, on, or after the effective date of the bill.

Financial Plan Impact

Funds are sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill. The bulk of the activity and costs will be borne by the D.C. Superior Court which is federally funded. Any District costs related to the expungement or sealing of records, certification that those activities have been completed, and notification to the individuals who filed the motions can be absorbed within existing District resources.