

SENATE BILL 866

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6lr1201
CF HB 623

By: **Senators Lee, Benson, Feldman, Madaleno, Manno, and Raskin**

Introduced and read first time: February 5, 2016

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Postconviction Review – Conviction of Human**
3 **Trafficking Victim**

4 FOR the purpose of authorizing a person to file a motion to vacate a judgment for certain
5 convictions if the person's participation in the underlying offense was a result of the
6 person having been a victim of human trafficking under certain circumstances;
7 repealing a requirement that the State's Attorney sign a certain motion to vacate a
8 judgment; requiring a person to provide a copy of a certain motion to the State's
9 Attorney; authorizing the State's Attorney to respond to a certain motion within a
10 certain time period; requiring the court to take certain action if it grants a certain
11 motion; and generally relating to postconviction review.

12 BY repealing and reenacting, with amendments,
13 Article – Criminal Procedure
14 Section 8–302
15 Annotated Code of Maryland
16 (2008 Replacement Volume and 2015 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

19 **Article – Criminal Procedure**

20 8–302.

21 (a) A person convicted of [prostitution under § 11–306 of the Criminal Law
22 Article] **A SHIELDABLE CONVICTION AS DEFINED IN § 10–301 OF THIS ARTICLE**, may
23 file a motion to vacate the judgment if[, when the person committed the act or acts of
24 prostitution, the person was acting under duress caused by an act of another committed in

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 violation of the prohibition against] **THE PERSON'S PARTICIPATION IN THE OFFENSE**
 2 **WAS A RESULT OF HAVING BEEN A VICTIM OF:**

3 **(1)** human trafficking under § 11–303 of the Criminal Law Article or under
 4 federal law; **OR**

5 **(2) EXTORTION UNDER § 3–701 OF THE CRIMINAL LAW ARTICLE OR**
 6 **UNDER FEDERAL LAW, AS A RESULT OF HUMAN TRAFFICKING.**

7 (b) A motion filed under this section shall:

8 (1) be in writing;

9 [(2) be signed and consented to by the State's Attorney;]

10 [(3)] **(2)** be made within a reasonable period of time after the conviction;
 11 and

12 [(4)] **(3)** describe the evidence and provide copies of any documents
 13 showing that the defendant is entitled to relief under this section.

14 **(C) (1) THE PETITIONER SHALL PROVIDE A COPY OF THE MOTION TO THE**
 15 **STATE'S ATTORNEY.**

16 **(2) THE STATE'S ATTORNEY MAY FILE A RESPONSE TO THE MOTION**
 17 **WITHIN 90 DAYS AFTER RECEIPT OF THE MOTION OR AS OTHERWISE ORDERED BY**
 18 **THE COURT.**

19 [(c)] **(D)** Except as provided in paragraph (2) of this subsection, the court shall
 20 hold a hearing on a motion filed under this section if the motion satisfies the requirements
 21 of subsection (b) of this section.

22 (2) The court may dismiss a motion without a hearing if the court finds
 23 that the motion fails to assert grounds on which relief may be granted.

24 [(d)] **(E)** (1) [In ruling on] **IF THE COURT GRANTS** a motion filed under this
 25 section, the court [may] **SHALL** vacate the conviction, modify the sentence, or grant a new
 26 trial.

27 (2) The court shall state the reasons for its ruling on the record.

28 [(e)] **(F)** A defendant in a proceeding under this section has the burden of proof.

29 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect
 30 October 1, 2016.