

HOUSE BILL 502

E2

7lr1937
CF 7lr1626

By: **Delegates Dumais and Morales**

Introduced and read first time: January 27, 2017

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Shieldable Conviction – Motion to Vacate Judgment**

3 FOR the purpose of altering the type of conviction on which a certain motion to vacate a
4 conviction may be based; altering the contents of a certain motion to vacate;
5 requiring a certain person to provide the State's Attorney with a copy of a certain
6 motion; authorizing the State's Attorney to file a response to a certain motion at a
7 certain time; altering the court's authority with regard to a motion to vacate; making
8 conforming changes; and generally relating to motions to vacate judgments.

9 BY repealing and reenacting, with amendments,
10 Article – Criminal Procedure
11 Section 8–302
12 Annotated Code of Maryland
13 (2008 Replacement Volume and 2016 Supplement)

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

16 **Article – Criminal Procedure**

17 8–302.

18 (a) A person convicted of [prostitution under § 11–306 of the Criminal Law
19 Article] **A SHIELDABLE CONVICTION, AS DEFINED IN § 10–301 OF THIS ARTICLE**, may
20 file a motion to vacate the judgment if[, when the person committed the act or acts of
21 prostitution, the person was acting under duress caused by an act of another committed in
22 violation of the prohibition against] **THE PERSON'S PARTICIPATION IN THE OFFENSE**
23 **WAS A RESULT OF HAVING BEEN A VICTIM OF:**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(1) human trafficking under § 11–303(A) OR (B) of the Criminal Law Article or [under federal law] § 1589, § 1590, § 1591, OR § 1594(A) OF TITLE 18 OF THE UNITED STATES CODE; OR

(2) EXTORTION UNDER § 3–701(B) OF THE CRIMINAL LAW ARTICLE.

(b) A motion filed under this section shall:

(1) be in writing;

(2) [be signed and consented to by the State’s Attorney] **CONTAIN AN AFFIRMATION OF COMPLIANCE WITH SUBSECTION (C) OF THIS SECTION;**

(3) be made within a reasonable period of time after the conviction; and

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

(C) (1) THE MOVANT SHALL PROVIDE THE STATE’S ATTORNEY WITH A COPY OF THE MOTION.

(2) THE STATE’S ATTORNEY MAY FILE A RESPONSE TO THE MOTION WITHIN 30 DAYS AFTER THE MOTION IS FILED OR AS OTHERWISE ORDERED BY THE COURT.

[(c)] (D) [(1) Except as provided in paragraph (2) of this subsection, the] THE court shall:

(1) hold a hearing on a motion filed under this section if the motion satisfies the requirements of subsection (b) of this section[.];

(2) [The court may] dismiss a motion without a hearing if the court finds that the motion fails to assert grounds on which relief may be granted; OR

(3) GRANT A MOTION WITHOUT A HEARING IF BOTH THE MOVANT AND THE STATE’S ATTORNEY AGREE ON VACATUR OF THE JUDGMENT OR, WHEN APPLICABLE, SENTENCE MODIFICATION.

[(d)] (E) [(1) In ruling on] IF THE COURT GRANTS a motion filed under this section, the court [may] SHALL:

(1) vacate the conviction[,] OR modify the sentence[, or grant a new trial.]; AND

1 (2) [The court shall] state the reasons for its ruling on the record.

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

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2017.