

Memorandum in Support

NYSBA #37

May 14, 2018

S. 4997
A. 4540

By: Senator Lanza
By: M of A Gottfried
Senate Committee: Codes
Assembly Committee: Codes
Effective Date: Various

AN ACT to amend the Criminal Procedure Law, in relation to vacating convictions for offenses resulting from sex trafficking, labor trafficking and compelling prostitution.

This legislation would amend paragraph (i) of subdivision 1 of Section 440.10 of the Criminal Procedure Law to strengthen protection for victims of sex trafficking, labor trafficking, compelling prostitution and trafficking in persons.

New York State currently allows the victims of human trafficking to vacate prostitution-related criminal convictions related to being trafficked. This bill rightly recognizes that such protection should be extended to victims of other human trafficking-related offenses.

The Association's Task Force on Human Trafficking, whose report was approved by the Association's House of Delegates in November 2013, concluded that expanding protection beyond prostitution-related charges emphasizes that many victims of trafficking are compelled to engage in other types of criminal conduct. While prostitution-related offenses are the most common offenses for which survivors of trafficking are arrested, they are not the only ones. Many trafficked people are forced into various activities for the financial benefit of their traffickers. In New York, sex trafficking victims have faced arrests for drug possession, larcenies, trespassing, unauthorized street vending, and possession of a weapon, due to activities they were forced or coerced to engage in as victims of human trafficking. New York should recognize that victims of trafficking can be forced to engage in a variety of illegal acts beyond prostitution, and the vacatur remedy should include any criminal offense that occurred as a direct result of trafficking.

This legislation would be a step forward in addressing the complex issue of human trafficking.

The New York State Bar Association **SUPPORTS** the passage and enactment of this bill.