



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

SACRAMENTO LEGISLATIVE OFFICE

GEORGE GASCÓN • District Attorney
SHARON L. WOO • Chief Deputy District Attorney
JOSEPH F. INIGUEZ • Chief of Staff

DANIEL FELIZZATTO • Legislative Advocate
TAMAR TOKAT • Legislative Advocate

June 13, 2022

The Honorable Mike Gipson
California State Assembly
1021 O Street, Suite 8110
Sacramento, CA 95814

ASSEMBLY BILL 2169 (GIPSON) SUPPORT

Dear Assembly Member Gipson:

The Los Angeles County District Attorney's Office is pleased to support Assembly Bill 2169.

AB 2169 clarifies that when a person demonstrates, for purposes of vacatur relief, they committed an offense because they were the victim of human trafficking, intimate partner violence or sexual violence, it means the person lacked the requisite intent to commit the offense and that the conviction is legally invalid and must be set aside. AB 2169 also eliminates the requirement that: a court find the victim was engaged in a good-faith effort to distance themselves from the human trafficking scheme or the perpetrator of the harm and the vacatur relief be in the best interest of the petitioner.

Penal Code section 236.14 provides post-conviction relief to human trafficking victims by vacating nonviolent arrests, charges and convictions that were a direct result of human trafficking. Penal Code section 236.15 extends the same form of post-conviction relief to intimate partner violence and/or sexual violence victims by vacating nonviolent arrests, charges and convictions that were a direct result of the intimate partner or sexual violence. Unlike an expungement, getting a conviction vacated effectively means that the conviction never occurred.

AB 2169 will help provide relief for individuals who have criminal records as a result of their exploitation, by vacating nonviolent criminal offenses that were committed by human trafficking victims at the behest of their traffickers.

AB 2169 will also help to provide relief to deserving undocumented immigrants who were victims of human trafficking who are now seeking to change their immigration status. Under federal law, a vacated conviction remains valid for purposes of federal immigration laws where there is no legal defect in the conviction. A state order setting aside a conviction is invalid for immigration purposes where it is not based on any showing of innocence or on any suggestion that the conviction had been improperly obtained. AB 2169 clarifies that vacatur relief pursuant to Penal Code sections 236.14 and 236.15 is based on a substantive defect in the underlying

June 13, 2022

Page Two

arrest or conviction—that petitioner lacked the requisite intent to commit the offense, which is a necessary element of all criminal offenses.

Because state law does not currently expressly provide that the vacatur relief is based on a substantive defect that legally invalidates the conviction, it inadvertently creates a two-tiered system whereby citizens who obtain a vacatur under these statutes are entitled to complete relief from the collateral consequences of their convictions, while non-citizen victims continue to face collateral immigration consequences of their convictions. AB 2169 eliminates this unintended, disparate treatment of human trafficking victims.

If you have any questions or need additional information, please feel free to contact Daniel Felizzatto in my Sacramento Legislative Office at (916) 442-0668.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Gascón", written in a cursive style.

GEORGE GASCÓN
District Attorney