



## AB 1497 – Legal Justice for Domestic Violence and Human Trafficking Victims

### SUMMARY

AB 1497 ensures that survivors of domestic violence, human trafficking and other violence can share their victimization stories in court and allows judges to consider these stories when making sentencing decisions.

### BACKGROUND

In California, 34% of women experience domestic violence in their lifetimes. Gender-based violence impacts all communities – but Black, brown, and indigenous women, as well as queer and trans people, are disproportionately impacted. Black women are almost three times more likely than white women to die at the hands of a current or ex-partner.

A horrifying reality of our current legal system is that over 90% of human trafficking victims are criminalized while being trafficked. Survivors are often arrested and punished simply for protecting themselves or their family's lives.

The criminalization and penalization of victims by California's legal system leaves survivors without access to healing or crucial resources like housing, employment, and education. Instead, they are subjected to continued cycles of violence, homelessness, and poverty.

### EXISTING LAW

AB 124 (Kamlager, 2021) allowed courts to consider the experiences of survivors of sexual violence, human trafficking, and other violence in cases of *non-violent* crimes. It also expanded access to vacatur relief and affirmative defense to victims of intimate partner violence and sexual violence.

- **Affirmative defense:** A defense that a survivor can use in court if evidence establishes that they were coerced to commit an offense as a direct result of being victimized and they had a reasonable fear of harm.
- **Vacatur:** A process where survivors can petition the court to clear their record of convictions and arrests for offenses that were the direct result of their abuse and victimization.

### PROBLEM

Too often, a survivor's trauma is used against them, ignored, or not accounted for during legal proceedings. Consequently, judges and juries are left with insufficient information when making life changing decisions on a survivor's criminal charges and sentencing.

While AB 124 allowed survivors who were charged with non-violent crimes to share their stories, survivors charged with violent crimes are still unable to share their stories to the courts through affirmative defense, or for post-conviction relief in



the vacatur process. Judges are also unable to consider information about trauma and other experiences that may impact their case during sentencing. This denies them a chance to rebuild their lives because they are more likely to be criminalized and aggressively charged.

California is also falling behind the rest of the country in protecting survivors. Georgia, Louisiana, Nebraska, New York, and Wyoming allow for vacatur relief for all offenses. Oklahoma, South Carolina, Wisconsin, and Wyoming allow for the use of affirmative defense in both violent and non-violent cases.

### **SOLUTION**

No one should be prevented from sharing this type of trauma in the legal setting. To elevate *all* survivors' stories, AB 1497 expands the protections under AB 124, so that all survivors of domestic violence, human trafficking, and other violence have the chance to rebuild their lives and access the resources they need to heal from their trauma.

### **SUPPORT**

California Coalition of Women Prisoners (Co-sponsor)  
California Partnership to End Domestic Violence (Co-sponsor)  
Californians for Safety and Justice (Co-sponsor)  
Crime Survivors for Safety and Justice (Co-sponsor)  
Free to Thrive (Co-sponsor)  
National Center for Youth Law (Co-sponsor)  
Rainbow Services, Ltd. (Co-sponsor)  
San Francisco Public Defender's Office (Co-sponsor)  
Sister Warriors Freedom Coalition (Co-sponsor)  
Survived & Punished (Co-sponsor)

### **FOR MORE INFORMATION**

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