SPONSOR: Rep. K. Williams & Rep. Longhurst & Sen. Poore
Reps. Baumbach, Bolden, Brady, Briggs King, Chukwuocha, Griffith, K. Johnson, Kowalko, Lambert, Matthews, Mitchell, Morrison, Osienski, Ramone, Wilson-Anton; Sens. Bonini, Brown, Ennis, Gay, Hansen, Hocker, Lawson, Lockman, Lopez, Mantzavinos, S. McBride, Paradee, Pettyjohn, Pinkney, Richardson, Sokola, Sturgeon, Townsend, Walsh, Wilson

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 9
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWAE CODE RELATING TO CRIMES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 787, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 787 Trafficking an individual forced labor and sexual servitude; class D felony; class C felony; class B felony; class A felony.

(j) Application for pardon and petition to expunge; motion to vacate adjudication of delinquency or conviction and expungement record.

(2) A person convicted or adjudicated delinquent of any crime, except those deemed to be violent felonies pursuant to § 4201 of this title, committed as a direct result of being a victim of human trafficking may file a motion in the court in which the adjudication of delinquency or conviction was obtained to vacate the adjudication or judgment of conviction. A motion filed under this paragraph must:

a. Be in writing;

b. Be sent to the Delaware Department of justice; and

c.[Repealed]

d. Describe the evidence and provide copies of any official documents showing that the person is entitled to relief under this paragraph.

If the motion satisfies the foregoing requirements, the court shall hold a hearing on a motion, provided that 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. Official documentation of the person's status as a victim of this section, "trafficking in persons", or "a severe form of trafficking" from a federal, state, or local government agency shall create a presumption that the person's

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participation in any crime, except those deemed to be violent felonies pursuant to §4201 of this title, committed was a direct result of having been a victim of human trafficking but shall not be required for the court to grant a petition under this paragraph. If the petitioner can show to the satisfaction of the court that he or she is entitled to relief in a proceeding under this paragraph, the court shall grant the motion and, pursuant to this paragraph, enter an order vacating the adjudication of delinquency or judgment of conviction and dismissing the accusatory pleading, and may take such additional action as is appropriate in the circumstances or as justice requires.

(3) Notwithstanding any provisions of Chapter 43 of this title, Chapter 9 of Title 10, or any other law to the contrary, any person filing a motion under paragraph (j)(2) of this section in Superior Court or Family

Court may also seek in that motion expungement of the criminal or juvenile record related to such conviction .If the court grants the motion to vacate the adjudication of delinquency or conviction under paragraph (j)(2) of this section and the movant also requested expungement, the court's order shall require expungement of the police and court records relating to the charge and conviction or adjudication of delinquency.

Such order shall contain a statement that the expungement is ordered pursuant to this paragraph and, not withstanding any limitations to the contrary, that the provisions of

§ 4372(e), 4376 4377 of this title and § 1019 of Title 10 apply to such order.