



# State Report Cards

GRADING CRIMINAL RECORD RELIEF LAWS  
*for* SURVIVORS OF HUMAN TRAFFICKING



## Potential/Proposed Legislation

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*As of March 2019*

### **NEW YORK:**

Currently, the New York State Legislature is considering changes to its 2010 criminal record relief statute for human trafficking survivors. The bill, S3181/A00982, would add confidentiality protections to the statute which it currently lacks.<sup>45-46</sup> The legislation also expands the types of offenses that are eligible to be vacated beyond solely prostitution or sex related offenses. This is incredibly important as trafficking victims are not solely arrested for prostitution or sex-related offenses, and if criminal record relief statutes only cover these offenses, large numbers of survivors, especially those trafficked into different forms of labor, will be without relief. If this legislation passes, New York would move to the top of the grading with a score of 93 and continue to be a leader in providing criminal record relief for trafficking survivors.

### **KANSAS:**

Kansas has recently proposed new legislation, Senate Bill 154, which would update and expand criminal record relief available to human trafficking survivors in the state.<sup>47</sup> The bill creates a vacatur remedy and applies to all offenses. Currently, Kansas only allows for expungement of prior offenses and expungement only applies to a limited subset of charges. The legislation also protects confidentiality and allows for survivors to use an alternate method of appearance at hearings (electronic audio-video). Kansas' proposed legislation is unique and groundbreaking because it would be the first to explicitly provide for the return of fees and surcharges as per *Nelson v. Colorado* (2017). The legislation also ensures that survivors cannot be charged for filing petitions or going through the criminal record relief process. This is important because, as described above on page 21, in some states, survivors have to pay to file petitions and also pay to request agencies clear their record after vacatur/expungement/sealing is granted. These costs can be prohibitive. If Kansas passes this legislation, then its score would increase to an 87 which has the potential to increase its ranking to first place (or 2<sup>nd</sup> place if New York's legislation also passes).

### **MARYLAND:**

Maryland has proposed new legislation, Senate Bill 691/House Bill 782, to improve the criminal record relief laws for human trafficking survivors within the state. The new statute would expand the number of offenses that would qualify for relief, as the current statute only applies to prostitution. It would also eliminate the need for survivors to obtain the consent of the state's attorney in the jurisdiction that prosecuted the survivor before being able to request relief from the court. This new statute would increase Maryland's score from a 26 (the nation's lowest ranking score, with the exception of the states that earned a 0) to a 47, which would advance their ranking from last place to 25th place. While there is still much more that could be changed within Maryland's statute, focusing on changes that reflect the lived experiences of survivors is an important advancement in the state's criminal record relief laws. Maryland should work on incorporating several of the recommendations from these report cards, as well as best practices from other states, and use this to enact a more complete and encompassing criminal record relief statute for survivors trafficked within the state.

### **NEVADA:**

Currently, the Nevada state legislature is weighing proposed legislation that would expand the criminal record relief offered to trafficking survivors in the state. This legislation, Senate Bill 173, would no longer limit the covered offenses to prostitution, solicitation and related offenses that survivors committed while under duress.<sup>48</sup> The proposed legislation would cover all non-violent offenses and

also make it easier for survivors to attempt to vacate convictions from multiple jurisdictions in the state simultaneously. This would save survivors time, money, and energy as they currently have to file separate requests for criminal record relief in various counties in a state.” If this proposed legislation passes, Nevada will increase its grade to a 61 and its ranking will increase from 21st to 12th.

#### **NEW HAMPSHIRE:**

New Hampshire also is contemplating a legislative amendment. Proposed bill HB 189 would expand the offenses eligible to be vacated to include all misdemeanors and B felonies provided the charge did not include violence.<sup>49</sup> This addition would improve New Hampshire’s score from a 44 to a 56 and their ranking from 30th to 17th place. The bill would also include juvenile adjudications in criminal record relief, but, as explained prior, such provisions are outside the scope of this report. There is still potential for New Hampshire to modify this amendment to provide relief for more trafficking victims and to fix some of the other gaps in its current criminal record relief statute. New Hampshire should review the other states’ legislation and proposed legislation in states like New York and Kansas, as well as the recommendations in this report, to enact a more complete and effective criminal record relief statute for trafficking victims in its state.

#### **MAINE:**

Maine currently has no trafficking-specific criminal justice relief. A 2017 report from the Maine Advisory Committee to the U.S. Commission on Civil Rights stated that “human trafficking is a growing problem in Maine.”<sup>50</sup> So, while human trafficking occurs across Maine, there is no assistance to survivors who have been arrested as a result of being trafficked in that state. A criminal record relief bill is currently being drafted, and reports indicate that the bill will allow survivors to request that the court vacate or expunge convictions for crimes committed while they were trafficking victims. These crimes would include convictions for prostitution, trespassing, drug possession, and other offenses. Since the bill has not been introduced and enacted it cannot be graded for this report, but it is encouraging that Maine is taking steps to provide criminal record relief to trafficking survivors. Maine legislators should examine the best practices and recommendations in this report and capitalize on the opportunity to create an exemplary criminal record relief statute for trafficking survivors in the state.

**All State Report Cards can be found at [polarisproject.org/RecordRelief](https://polarisproject.org/RecordRelief).**

If you are a survivor of human trafficking, state legislature, journalist, or anyone wanting to learn more about criminal record relief or efforts to improve individual state statutes, please email [recordrelief@polarisproject.org](mailto:recordrelief@polarisproject.org).