

# Delaware



*The letter grades reflect Polaris' evaluation of existing laws designed to provide survivors of human trafficking with a realistic pathway to clear their criminal records. For more information on the criteria graded, please read [here](#) and examples of model legislation for each criteria can be found [here](#). If you have any questions or issues, please contact [policy@polarisproject.org](mailto:policy@polarisproject.org).*

## GOOD FOR SURVIVORS:

### Time Limitations and Wait Times:

Delaware has no time limit, restriction, or wait time for survivors to clear their criminal records.

### Judicial Discretion:

Delaware provides that the court "shall" or "must" order relief if the survivor meets certain statutory requirements. Therefore, the survivor is guaranteed specific action based on their eligibility.

### Official Documentation Creates Presumption of Victim Status:

Official documentation is not required for criminal record relief; however, if a survivor provides official documentation, the presumption of victimization prevents them from sharing their experience repeatedly in different settings, which is emotionally challenging and can re-traumatize the survivor. Delaware's statute includes this provision and is beneficial for survivors.

## NEEDS IMPROVEMENT:

### Trafficking Nexus:

Survivors in Delaware must prove the underlying offense and subsequent record was "proximately caused by" or "as a direct result of" being trafficked. Ideally, legislators in Delaware would change the statute to utilize less restrictive statutory language like "as a result" of trafficking or "while they were a victim" of trafficking.

### Offenses Covered:

The narrow scope of offenses currently covered by the criminal record relief statute in Delaware is inadequate because relief only applies to non-violent offenses- yet the range of offenses for which survivors are arrested and prosecuted is much broader. Ideally, legislators in Delaware would expand the statute to include all offenses so more survivors are eligible for relief.

### Burden of Proof:

Delaware is silent on the issue of burden of proof. Delaware should include a burden of proof in the statute, specifically "preponderance of the evidence," which is the most clear and most helpful to trafficking survivors.



Statute: [Del. Code Ann. tit. 11, § 787\(j\)](#)