

# Idaho



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*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:

### Legal Effect:

In Idaho, the law returns the survivor to pre-record status. This means that for all practical purposes, once the process is complete, it is as if the offense never happened. For example, a statute receiving the highest ranking indicates that the conviction is vacated "on the merits" - meaning the charges never should have been brought in the first place. The highest-ranking statutes also include the automatic destruction of the records so they cannot be used against the survivor in the future.

### Records Protection:

Idaho requires that the records of the offense are destroyed, purged, or otherwise permanently irretrievable once the survivor is awarded criminal record relief.

### Burden of Proof:

The current burden of proof in Idaho is a "preponderance of the evidence," which aligns with the level of proof survivors typically are able to use to establish their victimization.

## NEEDS IMPROVEMENT:

### Requires Collaboration with Law Enforcement:

Survivors have to cooperate with law enforcement or identify their trafficker in court in order to be eligible for relief. This requirement potentially puts survivors in danger and forces them into a situation that can cause them further trauma.

### Explanation of Why Affirmative Defense Was Not Raised in Initial Proceedings:

An affirmative defense allows a survivor facing criminal charges to raise a defense negating criminal liability because they are a victim of trafficking. In Idaho, a survivor is not eligible for criminal record relief if they raised an affirmative defense due to their trafficking victimization and were still convicted. If the survivor did not bring up their victimization as an affirmative defense, they have to explain why in order to get criminal record relief. Trafficking victims who raise an affirmative defense and are still convicted and those who never raise an affirmative defense at their initial proceedings should not be required to explain these complicated legal processes in order to obtain record relief.

### Time Limitations and Wait Times:

Idaho allows for most convictions, arrests, or prosecutions to be brought in a "reasonable time" after the trafficking ended. However, for arrests with no prosecution, survivors must wait 2 years to be able to expunge their record. Ideally, all survivors would be able to choose a time that is right for them to apply for relief.



Statute: [Idaho Code Ann. § 67-3014](#)