

Illinois



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.

GOOD FOR SURVIVORS:

Trafficking Nexus:

The nexus or connection to trafficking the survivor must prove in Illinois is currently "as a result" of trafficking. This is less restrictive than other states and allows more survivors to access relief.

Hearing Requirement:

Attending a hearing can be traumatizing for survivors as well as expensive. Illinois has a conditional hearing requirement. This means the hearing is required at the court's discretion or under objection from certain state authorities such as prosecutors. Ideally, survivors could apply for relief, and based on the evidence provided, the court could decide to grant relief without having a hearing.

NEEDS IMPROVEMENT:

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 Illinois, 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.

Offenses Covered:

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

Procedural Confidentiality:

The statute in Illinois is silent on the confidentiality of the petition for relief or records of the proceeding. Applying for record relief under these statutes can indicate a survivor's status as a trafficking victim and give information on their location, trafficking experience, and other sensitive details. Survivors should not have to choose between the safety risk of their victimization being exposed and applying for and accessing criminal record relief. Ideally, there should be an automatic process with clear confidentiality provisions in the statute to protect survivors applying for record relief.

Arrests and Adjudication Relief:

Relief in Illinois only applies to convictions, adjudications, and other declarations of guilt. Ideally, the statute should cover the full range of interactions a survivor has with the criminal justice system, including any records of arrest, incident reports, and non-prosecuted cases.

