

New Mexico



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:

Offenses Covered:

New Mexico covers a wide range of offenses, including more "serious crimes," i.e. violent crimes, sex crimes, and serious felonies. This is critical as many survivors are arrested and convicted for various offenses resulting from their trafficking experience. Ideally, all offenses would be eligible for relief.

Hearing Requirement:

Attending a hearing can be traumatizing for survivors as well as expensive. New Mexico is silent on whether a hearing is required, potentially allowing for a petition for relief to be granted without a hearing. However, this language is not specific, meaning a hearing may be required. Ideally, survivors could apply for relief, and based on the evidence provided, the court could decide to grant relief without having a hearing.

Arrests and Adjudication Relief:

New Mexico allows trafficking survivors to clear their criminal record of non-prosecuted cases, arrests, adjudications, convictions, any information related to an arrest, and incident reports.

NEEDS IMPROVEMENT:

Trafficking Nexus:

New Mexico requires survivors to prove that their offenses were committed "while under duress." This is problematic as it suggests a misunderstanding or narrow view of trafficking dynamics and the ways in which victims experience coercion.

Procedural Confidentiality:

New Mexico has a process for requesting that the petition and any records of the proceedings be placed under seal. Ideally, this process would be automatic so that survivors applying for record relief are protected, as 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 never have to choose between the safety risk of their victimization being exposed and applying for and accessing criminal record relief.

Burden of Proof:

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

