

New York



A

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:

Legal Effect:

In New York, 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.

Trafficking Nexus:

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

Offenses Covered:

New York does not limit offenses eligible for relief. This is ideal as many survivors are arrested for and convicted of a variety of offenses resulting from their trafficking experience, and not creating a barrier to offenses eligible means that more survivors can access record relief.

NEEDS IMPROVEMENT:

Judicial Discretion:

New York's statute states that the court "may" grant a petition for relief upon making the necessary findings. Ideally, the court "shall" or "must" grant the petition if the survivor meets certain requirements. Therefore, the survivor is guaranteed specific action based on their eligibility.

Burden of Proof:

New York is silent on the issue of burden of proof. New York 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.

Arrests and Adjudication Relief:

Relief in New York 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.



Statute: [N.Y. Crim. Proc. § 440.10\(1\)\(i\)](#)