

North Carolina



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 North Carolina, 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.

Burden of Proof:

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

Arrests and Adjudication Relief:

North Carolina 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:

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 North Carolina, a survivor either is not eligible for criminal record relief if they brought up their trafficking victimization as an affirmative defense and were still convicted or if the survivor did not bring up their victimization as an affirmative defense. 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 North Carolina 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 North Carolina would expand the statute to include all offenses so more survivors are eligible for relief.

Hearing Requirement:

North Carolina requires a hearing in all instances for any petition for relief. However, hearing requirements can be time-consuming, expensive, and traumatizing for survivors. Ideally, hearings would not be required. A better middle ground would be to make the hearing conditional upon objection by other stakeholders.

