

# South 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](mailto:policy@polarisproject.org).*

## GOOD FOR SURVIVORS:

### Legal Effect:

In South 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.

### Hearing Requirement:

Attending a hearing can be traumatizing for survivors as well as expensive. South Carolina 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.

### Records Protection:

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

## NEEDS IMPROVEMENT:

### Offenses Covered:

The narrow scope of offenses currently covered by the criminal record relief statute in South Carolina 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 South Carolina would expand the statute to include all offenses so more survivors are eligible for relief.

### Trafficking Nexus:

Survivors in South Carolina must prove the underlying offense and subsequent record was "proximately caused by" or "as a direct result of" being trafficked. Ideally, legislators in South Carolina would change the statute to utilize less restrictive statutory language like "as a result" of trafficking or "while they were a victim" of trafficking.

### Burden of Proof:

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

