

Virginia



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:

Time Limitations and Wait Times:

Virginia has no time limit, restriction, or wait time for survivors to clear their criminal records.

Burden of Proof:

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

Return of Fees and Fines:

In Virginia, the fees and fines related to an original conviction or sentence are returned to the survivor once they receive criminal record relief and their conviction or sentence is cleared.

Not Charging to Apply for Relief:

It can be financially challenging for survivors to apply for criminal record relief as they may have to hire an attorney, get documentation, travel for hearings, etc. Virginia explicitly requires that survivors are not charged fees to apply for and access record relief and are not charged fees to clear their records with agencies and departments after being granted record relief by the courts. This removes at least one financial burden that could prevent survivors from accessing record relief.

NEEDS IMPROVEMENT:

Only Applies to Sex Trafficking Survivors:

Virginia's statute is explicitly only for sex trafficking survivors and completely ignores the experience and victimization of labor trafficking survivors. The statute should apply to all survivors of human trafficking.

Offenses Covered:

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

Trafficking Nexus:

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

