

West Virginia



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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:

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

Hearing Requirement:

Attending a hearing can be traumatizing for survivors as well as expensive. West Virginia has a conditional hearing requirement. This means the hearing is required at the court's discretion or under objection from certain state authorities such as prosecutors. Ideally, survivors could apply for relief, and based on the evidence provided, the court could decide to grant relief without having a hearing.

to the trafficking survivor. This means that a survivor's record may still be accessible to the public even after they receive record relief. Ideally, the records of the offense should be destroyed, purged, or otherwise permanently irretrievable once the survivor is granted criminal record relief.

Trafficking Nexus:

Survivors in West Virginia must prove the underlying offense and subsequent record was "proximately caused by" or "as a direct result of" being trafficked. Ideally, legislators in West 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.

NEEDS IMPROVEMENT:

Offenses Covered:

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

Records Protection:

The statute in West Virginia is silent on the confidentiality or permitted disclosure of records upon granting criminal record relief

Procedural Confidentiality:

The statute in West Virginia is silent on the confidentiality of the petition for relief or records of the proceeding. 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 not have to choose between the safety risk of their victimization being exposed and applying for and accessing criminal record relief. Ideally, there should be an automatic process with clear confidentiality provisions in the statute to protect survivors applying for record relief.

