



STATE OF ARIZONA *Department of State*
ROAD TO RIGHTS PRESENTATION



Rights Restoration for Sex Trafficking Survivors

A new beginning for survivors of sex trafficking



by Marli Mayon

Division of Support Services
Road to Rights



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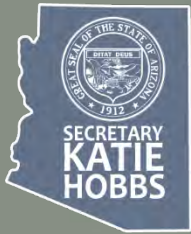
ROAD TO RIGHTS PRESENTATION

Presentation Purpose

Explain Arizona's Vacatur Law including opportunity areas for modifying legislation to reach a greater number of survivors

Present and answer commonly asked questions from folks interested in the Road to Rights Program

Answer questions you all may have as it relates to assisting survivors with information on AZ's vacatur law



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The Road to Rights Program

Agency Update

The pilot Road to Rights program was unfortunately not funded to continue the work of serving AZ trafficking survivors + increasing service provider knowledge of Arizona's vacatur law

The program will be absorbed by the Address Confidentiality Program as we work to continue to ensure that restoration of rights work remains a priority for Arizona's survivors

The Secretary of State website language will be updated shortly + a collaborative Restoration of Rights FAQs/fact sheet will be featured on the ACESDV website



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What is Vacatur Law?

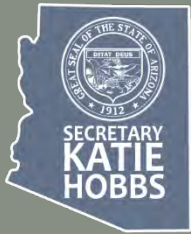
Understanding criminal record relief legislation



Criminal record relief legislation can take many different forms: set aside, expungement, sealing of records, and vacatur of records, among others. *Vacatur* of records refers to nullifying a previous conviction from one's record. According to the Polaris Project, "vacatur alters the merits of the underlying record unlike sealing or expungement which does not."

Vacatur laws allow those with criminal charges to have their case reviewed before a judge and, if successful, have their charges removed from their records entirely, restoring their citizen rights, in addition to removing any negative impacts of a criminal charge, such as limitations in accessing housing or employment.

Arizona is one of forty-one states in the country to have a vacatur law.



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What is Arizona's Vacatur Law?

A.R.S. § 13- 909 – vacating the conviction of a sex trafficking victim

Anyone who was convicted of prostitution before July 24th, 2014 in the state of Arizona and can prove their charge was a result of sex trafficking, is eligible to apply and follow the vacatur process in the State of Arizona

When a prior conviction is vacated in the state of Arizona, the conviction is completely erased from one's criminal history

Arizona's law, like the of majority vacatur laws, is little known to survivors and extremely underutilized



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Limitations of AZ's Vacatur Law

A.R.S. § 13-909 – vacating the conviction of a sex trafficking victim

Any criminal charge within the last 5 years has the potential to hinder the vacatur process

The July 24th, 2014 date presents a significant barrier in terms of who can access AZ's vacatur law

Because of the limited eligibility requirements, service providers must be aware of presenting the opportunity for vacatur to a survivor



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Understanding Affirmative Defense

A.R.S. § 13- 905 – Affirmative defenses; justification; burden of proof

AZ legislation passed in 2014, provides a justification for the July 24th, 2014 date

This legislation allows for victims or survivors of sex trafficking to assert an affirmative defense to prosecution for the crime of prostitution. An affirmative defense allows the defendant, or the person charged with the crime, to assert that there is additional information needed to make a judgement on a particular prior case. The additional information, within the context of vacatur law in Arizona, would include documentation proving that one was an actual a victim or survivor of sex trafficking.



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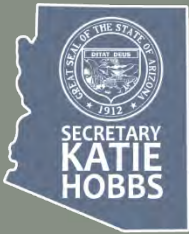
Polaris Project, 2019

Understanding Affirmative Defense continued

The issue with the July 24th, 2014 requirement

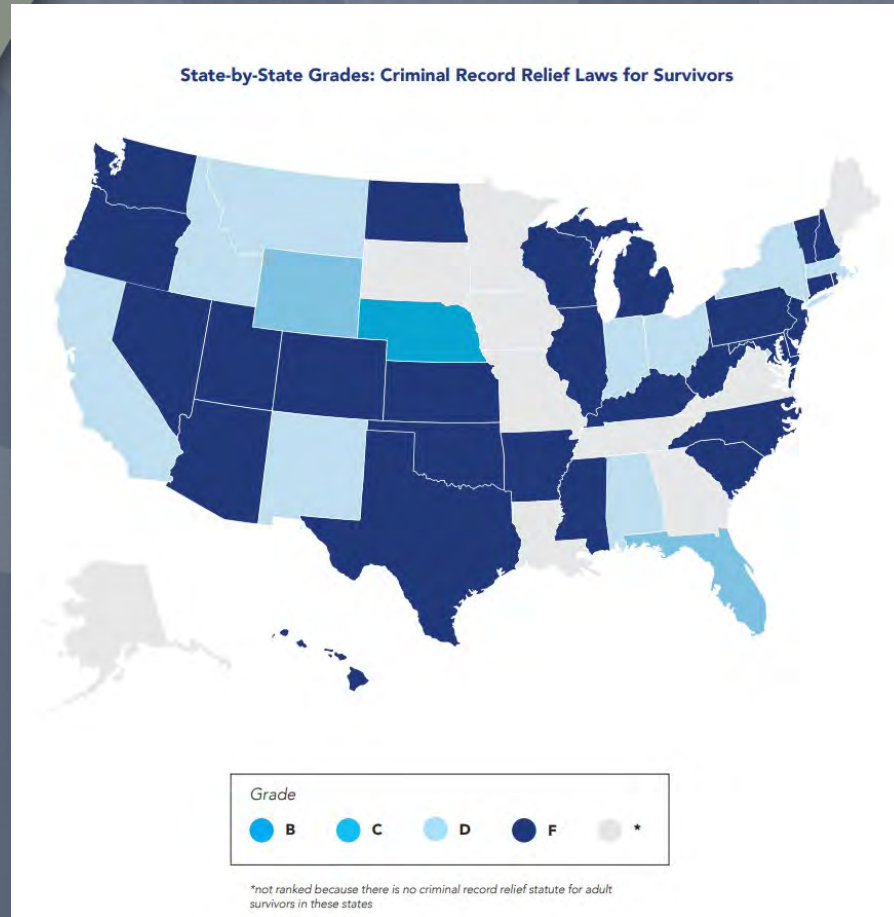
Via the Polaris Project Grading Criminal Record Relief Laws for Survivors of Human Trafficking

“In Arizona, survivors may use this defense when they are charged with prostitution; however, they are then prevented from any recourse to clear their criminal record in the future if they fail to do so. This puts all the pressure on the victim at the time of their arrest and conviction. There are many reasons why a survivor who is legally eligible to assert an affirmative defense may not do so. In fact, it is difficult to imagine a scenario where a victim will actually assert the defense in the course of their own prosecution.”



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CRIMINAL RECORD RELIEF FOR TRAFFICKING SURVIVORS

Arizona



OVERALL SCORE	33
Ranking	39

Range of Relief
Arizona provides vacatur of convictions but does not make clear that it was based on a substantive defect or "on the merits."

Additional Restrictive Conditions on Relief
Arizona places no additional restrictive conditions on survivors being able to seek criminal record relief.

Time Limits and Wait Times
Arizona has a date restriction in which survivors arrested after July 24, 2014 are not allowed to apply for criminal record relief. Ideally, all survivors in the state regardless of the date of their conviction should have the ability to apply for criminal record relief.

Official Documentation
If a survivor has official documentation in Arizona, it does not create a presumption or impact the burden of proof. This creates the risk that the process of seeking criminal record relief itself may be unnecessarily difficult and could cause additional trauma.

PROPOSED CATEGORIES	AWARDED POINTS
Range of Relief	8
Arrests and Adjudications Relief	5
Offenses Covered	5
Judicial Discretion	5
Nexus to Trafficking	4
Time Limits and Wait Times	0
Hearing Requirement	2
Burden of Proof	2
Official Documentation	0
Confidentiality	0
Additional Restrictive Conditions on Relief	2
TOTAL	33

Visit polarisproject.org/RecordRelief to learn about criminal record relief and how to raise your state's grade.

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Polaris Project, 2019

CRIMINAL RECORD RELIEF FOR TRAFFICKING SURVIVORS

Nebraska



OVERALL SCORE	81
Ranking	1

Arrests and Adjudication Relief
Nebraska allows trafficking survivors to clear their criminal record of arrests, adjudications, non-prosecuted cases, and convictions.

Offenses Covered
Nebraska covers a wide range of offenses as all offenses are eligible for relief. This is critical as many survivors are arrested for and convicted of a variety of offenses that result from their trafficking experience.

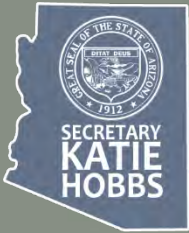
Burden of Proof
Nebraska is silent on the issue of burden of proof. Nebraska should include a burden of proof in the statute, specifically preponderance of the evidence, which would be the most clear and most helpful to trafficking survivors.

Confidentiality
There is no provision in Nebraska that protects the confidentiality of the information survivors provide as they go through the criminal record relief process.

PROPOSED CATEGORIES	AWARDED POINTS
Range of Relief	8
Arrests and Adjudications Relief	10
Offenses Covered	30
Judicial Discretion	5
Nexus to Trafficking	8
Time Limits and Wait Times	8
Hearing Requirement	5
Burden of Proof	0
Official Documentation	5
Confidentiality	0
Additional Restrictive Conditions on Relief	2
TOTAL	81

Visit polarsproject.org/RecordRelief to learn about criminal record relief and how to raise your state's grade.

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AZ Vacatur Law Opportunity Areas

In what ways can Arizona improve it's vacatur law?

Advocate on behalf of removing the July 24th, 2014 date

Look to states where vacatur law includes “Offenses Covered” or laws that allow for “defense of coercion”

Nebraska, Wyoming, Florida and Idaho are among the states with the highest vacatur law grade



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FAQs



Review of commonly asked questions as it relates to AZ's vacatur law



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Frequently Asked Questions

Common Questions Received from Survivors

Do I have to turn over my trafficker?

No, you do not have to turn over your trafficker to vacate your prostitution charge.

Do I have to work with an attorney to vacate my charge and restore my rights?

While it is not required that you work with an advocate or an attorney to vacate a prostitution conviction, it is highly recommended that you seek professional support to navigate this process. The requirements for submitting paperwork are different in each county. Having support will help to increase the likelihood of success when applying to clear a felony prostitution charge.



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Frequently Asked Questions

Common Questions we have Received

What is the cost to vacate a prostitution charge and restore my rights?

You should not ever have to pay a fee when seeking support to vacate a felony prostitution charge in Arizona. If you decide to retain an attorney to help you navigate the vacatur and rights restoration process, there may be a cost associated but that is entirely dependent on the legal services you seek out.



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Frequently Asked Questions

Common Questions we have Received

What forms do I need to complete?

There are two forms you will need to complete in order to vacate your conviction and restore your rights. The first form is the *Application to Vacate Conviction for a Prior Offense*. When you submit this initial form, you have the option to attach additional information supporting your claim that the prostitution conviction was a result of sex trafficking. This is a state-wide form, so no matter the county where the conviction occurred, this is the form one would use if the conviction happened in the state of Arizona.

If the case is successful and the conviction is vacated, the second form that will need to be completed is the Rights Restoration application. Rights Restoration applications are designated by county.



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Why this Work Matters continued

National Survivors Network

A 2016 study, which included interviews with 80 human trafficking survivors and 100 human trafficking stakeholders from across the United States, found that survivors measured justice by, “...their ability to “move on” from their trafficking experiences, achieve autonomy, and feel empowered by accomplishing self-defined goals.” Additionally, “service providers defined justice as supporting survivors’ access to resources and achievement of their goals.”



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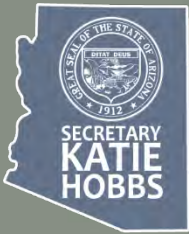
Helpful Vacatur Law Specific Resources

To be included in a follow-up email

Polaris Project State Report Cards – Grading Criminal Record Relief Laws for Survivors of Human Trafficking

Forms to be aware of – Application to Vacate (state-wide) and Restoration of Rights (county wide) form

Learning materials specific to vacatur law/supporting survivors of sex trafficking



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Questions?