

sexWORKERS PROJECT

VACATING CRIMINAL CONVICTIONS FOR TRAFFICKED PERSONS A Legal Memorandum for Advocates and Legislators¹

In addition to other injustices and instances of coercion or abuse, survivors of human trafficking often do not have equal access to fair treatment under the law. Specifically, they deal with the dual issues of criminalization and stigmatization long after they escape from their trafficking situations. Individuals who are trafficked are often arrested and convicted of prostitution and related offenses.² Trafficked persons are rarely recognized as victims by the police and prosecutors, and are thus pressured into pleading guilty and/or do not understand the consequences of the charges. Multiple arrests, incarceration, police violence, deportation, employment and housing discrimination related to having a criminal record, and social stigma are just a few of the barriers faced by those who have been forced into prostitution. Across the nation, there is a real need for a workable solution to alleviate the impact of collateral consequences of conviction for survivors of human trafficking.

The Sex Workers Project at the Urban Justice Center (SWP) is a legal and social services organization in New York City that has represented individuals who are involved in the sex industry through choice, circumstance, or coercion for the past 10 years. Approximately half of our clients are survivors of trafficking into prostitution. We represent these clients in immigration, family reunification, and criminal defense matters, while our dedicated social workers provide them with comprehensive case management and long term therapeutic counseling. SWP has been recognized as a leader in the movement to end human trafficking and ensure human rights for all sex workers. After the passage of the landmark New York Anti-Trafficking Law in 2007, the Sex Workers Project brought to the attention of lawmakers the fact that some survivors of trafficking were continued to be punished by discrimination and stigmatization long after their escape from trafficking because of their criminal record. In partnership with Assembly Member Richard Gottfried, SWP wrote a bill to correct this injustice. SWP united a network of organizations to campaign for this bill, including the New York City Bar Association, Brooklyn Defender Service, Asian American Legal Defense and Education Fund, The Door, Safe Horizon, Sex Workers Outreach Project, and Girls Education and Mentoring Services. On August 14, 2010, New York became the first state to pass this legislation (hereinafter “Vacating Convictions Law”) that allows survivors of trafficking to vacate their convictions for prostitution offenses.³

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² See Melissa Ditmore, *Kicking Down the Door: The Use of Raids to Fight Trafficking in Persons* (Urban Justice Center/Sex Workers Project, New York, N.Y.), 2009, at 48-49, available at <http://www.sexworkersproject.org/downloads/swp-2009-raids-and-trafficking-report.pdf>.

³ S. 4429, 233d Leg., 233rd Sess. (N.Y. 2010); Assemb. 7670, 233d Leg., 233rd Sess. (N.Y. 2010); presently cited as N.Y. CRIM. PROC. LAW § 440.10(1)(i) (McKinney 2010).

In September 2010, SWP launched the “Restoring Opportunity Project” to assist survivors of trafficking with filing motions under the new law, and to assist all persons with criminal records because of their involvement in the sex industry in overcoming barriers to employment and other life opportunities. Since then, we have prepared and filed motions for clients with a range of life experiences and stories, including U.S. citizens who were trafficked into prostitution when they were minors, middle-aged women who survived trafficking decades ago but are still facing barriers, and immigrants who were trafficked into the U.S. from foreign countries, some of whom have obtained visas under the Trafficking Victims Protection Act. On April 29, 2011, SWP won the first motion nation-wide to offer relief to survivors of trafficking with criminal convictions.⁴ Since this time, other motions have been filed by SWP and other organizations. We also continue to assist individuals who were not trafficked into prostitution, but are having difficulty finding mainstream jobs because of their criminal record by applying for certificates of relief of civil disabilities, and advocating for these individuals with their employers.

Presently, numerous other state legislatures are considering legislation based on the New York law. Currently, Pennsylvania, Wisconsin, Hawaii, California and Colorado are writing or have introduced similar bills.⁵ Nevada, Illinois, Vermont, and Maryland have already passed similar bills.⁶ As SWP co-wrote the first such law and brought the first motions in the United States, we have been asked to advise some of these states’ law makers and advocates in bill drafting, and have testified before some of these states’ legislatures. In the hope that every state in the United States will introduce and pass similar legislation, this memorandum sets forth guiding principles for legislators and advocates who hope to craft an effective remedy for their state. While every state has a slightly different rubric of criminal procedure into which the remedy must fit, the central purpose of this law, as elaborated in Assembly’s introduction to the New York State Law on vacating convictions, is to give survivors the ability to live their lives unhindered by a criminal record: “Even after they escape from sex trafficking, the criminal record victimizes them for life. This bill would give victims of human trafficking a desperately needed second chance they deserve.”⁷

DISCUSSION

While we consider the New York Law on vacating convictions to be a good standard to emulate in designing an effective remedy, different states must contend with different political environments, different laws around prostitution and trafficking, and different existing remedies for persons with criminal convictions. In lieu of setting forth a model law, this memorandum offers what we consider to be the critical components of a model law, based on our 10 years of experience serving victims of human trafficking, and our practical experience under the New York Vacating Convictions law.

⁴ People v. GM, Redacted, NYLJ, 1202493088878 (Crim. Queens April 29, 2011).

⁵ S. 885, 2011 Gen. Assemb., 2011-12 Sess. (P.A. 2011); SB2579 (HA); A. 702, 2011 Leg., 2011-12 Sess. (C.A. 2011). At the time of this writing, the Hawaii and Colorado bills have not yet been introduced into the legislature.

⁶ A. 6, 2011 Leg., 76th Sess. (N.V. 2011); S. 1037, 97th Gen. Assemb., Reg. Sess.(I.L. 2011); presently cited as IL CRIM. PROC. LAW § 5/116-2.1 (2011); S. 122, 2012 Gen. Assemb., 2011-12 Sess. (V.T. 2012). S. 327, 2011 Gen. Assemb., 489th Sess. (M.D. 2011).

⁷ [Assemb. Memo, B. A7670.](#)

A strong law on vacating convictions should: 1) not be limited to vacating only certain prostitution offenses; 2) not require the survivor to present official documentation certifying them as a victim of trafficking; 3) not require the survivor to prove that s/he has left the sex industry or been “rehabilitated”; 4) offer confidentiality provisions to protect the client’s identity; 5) be the most complete remedy possible under the law; 6) state that the Court *must* vacate the convictions and dismiss the accusatory instrument if an individual meets the elements; 7) allow the Court to take additional appropriate action (beyond the mandate of the statute); 8) be retroactive and inclusive of those with older convictions; and 9) ensure availability of the remedy by funding legal services attorneys to bring these motions. Finally, 10) those truly concerned with limiting the devastating impact of criminal convictions should consider a remedy that includes all individuals with prostitution records.

1) Inclusion of prostitution and other offenses in vacatur remedy:

The New York Vacating Convictions law specifies that for an individual to qualify for the remedy, the offense for which the individual was arrested must be either New York Penal Law § 230.00 Prostitution or NYPL § 240.37 Loitering for the Purpose of Engaging in a Prostitution Offense.⁸ It is important that advocates research which crimes sex workers are arrested for in that state, and include at minimum all of those crimes, not simply relying on an assumption that sex workers are only arrested for the crime called “Prostitution.” For example, in various states sex workers are commonly arrested for crimes such as Prostitution, Solicitation for a Prostitute, Crimes Against Nature, Loitering,⁹ Vagrancy,¹⁰ Disorderly Conduct,¹¹ and Enticement of Persons for Purpose of Prostitution.¹² Sometimes sex workers and victims of trafficking are arrested for crimes intended to target “pimps” or promoters of prostitution, or even “johns” or clients of sex workers, because these laws are often vaguely written. These convictions can result in even greater discrimination and stigmatization, so it is important to include them in any remedy, where it is clear that sex workers are also being arrested for them. In addition, the law should apply to individuals **arrested** for these crimes, not just individuals convicted of these crimes, because many defendants will plead to a lower level crime that is not prostitution-related, and because arrests themselves can remain on someone’s record and bear consequences in some jurisdictions.

While prostitution-related offenses are the most common offenses for which survivors of trafficking are arrested, in our experience, they are not the only ones. In our practice we had clients who were forced into various activities for the financial benefit of their traffickers. These individuals have, in addition to or instead of prostitution convictions on their record, arrests for drug possession, trespassing, unauthorized street vending, and possession of a weapon, due to being a victim of human trafficking. The fact that the remedy in New York is confined to two crimes does not reflect the reality of trafficking. If the law were strictly interpreted, it would not have achieved

⁸ N.Y. CRIM. PROC. LAW § 440.10(1)(i) (McKinney 2010).

⁹ *See* Loitering to Engage in Solicitation; loitering to engage in solicitation after positive HIV test, OHIO REV. CODE ANN. § 2907.241 (West 1996); *see also* Loitering for prostitution purposes, KY. REV. STAT. ANN. § 528.080 (West 2010).

¹⁰ Vagrancy, WIS. STAT. ANN. § 947.02(3) (West 2011).

¹¹ Disorderly Conduct, CAL. PENAL CODE § 647(b) (West 2008).

¹² Enticement of persons for the purpose of prostitution, ARIZ. REV. STAT. ANN. § 13-3201 (2011).

the goal of the legislation, which is to allow victims to move forward with their lives with a clean slate.

Some might argue that a person with other convictions that they were coerced to perform could assert a defense of duress. However, the defense of duress is too narrow to be effectively used by most trafficking victims forced to commit criminal acts as a result of his or her trafficking situation. For instance, the New York version of the duress defense imposes several stringent requirements that may be difficult for people in prolonged and traumatic trafficking situations to meet, such as the “reasonable firmness” in resisting requirement, the “physical force” requirement, and total bars on duress claim for people who may be seen as having “placed themselves” in the situation which eventually lead to their being subjected to duress.¹³

Thus, a model law would recognize that victims of trafficking can be forced to engage in a variety of illegal acts beyond prostitution, and include any criminal offense that occurred as a direct result of trafficking.

2) “Official documentation” of trafficking creates a presumption but is not required:

The New York Vacating Convictions law states that official documentation of trafficking is not required, but provision of official documentation creates a presumption that the individual’s conviction(s) resulted from their having been trafficked. This provision recognizes that federal and some state laws on human trafficking have created a regulatory framework by which someone can be “certified” as a victim of human trafficking, for the purpose of accessing public benefits or immigrant visas. “Official documentation” includes a letter from the Department of Health and Human Services “certifying” that someone is a victim of human trafficking, a form signed by federal law enforcement for immigration purposes, a “T visa” conferring immigration status on someone due to their being a victim of human trafficking, or a “confirmation” letter from the New York State Office of Temporary and Disability Assistance. However, many victims of trafficking have no opportunity or need to acquire such documentation. For example, survivors of trafficking who are citizens of the United States do not need special access to public benefits or immigrant visas, and are not eligible for any of these documents. Others are not eligible because, although they were a victim of trafficking, they never reported the crime to law enforcement.

A strong law on vacating convictions should include a presumption for those who have “official” documentation, since these individuals have already told their story to government officials and had their stories corroborated or deemed credible. It would be a waste of government resources and an undue burden on the survivor of trafficking to require additional proof. However, the existence of this presumption should not be used against victims that do not have official documentation. It is critical that the law allow for victims to base their motion on other evidence, such as a sworn affidavit, letters from service providers, friends, or employers, or police reports. Under New York Law there is no required evidence, and a personal affidavit could be sufficient.

¹³ N.Y. Penal Law § 40.00 (McKinney)

- 3) This remedy should not require the survivor to prove s/he has left the sex industry, is “rehabilitated,” or engaged in a social services program:

The New York law does not mandate individuals bringing motions for vacatur to prove that they have exited prostitution or engaged in a social services program in order to seek this critical remedy.

A mandate that an individual must allege or show that they are no longer involved in prostitution to qualify shifts the blame from the trafficker to the victim, which is counter to the spirit of this law. This burden would also exclude those who have escaped human trafficking, have been unable to secure employment because of their criminal records, and found themselves turning to prostitution again out of dire need. It would also exclude those who escaped one human trafficking situation and were subsequently exploited by another trafficker. Unfortunately, these situations are not uncommon.

Further, mandating that a survivor prove that he or she sought, engaged with, or graduated from a particular social services program before he or she can apply for this remedy places another burden on the survivor which can be perceived as a punishment. While states should fully fund experienced service providers to offer voluntary counseling, case management, group therapy, and other beneficial services to survivors of trafficking, participation should never be required by making an essential remedy like this contingent on participating. Depending on their life experiences, a survivor of human trafficking may or may not be able to derive any benefit from a particular mandated social services program. Ethical service providers will not want to be in the position of serving survivors who feel coerced to be there and are participating only in order to meet this requirement. In our experience, these motions are already incredibly complex and time-consuming, requiring at times more than a year of legal advocacy. Any additional requirements that make these motions more difficult to bring will exclude a number of otherwise eligible survivors.

In the New York law on vacating convictions:

A motion under this paragraph shall be made with due diligence, after the defendant has ceased to be a victim of such trafficking or has sought services for victims of such trafficking, subject to reasonable concerns for the safety of the defendant, family members of the defendant, or other victims of such trafficking that may be jeopardized by the bringing of such a motion, or for other reasons consistent with the purpose of this paragraph.¹⁴

This clause was drafted not to require that the defendant cease to be a victim or seek services, but to recognize and provide for the fact that a survivor may come forward to file a motion months, years, or decades after the original conviction. The “due diligence” time limitation was intended to begin after an event in the survivor’s life that made this remedy available to them for the first time, such as escaping the trafficking situation, or engaging with a service provider who alerted them to the possibility of this motion. Clearly, the survivor can also bring the motion before or without these events taking place.

¹⁴N.Y. CRIM. PROC. LAW § 440.10(1)(i) (McKinney 2010).

4) The law should ensure that the identities of survivors of trafficking are protected in motion practice:

One purpose of allowing survivors of trafficking to vacate past convictions is to protect them from having to reveal a part of their past that they would rather keep private. In addition to, and perhaps more debilitating than legal discrimination, trafficking survivors face stigma, verbal harassment, and difficulty in their work environments because their employer or co-workers know they have a record of prostitution. Moreover, disclosing the past trafficking experiences and identities of survivors to the public could put them at physical risk, if the trafficker is still at large, and the fear of this potential danger could stop many survivors from coming forward and accessing this remedy. Creating an additional public record that includes the survivor's name through a vacating motion would be contrary to the goal of allowing them to move forward with their lives.

Under the New York law, we have been able to file using only the initials of the survivor in all court papers, citing Civil Rights Law which forbids any public disclosure of identifying documents in cases involving some sex offenses.¹⁵ While human trafficking is not one of the listed offenses, we generally argue that survivors are victims of rape and sexual abuse, which are listed. A strong law would explicitly provide for protection from public disclosure for these victims.

5) The law should provide the strongest remedy possible, specifically vacatur:

To the extent possible in any particular state, vacatur is the preferable remedy to include in a law aimed at “erasing” criminal convictions for trafficked persons. Expungement is another remedy for those with criminal convictions that is available in some states. However, all states should consider offering vacatur as the remedy to survivors of trafficking, rather than expungement, because it offers the most complete “erasure” of a criminal conviction, including the potential impact of a conviction on a person's immigration status. Some of the states with pending legislation on this matter have opted to use an expungement remedy rather than vacatur.¹⁶ For example, in New Jersey, a person may, 10 years from the date of certain convictions, petition the court to have all records of the conviction expunged.¹⁷ New York offers other grounds of vacatur under Criminal Procedure Law Section 440.10. Therefore, we were able to simply expand the vacatur remedy under our law. New York state does not offer an expungement remedy.

¹⁵ “The identity of any victim of a sex offense, as defined in article one hundred thirty or section 255.25, 255.26, or 255.27 of the penal law, or of an offense involving the alleged transmission of the human immunodeficiency virus, shall be confidential. No report, paper, picture, photograph, court file or other documents, in the custody or possession of any public officer or employee, which identifies such a victim shall be made available for public inspection.” New York Civil Rights Law § 50-b(1)

¹⁶ Pennsylvania, Vermont, Illinois, Maryland and Nevada have adopted *vacatur*. S. 1037, 97th Gen. Assemb., Reg. Sess.(ILL. 2011); presently cited as IL. CRIM. PROC. LAW § 5/116-2.1 (2011); S. 327, 2011 Gen. Assemb., 489th Sess. (M.D. 2011); A. 6, 2011 Leg., 76th Sess. (N.V. 2011); S. 885, 2011 Gen. Assemb., 2011-12 Sess. (P.A. 2011); S. 122, 2012 Gen. Assemb., 2011-12 Sess. (V.T. 2012). California's version of the bill provides for expungement. A. 702, 2011 Leg., 2011-12 Sess. (C.A. 2011).

¹⁷ N.J.S.A. 2C:52-2

Many survivors of trafficking are immigrants who are seeking legal status and their convictions prevent or limit their ability to obtain status. Expunging convictions has no impact on the immigration consequences of those convictions, meaning that an immigrant can still be found inadmissible to the country because of an expunged conviction. Vacatur is a stronger remedy for purposes of eliminating grounds of inadmissibility. The Board of Immigration Appeals has ruled that when a state court vacates a judgment of conviction based on a procedural or legal defect, the state court order must be given full faith and credit, and the conviction is eliminated for immigration purposes.¹⁸ The conviction is not eliminated for immigration purposes, however, if it was vacated for reasons “solely related to rehabilitation or immigration hardships, rather than on the basis of a procedural or substantive defect in the underlying criminal proceedings.”¹⁹ A strong vacating convictions law would tie the provisions for vacatur to the merits of the original case against the defendant.

A third option, “sealing” a conviction, which simply makes the conviction not viewable by the public, is also a limited remedy. In New York, this remedy is automatic and applies only to defendants whose cases are resolved in their favor, and to some convictions of lower-level offenses known as violations. Survivors who have convictions sealed can still be denied some jobs and suffer immigration consequences. Considering whether the remedy proposed will have the practical effects desired is very important, and we strongly urge states to utilize the strongest remedy possible to achieve the greatest relief for survivors.

6) If all elements are met, the Court *must* vacate and dismiss the accusatory instruments:

In the New York law, if a survivor meets all of the qualifying elements, a Judge **must** vacate the conviction(s) and dismiss the accusatory instruments.²⁰ The New York law does not allow the Judge discretion to deny a motion to vacate if a survivor meets the elements of the law – 1) was a victim of human trafficking, 2) was charged with the enumerated crimes, and 3) those charges are a result of having been trafficked. Further, the New York law not only requires a Judge to vacate the conviction(s), it also requires the Judge to dismiss the accusatory instrument, ensuring that the case will not revert to its pre-trial status, forcing the survivor to go through the harrowing experience of facing criminal charges again. SWP strongly encourages other states to adopt this language, which will ensure uniformity for survivors in reaching this necessary outcome.

7) Judicial discretion to take additional action(s) should be built into the law:

The New York law states that “if a Court grants a motion under paragraph (I) of subdivision one of this section, it must vacate the judgment and dismiss the accusatory instrument, *and may* take such additional action as is appropriate in the circumstances.”²¹ In practice, the court’s discretionary ability to take additional action has been fundamental to the law’s effectiveness. In cases in which the Court grants the motion, additional action may be necessary to fulfill the intent of the law. For example, where the remedy is limited to prostitution-related crimes, the judge can take the additional

¹⁸ See *Matter of Rodrigues-Ruiz*, 22 I&N Dec. 1378 (BIA 2000).

¹⁹ *Matter of Pickering*, 23 I&N Dec. 621 (BIA 2003); cf. *Yanez-Popp v. INS*, 998 F.2d 231, 235 (4th Cir. 1993).

²⁰ N.Y. CRIM. PROC. LAW § 440.10(1)(i) (McKinney 2010).

²¹ *Id.*

action of vacating other non-prostitution related convictions. This use of discretion is supported by case law allowing for generous interpretation of statutes that intend to right a previously created wrong and/or diminish a harm, otherwise known as “ameliorative statutes.”²² As stated in *People v. Jackson*, “if two constructions of a criminal statute are plausible, the one more favorable to the defendant should be adopted in accordance with the rule of lenity...the core question always remains that of legislative intent.”²³ Further, the Court in *People v. Ryan* found “in the interpretation of statutes, the spirit and purpose of the act must be considered...Literal meanings of words are not to be adhered to or suffered ‘to defeat the general purpose and manifest policy intended to be promoted.’”²⁴

As an example, in a recent SWP victory, a survivor had six convictions vacated, two for Prostitution, two for Disorderly Conduct (where the arresting charge was Drug Possession), and two for Trespass.²⁵ Here, the District Attorney consented to vacatur in all of these cases because the survivor had been forced to commit all of these crimes in the course of her victimization.²⁶ The judge stated in her decision that, even if the District Attorney had not consented, she would have had the power to vacate these other convictions under the language in the clause “may take additional action.” However, this is not the only circumstance where discretion may be needed. For example, some states may require an additional court order to fully erase all traces of a person’s criminal record, or an individual trafficking survivor may require an order of protection due to increased danger to her from the trafficker. Prior to implementation, it is difficult to predict circumstances that may require additional action by the court, and therefore, this discretionary language is appropriate and useful.

8) Ensure retroactive application and a flexible statute of limitations:

The New York law ensures that the remedy is accessible to survivors regardless of how much time has passed before they were able to learn of the remedy and apply for it. It is retroactive and therefore applies to convictions that occurred prior to the law’s passage. The New York law does contain time limiting language on when such a motion can be brought, but it was written with the intent to include as many survivors as possible. The motion must be made with “due diligence,” after the individual has ceased to be a victim of trafficking or has sought services, subject to reasonable considerations for the safety of the victim or her/his family. The due diligence language

²² See *People v. McNeil*, 2005 N.Y. Misc. LEXIS 3524 (Kings Cty. Sup. Ct. 2005) (“The [amelioration] doctrine is rooted in the view that where a reduction in the penalty for a crime indicates a legislative judgment that the lesser penalty adequately meets all the legitimate ends of the criminal law, imposing a harsher penalty would be an exercise in vengeance, which the law does not permit”). See also *People v. Oliver*, 1 N.Y.2d 152, 159-160 (Ct. App. 1956) (“Where an ameliorative statute takes the form of a reduction of punishment for a particular crime, the law is settled that the lesser penalty may be meted out in all cases decided after the effective date of the enactment, even though the underlying act may have been committed before that date.”).

²³ *People v. Jackson*, 106 A.D.2d 93, 96 (App. Div. 2nd Dept. 1984).

²⁴ *People v. Ryan*, 274 N.Y. 149, 152 (N.Y. 1937), citing *Smith v. People*, 47 N.Y. 330 (N.Y. 1872); see also *Matter of Hogan v. Culkin*, 18 N.Y.2d 330, 334-335 (N.Y. 1966)(refusing to interpret statute literally where doing so would defeat the policy intended to be promoted by the legislature).

²⁵ See *supra*, note 3.

²⁶ *Id.*

is flexible, ensuring that survivors are able to come forward once they are safe and will not be barred simply because a certain period of time has passed since their convictions. It is imperative that other states include a broad and victim-sensitive due diligence provision because of the profound trauma that many victims suffer, as well as the very real threats of violence they may continue to experience after leaving their coercive situations.

9) Legislatures should consider attaching funding provisions to this remedy, to ensure access:

While it is a significant victory to create a remedy for survivors of trafficking, we have learned through our practice that the existence of a remedy is worth little if there are no legal advocates poised to assist survivors in bringing these motions. In our experience, most survivors of trafficking are living in poverty and cannot afford to hire private attorneys. There are significant barriers to existing public legal providers prioritizing bringing these motions. Most of the lawyers who work with trafficking victims are immigration lawyers, who have no experience practicing in criminal court. Criminal defense attorneys may or may not be trained to identify and support survivors of human trafficking, and may be unwilling to file motions challenging their own prior representation. In addition to these concerns, there are simply too few public interest attorneys, too many low-income people needing services. A new practice area like vacating convictions for trafficked persons takes a significant investment of time on the part of advocates to educate the courts, to educate the prosecutors, to gather transcripts, to formulate arguments, and to support clients who may suffer from revisiting their memories of trafficking. We strongly urge legislatures to fund one or more legal service agencies in their state, which have experience serving survivors of trafficking or other forms of trauma.

10) Expansion of remedy to include all individuals with past prostitution-related convictions:

SWP represents individuals who are in the sex industry by choice, circumstance, and coercion. After 10 years of experience and interactions with hundreds of people in the sex industry, we know that many individuals engage in commercial or transactional sex due to complex life circumstances and multi-dimensional forces, including poverty, lack of education, homelessness, job discrimination, stigma, lack of immigration status, and forms of coercion that do not rise to the level of trafficking but are similarly impactful. There are many people who wish to end their involvement in the sex industry and move forward with their lives but cannot because of their past convictions for prostitution. For example, we represented a grandmother who had two prior prostitution convictions from nearly twenty years ago. She long since stopped doing sex work, left the state and was struggling to provide for her family. She was still unable to get a job in her field, despite numerous educational and personal achievements, because of these old convictions. It is important for legislatures to consider the devastating impact of criminal records, and consider expanding this or other remedies to include others in the sex industry. For example, a proposed law could include a provision to provide expungement of records to all individuals whose prostitution-related convictions are more than 3 years old.

CONCLUSION

In addition to the construction and passage of such legislation across the country, there is other work that needs to be done to facilitate access to legal redress and social services for survivors of trafficking. SWP has been partnering with public defenders in the New York City area to educate them about the law, how to screen for trafficking, and general sensitivity to issues related to trafficking. We encourage experts on human trafficking to engage with criminal court personnel,

defense attorneys, and District Attorneys on the critical role they can play in identifying and assisting victims of human trafficking, in zealously advocating for them in court, and relieving victims of the onerous burden of a criminal record. SWP strongly encourages other states to consider constructing their own Vacating Convictions laws and to push for other related endeavors to expand the field of services for trafficking survivors. SWP offers its expertise to assist in this work. This is a crucial opportunity for survivors of trafficking to rebuild their lives and move forward.

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