

Trend Analysis: State Laws that Protect Survivors of Sexual Violence

A Companion Document to the 50-State Survey of Laws Relating to Survivors of Sexual Violence



Overview of this Trend Analysis. The criminalization of girls and women who experience gender-based violence—also known as the sexual abuse to prison pipeline—often occurs because the justice system fails to consider the context of survivors' actions. Laws that expressly recognize that context as an exculpatory or mitigating factor can help end unjust criminal outcomes for survivors.

The 50-state survey is intended as a high-level summary. It is designed to serve as a resource for attorneys and advocates who represent survivors in relevant cases, as well as policymakers and advocates seeking to end the criminalization of survivors who act in response to sexual abuse or sex trafficking. *It is not an exhaustive survey and is not intended as legal advice.*

A note on the language used in this trend analysis: To ensure legal accuracy, the survey generally echoes the vocabulary of the statutes it summarizes. However, wherever possible, we have replaced these terms to avoid the confusion that can be created when using the words “offender” about a survivor and “victim” about the abuser or trafficker. Those terms can have harmful connotations, and survivors powerfully advocate against using them. In deference to these considerations, instead of “minor” or “juvenile,” this analysis strives to use the word “child”; the term “survivor-defendant” instead of “defendant”; and the words “abuser” or “trafficker” instead of “victim.”

Laws Included in the Survey. Of the many statutes that may apply to survivors of sexual violence, this survey examines four categories of laws:

- **Safe harbor laws.** These laws prohibit or otherwise limit the prosecution of sex trafficking survivors on charges of prostitution.

- **Laws related to establishing self-defense.** The laws included in this survey address the admission of evidence to establish the “reasonableness” and “imminent” elements of proving self-defense. The survey focuses on laws that recognize the context of abusive relationships and patterns of sexual abuse or assault. *It does not include laws that allow expert testimony relevant to “Battered Spouse Syndrome” or the equivalent.*
- **Mitigation.** The mitigation laws included in this survey provide for reduced sentences when the survivor-defendant acts in response to experiencing sexual violence.
- **Expungement and vacatur laws.** This survey identifies laws that provide for sealing, setting aside, or destroying records of adjudication or conviction for offenses committed in response to sexual violence.

According to the information we have gathered, only one state, Virginia, has enacted laws in all of four of these categories. Seventeen states have laws that fall within three of the categories; twenty-eight states have laws that fall within two of the categories; and five states have laws that fall within only one of the four categories.

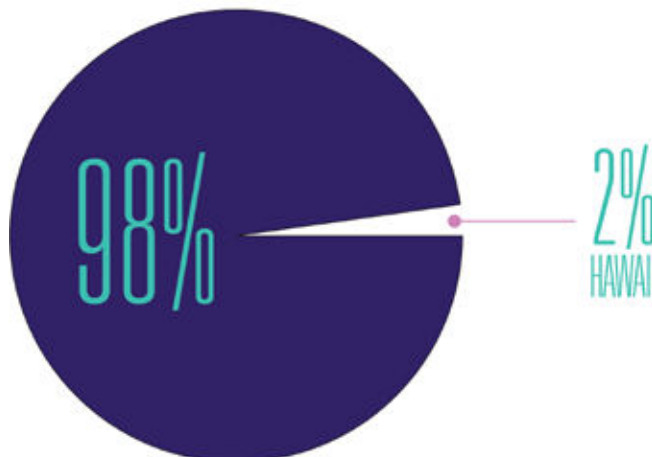


Trend Analysis. We examined the state laws collected in the 50-state survey to identify common themes. Our findings follow.

1. Almost every state has enacted a form of Safe Harbor law.

With the exception of Hawaii, all states and Washington D.C. have enacted safe harbor laws that protect survivors of sex trafficking from prosecution on prostitution charges. The provisions of these laws vary.

SAFE HARBOR LAWS



Excludes Maine, which has decriminalized prostitution

2. Laws that provide criminal record relief specific to sex trafficking survivors.

The survey identifies forty-four states, as well as Washington, D.C., that provide for the expungement, vacatur, and/or sealing of records of offenses that were committed in relation to experiencing sex trafficking under certain circumstances.

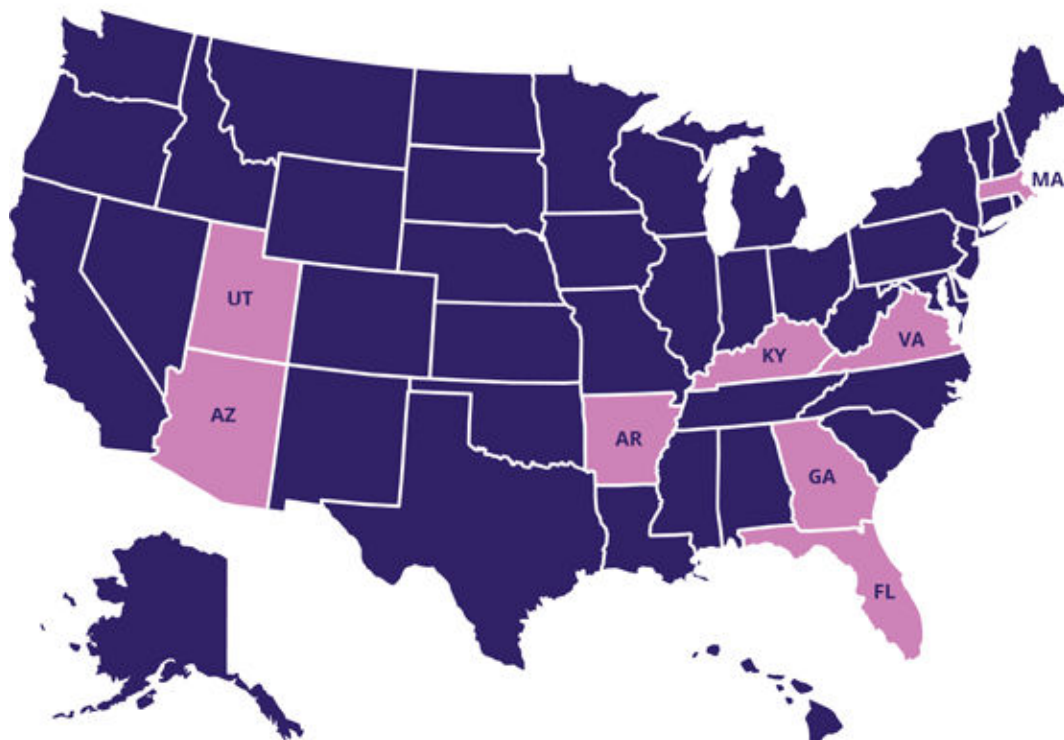
None of these laws extend the same criminal record relief to survivors of other forms of sexual violence.

3. Laws that provide for the admission of evidence and/or modified elements of “self-defense” for survivors of sexual violence who act against abusers or traffickers.

This survey identifies eight states – Arizona, Arkansas, Florida, Georgia, Kentucky, Massachusetts, Utah, and Virginia – that have modified evidence codes or self-defense laws to recognize the power dynamics inherent in sexually abusive relationships and patterns of sexual assault. These laws are important in refining the concepts of “imminence” and “reasonableness” standards that are required elements of proving self-defense.

Note: The survey does not capture statutes that apply only to cases in which survivors defend against assaults that occur in the home in violation of protective orders; nor does it include laws related to defending against an assault as it is occurring; nor those related to evidence of Battered Spouse Syndrome.

STATES THAT PROVIDE FOR THE ADMISSION OF EVIDENCE / MODIFIED ELEMENTS OF “SELF-DEFENSE” FOR SURVIVORS OF SEXUAL VIOLENCE WHO ACT AGAINST THEIR ABUSERS



4. Laws that exculpate survivors of sex trafficking for coerced offenses that are related to the trafficking they experienced.

Several states have exculpatory laws that apply to offenses that survivors of sex trafficking were forced to commit by abusers and traffickers. These laws recognize the element of control that is inherent in abusive relationships and trafficking, and the common practice of abusers and traffickers' forcing survivors to commit criminal offenses. This survey does capture these laws comprehensively; however, it is noteworthy that several state laws protect sex-trafficking survivors not only from being charged with prostitution but certain adjacent offenses (loitering, violating curfew, or recruiting others, for example) if they were coerced as part of being sex trafficked, such as **Connecticut, Iowa, Michigan, Nevada, Oklahoma, South Carolina, and Washington.**

5. Mitigation laws that provide for reduced sentences for offenses committed in relation to the survivor-defendant's experiencing sexual violence.

We have identified twelve states that have passed mitigation laws specific to survivors of sexual violence: California, Illinois, Indiana, Kansas, Michigan, New York, Oklahoma, Oregon, Tennessee, Texas, Virginia, and Washington.

These laws vary in the protections they offer. Some categories of varying provisions include:

- **Retroactive relief.** Three states have enacted mitigation laws that allow currently incarcerated survivors to apply for reduced sentences in certain circumstances: California, New York, and Oklahoma.
- **Mandatory mitigation.** Two state laws – in California and Oklahoma — require courts to impose reduced sentences if the survivor-defendant has experienced sexual violence, subject to certain limitations.
- **Mandatory consideration.** Three state laws – in Illinois, Oregon, and Virginia — require courts to consider sexual violence as a mitigating factor but do not require courts to reduce sentences on that basis.
- **Discretionary mitigation.** Nine states have enacted laws that permit the experience of sexual violence as a mitigating factor in sentencing, depending on certain factors: California, Indiana, Kansas, Michigan, New York, Oklahoma, Tennessee, Texas, and Washington.



6. Eligibility requirements tend to fall within four categories.

Most laws that provide for legal relief based on the survivor-defendant's having experienced sexual violence include restrictions on eligibility. The four most common categories of requirements are as follows:

- **A nexus requirement.**
The survey includes thirty-four laws that require proof that the survivor's action was related to the sexual violence they experienced. The standard of proof of this connection varies widely. For example, nineteen laws require that the survivor's offense was a "result" or "direct result" of the abuse; three states require that the abuse must have "contributed to" the offense.
- **A temporal requirement.**
Nine laws in the survey require the survivor-defendant's offense to have taken place within a certain time of the occurrence of abuse. An Oklahoma law that governs the sentencing of children tried as adults, for example, requires the offense to have taken place within 90 days of the abuse.
- **A proven link to being sex trafficked.**
The survey includes three states – [Connecticut](#), [Michigan](#), and [Oklahoma](#) — that provide immunity to sex trafficking survivors for certain offenses if they can demonstrate that the offenses were coerced in the context of being trafficked.
- **Limitations on eligible offenses.**
Most of the laws in our survey exclude certain offenses from eligibility. These restrictions vary widely, ranging from laws that have almost no exclusions to those that exclude violent felonies.

7. Laws designed to protect child survivors.

Protective laws reflect the significant concern about the commercial sexual exploitation of children. Of the four categories of laws in our survey, safe harbor statutes are the most common set of laws to apply only to children, though some apply to all trafficking survivors of any age. Relatedly, many vacatur and expungement laws also apply only to child survivors of sex trafficking. These states include California, Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Missouri, Oklahoma, Utah, and Virginia. But a small handful of state laws protect child survivors of sexual violence in different ways.

In addition, Oklahoma's law, [H.B. 2210\(b\)\(1\), 60th Leg., 1st Sess. \(Okla. 2023\)](#), provides that if a minor is convicted as an adult for an offense they committed when they were younger than 18; and the court finds by clear and convincing evidence that the abuser-victim trafficked, sexually abused, or sexually assaulted the survivor no more than ninety (90) days before the commission of the offense, the court may depart from mandatory minimum sentences or sentence enhancement, suspend any portion of an otherwise applicable sentence, or transfer the minor to the jurisdiction of the juvenile division of the district court for further proceedings.

In Virginia, **Va. Code Ann. §16.1-272(a)(5) (2020)** requires courts to consider as mitigating circumstances children’s exposure to adverse childhood experiences, early childhood trauma, and child welfare, as well as the inherent differences between child and adult offenders.

8. Laws that Include a Range of Forms of Abuse and Relationships to Abusers

In California, **Ca. Penal Code § 1170(6)(a) (2023)** requires reduced sentences for young people if they have experienced psychological, physical, or childhood trauma, which is defined to include abuse, neglect, exploitation, or sexual violence. The inclusion of childhood trauma is significant not only because it serves as a broader term that includes a range of harms, but also because it recognizes the long-term harm of adverse childhood experiences.

New York’s Domestic Violence Survivors Justice Act, **N.Y. Crim. Proc. Law § 440.47(1), (2)(c) (2021)**, was the first state law of its kind. It allows sentencing mitigation and resentencing relief for survivors whose offense was against a range of abuser-victims, including those in the household or who had an intimate relationship with the survivor-defendant. In addition, it defines abuse to include survivors of substantial physical, sexual, or psychological abuse.

Oklahoma’s Survivors Justice Act, **Okla. Stat. tit. 22, § 1090.3(a)(2) (2024)**, extends relief to survivors of domestic violence or survivors of physical, sexual, or psychological abuse inflicted by people outside family members, including a sexual partner, member of the household, and the trafficker of the survivor-defendant. More unusually, it includes abuse inflicted by any person who used the survivor-defendant for financial gain.

In Washington, **Wa. Rev. Code § 9.94A.535(3)(h),(j) (2025)** applies to survivor-defendants who show by a preponderance of the evidence that the offense involved domestic violence and was a response to a continuing pattern of coercion, control, or abuse by the abuser-victim. Significantly, the statute extends to survivor-defendants whose offense is a response to their *children’s* experiencing a continuing pattern of physical or sexual abuse by the abuser-victim.

9. Laws that Provide Alternative Options to Reduced Sentences.

Indiana’s **Ind. Code § 35-38-1-7.1(b)(11) (2023)** permits courts to consider several mitigating factors as favoring suspension and imposing probation, if the survivor-defendant’s use of force was against an abuser-victim who repeatedly inflicted physical or sexual abuse on the survivor-defendant, and evidence shows that the survivor-defendant suffered from the effects of the battery committed by the abuser-victim.

Michigan’s **Mich. Comp. Laws Ann. § 750.451c(1)-(2) (2017)** allows courts to defer proceedings and place children on probation if they are trafficking survivors accused of “encouraging” others to engage in prostitution.