

Urban Justice Center

Sex Workers' rights and Human Trafficking

<https://www.urbanjustice.org/2019/06/12/bill-that-could-protect-trafficking-survivors-from-deportation-has-yet-to-reach-floor-in-albany/>

Campaign and Advocacy

Queens for life.

State Sen. Jessica Ramos and Assemblymember Richard Gottfried have sponsored a bill that would enable survivors of human trafficking to get their criminal records cleared. Photo by Danielle Blunt

By David Brand

As the legislative session comes to a close, New York state lawmakers have yet to vote on a bill that could protect survivors of human trafficking from deportation by vacating their criminal records, expanding a law that already allows for the clearance of prostitution-related offenses.

A coalition of immigrants rights advocates have addressed a letter to Senate Majority Leader Andrea Stewart-Cousins, Assembly Speaker Carl Heastie and other legislative leaders urging them to [pass the bill](#), S4981a/A6983a, before the session ends on June 19.

"Immigrants cannot wait another year, advocates from various public defender organizations and local immigrant service programs state in the letter. Waiting until the next legislative session to pass S4981a/A6983a means another year of no documentation and vulnerability to ICE. It means another year of putting our families at risk of separation, families that have lived here and together for decades.

New York lawmakers [enacted a pioneering piece of record-clearing legislation in 2010](#), but that measure only enables trafficking victims to get their prostitution-related convictions expunged. In reality, traffickers force their immigrant victims to perform myriad crimes, including theft and drug offenses, that can ruin their chance of obtaining asylum or other relief while exposing them to the possibility of deportation.

Trafficking is a lot more complex than that, said Rosie Wang, director of Legal Advocacy and Services at the Sex Workers Project of the Urban Justice Center. Traffickers will force their victims to do criminal actions for them, like shoplifting and carrying drugs. They're not eligible for relief because they're not prostitution-related but they are trafficking-related.

Wang said she worked with one immigrant client who was arrested by an undercover officer after she was forced to carry drugs by a trafficker in the 1990s. She did not tell the police that she was a victim of trafficking because she was afraid the trafficker would kill her. The decades-old drug offense remained on her record and prevented her from obtaining a T- Visa, a form of immigration relief for survivors of trafficking, Wang said.

District attorneys' offices have been willing to vacate survivors' sex work-related convictions, but have their hands tied when it comes to other convictions related to trafficking, said Brooklyn Law School Professor Kate Mogulescu.

Even in cases where prosecutors agree that the conviction was trafficking-related and want to vacate, the limitation in the law doesn't allow it, Mogulescu said. If the law were clear and expansive we wouldn't have this issue. That's all we're asking for.

The collateral consequences of trafficking-related offenses continue to haunt survivors, including U.S. citizens, said attorney Abigail Swenstein, of The Legal Aid Society's Exploitation Intervention Project. The offenses they were forced to commit can affect their emotional health and disrupt their ability to apply for jobs and housing, she said.

Someone who has survived trafficking and has moved on with their life still has to bear the burden of these convictions, she said. Even people who are the least marginalized, like citizens, have to disclose the arrest every time they are applying for jobs.

The collateral consequences weigh the heaviest on immigrants who face deportation and are compelled to remain in the shadows, she said.

With the Trump administration, vacature is so crucial, Swenstein said. They are vulnerable to further re-trafficking. If you want to leave sex work, but you can't because of your criminal record, you are vulnerable to being re-trafficked.

It's very hard to get past that, she added.

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