

## [A Victory for Survivors of Trafficking in New York State](#)

By Sienna Baskin and Melissa Broudo  
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At 14, Kate\*, ran away from her abusive home in a New York suburb. With nowhere to live, it was only a matter of time before Kate found herself forced to engage in survival sex: sleeping with men for a place to stay. Soon after, she was recruited and forced to work for a pimp who confiscated her cell phone and cut her off from the outside world. For two years this violent older man forced Kate to do prostitution in New York and nearby states. She suffered multiple rapes, including once at gunpoint. Shy of her 17th birthday, Kate sought help from a program for sexually exploited minors, and bravely testified against her pimp - sending him to prison for 12 years.

Originally from Central America, Maria\* moved to New York in the nineties to be with her husband - a man who later trafficked her into commercial sex. In 12 years of marriage he physically, sexually, and psychologically abused her. He also forced her to do prostitution, which she found humiliating and debasing, especially as a devout Christian. She always had to turn over her earnings to him. After her husband disappeared in 2005, Maria finally spoke out about the abuses she had endured over the years and began working with a social worker. With help from a lawyer, she was granted a T-visa (a special Visa given to survivors of human trafficking) so she could stay safely in the U.S.

But a deeper look at the seemingly happy endings to these tragic stories wears off some of that sheen. In a span of two years the police arrested Kate for prostitution six times. Maria was arrested over eight times. Both women were afraid, confused, and unable to tell law enforcement what was really happening. Now in her 20's, Kate has put her past behind her to pursue her education and dreams of a career in finance. But her criminal record has threatened to stand in her way. To get a job at a bank, she was required to submit to a background check and disclose her prostitution record. Maria found a job as a home health attendant, but five years later, her employer ran her fingerprints, discovered her criminal record, and fired her.

Saturday, August 13, 2010, marked a victory for survivors like Maria and Kate, when New York's Governor David Paterson signed a bill allowing survivors of commercial sex trafficking to clear their records of prostitution-related crimes by vacating their convictions. The bill, sponsored by Assembly Member Gottfried and Senator Duane and co-authored by the Sex Workers Project at the Urban Justice Center, is the first law in the nation providing this remedy to survivors of trafficking.

The need for this law reveals a deep flaw in law enforcement. Some of our clients at the Sex Workers Project have been arrested more than 10 times before they were able to escape their coercive circumstances. Many could not reach out to police for help for fear of deportation or arrest, or of retribution from their abusers. And law enforcement too often does not look deeper. These victims are simply processed through the revolving door of the criminal justice system like any other "prostitute," convicted and released, often back into the hands of their traffickers.

Criminal records make it more difficult for individuals, especially those already marginalized by their immigration status and abuse history, to gain and maintain economic and familial stability. A record of

prostitution can make someone "inadmissible" to the United States - preventing survivors from getting immigration status. It can come up in an application for public housing, and is especially harmful when survivors try to get a job. Some of the best living wage jobs in the health care, education, or financial fields also come with a background check. In addition to the crippling professional barrier, the experience of recounting the past remains psychologically traumatizing for people like Kate and Maria.

Until now, there were very few options for survivors of trafficking with criminal records. In New York, only violations can be sealed, not misdemeanor crimes like prostitution. While New York's "Safe Harbor Act" was intended to prevent exploited youth from suffering the consequences of prostitution convictions, 90% of youth arrested for prostitution are still charged in Criminal Court where they can end up with a criminal record, according to a 2008 study by John Jay School of Criminal Justice and the Center for Court Innovation. Many more uncounted minors tell the court they are 18 or older at the insistence of their traffickers, or to avoid the longer process in Family Court. Because the criminal courts have such high volume, the system does not often hear the real stories behind the endless stream of misdemeanor cases.

This New York law will help survivors of trafficking in New York State to find economic and personal security and escape being victimized and penalized again. We hope it will also inspire police, judges, prosecutors and defenders to question our current approach to prostitution, sex workers, and victims of trafficking. Law enforcement should be trained to understand signs of trafficking and should refer to victims' advocates when they encounter individuals who appear to be in coercive situations. But beyond these small changes, we need a serious re-examination of our punitive approach to prostitution. We need to rethink our use of government dollars to prosecute members of our community, some of whom are just trying to make a living, and some of whom are victims of abhorrent violence. We are just at the beginning of reforming a legal system that treats these members of our community as the lowest of the low.

SWP encourages survivors and advocates to come forward to obtain relief provided by New York's new legislation. Founded in 2001, SWP provides legal services to people who are in the sex trade by choice, coercion, or circumstance. Clients of SWP include sex workers and survivors of trafficking from within and outside of the United States. If you think you may benefit from this bill, or need legal or social services relating to being a sex worker or survivor of trafficking, please call our helpline at 646-602-5617 or email us at [swp@urbanjustice.org](mailto:swp@urbanjustice.org).

*\* Clients consented to have their stories used, but not their real names.*

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