

RESOURCES

LEGAL PROTECTIONS

PRE-CONVICTION PROTECTION

LB 843 provides immunity for adult trafficking victims from prosecution for prostitution, if arrested and charged

- The immunity is triggered by the determination by law enforcement that a person “suspected of or charged with” prostitution is a trafficking victim.
- The immunity essentially means that prosecution should not go forward if law enforcement determines trafficking. Even if it does, the victim could establish she is a victim and be granted the affirmative defense of 28-801 (3). Affirmative defense means that even if the prosecution proves all they need to in order to get a conviction otherwise, they still lose if the victim establishes the basis for the affirmative defense.

(NOTE: minors cannot be arrested or charged for prostitution)

POST-CONVICTION REMEDIES

LB 1132 creates a procedure for sex trafficking survivors to come forward with their criminal records and apply to have their convictions(s) for trafficking-related crimes set aside and their records sealed

- *What convictions are eligible?*
 - Prostitution-related offenses committed while they were a victim of trafficking
 - Any offense that was the direct result of, or proximately caused by, their being a victim of sex trafficking
- *How can you show that you are a victim/survivor of sex trafficking?*
 - While official documentation of victimization is not necessary, having it creates the presumption of victimization. Such documentation includes: an affidavit or sworn testimony from law enforcement, an attorney, a member of the clergy, a medical professional, a trained staff member of a victim services organization, or other professional who has worked with the individual regarding their being trafficked.
 - Other evidence that may be considered by the court:
 - Testimony or affidavits from those with firsthand knowledge of their involvement in the industry such as solicitors of commercial sex, family members, hotel workers, etc.
 - Financial records showing profits from the commercial sex trade, records of hotel stays, etc.
 - Internet listing, print advertisements, or business cards used to promote the movant for commercial sex
 - Email, text, or voicemail records between the victim, the trafficker, or solicitors of sex
- *Are these proceedings confidential?* Yes, the proceedings can be conducted in camera and the victim is not required to work with law enforcement to prosecute the trafficker.

- *As a law enforcement professional, what does this law mean for me?* If you produce a sworn statement that an individual convicted of prostitution is in fact a trafficking victim, then the victim can have all prostitution records cleared. This allows them to start fresh without the weight of a criminal record. Even without a sworn statement, the process can still be expedited for victims down the road if you collect and maintain financial records, online ads, texts, and other evidence that is often produced in trafficking investigations and prostitution stings.

NEBRASKA PUBLICATIONS & WEBSITES

- *Nothing About Us Without Us, Sex Trafficking in Nebraska: The Survivor Voice*, produced by UNMC and published by the Women's Fund of Omaha, <https://www.omahawomensfund.org/wp-content/uploads/Nothing-About-Us-Without-Us-1.pdf>
- *Nebraska's Commercial Sex Market*, produced by the Human Trafficking Initiative (HTI) at Creighton University and published by the Women's Fund of Omaha, <https://www.omahawomensfund.org/wp-content/uploads/Nebraskas-Commercial-Sex-Market-Report-FINAL.pdf>
- Nebraska Human Trafficking Task Force, <https://ago.nebraska.gov/combating-human-trafficking>

WHO TO CALL

National Human Trafficking Resource Center Hotline 888-3737-888, ask for Nebraska SAFE-T