



Legislative Affairs
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2019-2020 Legislative Memorandum

**Subject: Clearing Convictions for Formerly Trafficked Persons –
START Act
S.4981-B (Ramos) / A.6983-B (Gottfried)**

Position: SUPPORT

Millions of people all over the world, including in the United States, are subject to human trafficking: the unlawful, commercial trade in forced labor and compelled sex trading. According to the Department of Homeland Security, this form of “modern-day slavery” is “second only to drug trafficking as the most profitable form of transnational crime.”¹ Traffickers usually prey upon vulnerable populations, targeting subjects of economic hardship or oppression, undocumented immigrants, and refugees fleeing poverty, crime, war, political instability or natural disasters, just to name a few.

S.4981-B/A.6983-B, known as the START Act, represents an important step toward remedying some of the institutional harm wrought upon trafficked persons. It provides that courts may vacate,² in the interest of justice, any criminal conviction resulting from a person’s experience as a victim of human trafficking, sex trafficking, labor trafficking, or forced sex trading. It will also make confidential the records related to that process, as well as any evidence presented in support.

The NYCLU supports this legislation and urges lawmakers to pass it promptly.

When trafficked persons are discovered, they are commonly arrested for the very misconduct they are being compelled to undertake: for example, a person forced into sex trading may be charged with prostitution, or a person trafficked into the drug trade may be charged as a dealer or distributor. However, many trafficking operations also require trafficked persons to commit supporting offenses, such as possessing fake or stolen documents. Trafficked persons are all too often charged with these crimes as

¹ U.S. Department of Homeland Security, “What is Human Trafficking?” <https://www.dhs.gov/blue-campaign/what-human-trafficking>.

² To *vacate* a court order is to undo it entirely, as if it never existed in the first place.

well, despite the fact that, for many, resistance or refusal might have meant violent punishment or death. This is not merely fundamentally unjust; it also makes other trafficked persons less likely to come forward and report their own exploitation.

In 2010, New York acknowledged this injustice and began to allow courts to vacate convictions for prostitution offenses committed while subject to trafficking. Throughout the decade, however, twenty-seven other states have gone further, making such relief available for all offenses arising out of trafficking, and not just prostitution offenses.

The START Act will close this gap, by allowing courts to vacate a trafficked person's conviction for *any* offense arising out of *all* forms of trafficking activities. This means that victims of human trafficking who have been convicted of a crime they were *forced* to commit while vulnerable, helpless, and subjugated will no longer suffer the humiliating indignity of an unjustified criminal conviction. Perhaps even more importantly, they will no longer carry with them the social, financial and professional consequences of a criminal record. The bill would also make confidential all proceedings to vacate a conviction, as well as all evidence brought to court in the process, in order to preserve dignity and protect trafficked persons from possible retribution or retaliation by their traffickers.

Human trafficking victims suffer countless traumas and indignities. The compounding trauma of an unjustified and undeserved criminal conviction need not be part of that already horrific ordeal. The NYCLU strongly supports the START Act and urges lawmakers to pass it.