

# New Protections for Trafficking Victims: Vacate and Seal Past Arrests and Convictions

## 1. What is the new law?

Starting Jan. 1, 2017, victims of human trafficking can file a petition in court and ask for past cases—arrests, convictions, or juvenile adjudications—to be "vacated." This means that the arrest or conviction is deemed *not to have occurred*, and all records are sealed and eventually destroyed. This new law is intended to give victims a fresh start and is set out in California Penal Code section 236.14.

## 2. Who is eligible to have their case vacated?

Depending on the circumstances of the case, this law applies to certain victims of sexual and labor exploitation. The law applies to both adults and minors.

**Caution** – Anyone under age 21 should always talk with an attorney before vacating a juvenile adjudication, as it could cut off extended foster care (AB 12) benefits, such as housing or health care.

## 3. Are all types of offense eligible to be vacated?

Only "non-violent" offenses can be vacated. The offenses listed in Penal Code § 667.5(c) are excluded.

## 4. What do I have to prove to get my case vacated?

- You have to show the court that the non-violent offense was committed while you were a victim of human trafficking and that the offense was the direct result of being a victim.
- The court must also find that you are making a "good faith effort" to get away from the trafficking, and that granting relief would serve your best interest and the interests of justice.

## 5. What is the process?

You have to file a petition in court with evidence that your case is eligible. You can file for relief on multiple cases. You must provide a copy to the District Attorney's office (DA). If the DA decides to oppose your petition, the court must hold a hearing and you may need to testify.

## 6. What happens if my petition is granted?

The court will vacate the eligible arrests, convictions, or juvenile adjudications, meaning that they are "deemed not to have occurred." All agencies with records of the case(s) will seal them, and then destroy them within 3 years or less. You can refuse to disclose the case if you're ever asked about it, and it cannot be shared with any state agency that provides professional job licenses.

**If you would like to learn more about this law or you think it might apply to you, please contact Bay Area Legal Aid, [recordsealing@baylegal.org](mailto:recordsealing@baylegal.org), 510-663-4744**