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**Center for Global Justice Clinic**

**Vacatur for Sex Trafficking Survivors**

**INFORMATION PACKET**

**Survivor Service Provider**

**The Center for Global Justice Clinic**

**Vacatur for Sex Trafficking Survivors**

**Terms**:

* 1. The Center for Global Justice Clinic is a clinical program within the Center for Global Justice at Regent Law School in Virginia Beach providing free legal representation to sex-trafficking survivors in obtaining record relief (vacatur). May also be referred to as *the Clinic, CGJ Clinic,* or the *Vacatur Clinic*
     1. Primary contact: Meg Kelsey, Assistant Director: [mkelsey@regent.edu](mailto:mkelsey@regent.edu)
  2. Survivor Service Provider (SSP) is an organization or nonprofit providing support for trafficking survivors. May also be referred to as *victim services provider, partner, or stakeholder*
  3. Survivor may also be referred to as the *client* as the case proceeds. Virginia statute refers to survivor as sex trafficking *victim.*
  4. Private Attorney is a licensed attorney not employed by the Clinic, but who has been screened and trained to work with the Clinic in handling vacatur petitions on a pro bono basis. May also be referred to as *pro bono counsel, pro bono attorney* or *co-counsel*

**CGJ Clinic cases: Case flow**

1. Survivor Service Provider identifies eligible survivors through typical services intake and interviews, or through general exposure to or contact with vulnerable populations.
   1. Eligibility - Survivor’s criminal record includes Virginia convictions of Prostitution and/or Bawdy Place
      1. Those convictions are due to trafficking circumstances.
      2. See information sheet on the specifics of the law.
2. Survivor works on the initial statement with a mental health counselor or case worker with SSP.
   1. The purpose of this step is to allow the survivor more time to work through the relevant timeline in a safe, comfortable setting before beginning case intake and an attorney interview.
3. If survivor desires to proceed with the Vacatur petition, then the SSP will give survivor info to the Clinic.
   1. Please provide contact information, relevant criminal charges and any relevant paperwork, including SSP screening tool for determining trafficking status.
      1. Please advise: does survivor prefer email or call for initial introduction?
4. Intake
   1. Survivor intake will be completed through the Clinic - by phone or Zoom call
      1. Survivor will be represented by either: the Clinic attorney (Meg), assisted by law students; or, by a local private attorney, with the Clinic attorney supporting as needed as co-counsel.
         1. If private co-counsel is on the case, that attorney will be “lead counsel” which means he or she will be the primary contact and will be handling the majority of the casework.
      2. If co-counsel is on the case, then after the intake call with Meg/Clinic, the co-counsel attorney will contact survivor to introduce themselves and set a date and time for a Zoom interview
         1. \*If survivor does not have access to Zoom, we will accommodate.
5. Attorney/Client meeting #1
   1. Initial client interview via Zoom (if practicable). People present for this interview will be the survivors, the attorney and another person, most likely a paralegal/support staff.
   2. The purpose is to discuss the Petition process and the stipulation facts. Attorney will have already reviewed an initial facts/timeline provided by Survivor Service Provider, so this will hopefully *mostly* involve confirming facts/timeline.
      1. Attorney will ask questions to determine the timeline and the facts surrounding the convictions
      2. Attorney will ask questions in order to establish the legal elements: that the offense was committed as a direct result of being solicited, invited, recruited, encouraged, forced, intimidated, or deceived by another to engage in acts of prostitution or unlawful sexual intercourse for money.
      3. The trafficker’s identity does not need to be included in the stipulation.
   3. Confirm whether survivor needs to bring money order to 2nd meeting. For your reference, petition to proceed without fees found here: <https://www.vacourts.gov/forms/circuit/cc1414.pdf>
6. Survivor Service Provider: follow up with survivor after this meeting as a general check-in and to coordinate fingerprinting. *See below in petition steps.*
7. Petition steps
   1. Attorney works on the petition, writes stipulation. Gathers criminal record documents
      1. For your reference, please find the vacatur petition form online here: <https://www.vacourts.gov/forms/circuit/cc1475.pdf>
   2. Fingerprints: SSP (counselor/case worker) follows up with survivor after the attorney meeting and arranges for survivor to get fingerprints. Either survivor goes to Sheriff's office, or the Sheriff sends a representative to service provider to fingerprint client(s)
   3. Fees: If client is not eligible for waiver of fees (in forma pauperis), then client must provide money order for filing fees. Bring this to meeting #2.
8. Attorney/Client meeting #2
   1. In-person client meeting to finalize and sign Petition
      1. Petition Fees can be waived if the client qualifies. Fees are returned if the petition is granted. Norfolk $103, Virginia Beach $86.00 + service to CW
      2. If client is not eligible for waiver of fees (in forma pauperis), then client must provide money order for filing fees.
9. Survivor Service Provider: follow up with survivor after this meeting as a general check-in.
10. Attorney files Vacatur petition with charging documents, fingerprints, and fees with the Ciruit Court civil clerk. Petition is sent to the Commonwealth's Attorney’s Office (CWA) and Circuit Court judge.
    * 1. CWA has 30 days to respond
         1. If there is *no objection*, then the petition for vacatur is **granted** and charge(s) is(are) expunged from record!
      2. IF the CWA or Court require additional documentation, then attorney will advise survivor.
      3. IF the Commonwealth objects, a date is set for a court hearing.
         1. Attorney will schedule a Zoom or phone call to discuss options and prepare fully for next steps.
      4. IF an expungement petition has also been filed, Survivor will need to obtain fingerprints again.
11. Once charges are expunged (or if petition is denied) representation ends. Paperwork/file will be made available to the survivor.
    * 1. We can discuss proceeding with charges in other jurisdictions (including other states)

**Virginia Record Relief Law: VACATUR**

During the 2021 General Assembly Session, the legislature crafted a new procedure for criminal convictions related to being a sex trafficking victim to be vacated. This is found in Virginia Code § 19.2-327.

“Upon a petition of a person who was convicted or adjudicated delinquent of a qualifying offense, the circuit court of the county or city in which the conviction or adjudication of delinquency was entered shall have the authority to issue writs of vacatur” § 19.2-327.16.

[https://law.lis.virginia.gov/vacode/title19.2/chapter19.4/](https://urldefense.com/v3/__https:/law.lis.virginia.gov/vacode/title19.2/chapter19.4/__;!!CHfpmW4!gw6v_UdfnwNSsejgmPLlOPPMxuPSwf7qypnyJpRb77f8ITM5xismZ0XmyJM3gYWZgQSBfR5XBVd1gTsMv8dThb0A$)

“Vacatur” is not defined within the Virginia code. The commonly accepted definition is a rule or order that [sets aside](https://urldefense.com/v3/__https:/www.law.cornell.edu/wex/set_aside__;!!CHfpmW4!gw6v_UdfnwNSsejgmPLlOPPMxuPSwf7qypnyJpRb77f8ITM5xismZ0XmyJM3gYWZgQSBfR5XBVd1gTsMv8NqX4V9$) a judgment or annuls a proceeding. Latin for "it is vacated."

**Qualifying Offense** means a conviction or adjudication of delinquency for any violation of § [18.2-346](https://urldefense.com/v3/__https:/law.lis.virginia.gov/vacode/18.2-346/__;!!CHfpmW4!gw6v_UdfnwNSsejgmPLlOPPMxuPSwf7qypnyJpRb77f8ITM5xismZ0XmyJM3gYWZgQSBfR5XBVd1gTsMvwMxorzv$) or [18.2-347](https://urldefense.com/v3/__https:/law.lis.virginia.gov/vacode/18.2-347/__;!!CHfpmW4!gw6v_UdfnwNSsejgmPLlOPPMxuPSwf7qypnyJpRb77f8ITM5xismZ0XmyJM3gYWZgQSBfR5XBVd1gTsMv_NmFHJi$)

**§ 18.2-346. Prostitution**

1. Any person who, for money or its equivalent, (i) commits any act in violation of § [18.2-361](https://urldefense.com/v3/__https:/law.lis.virginia.gov/vacode/18.2-361/__;!!CHfpmW4!gw6v_UdfnwNSsejgmPLlOPPMxuPSwf7qypnyJpRb77f8ITM5xismZ0XmyJM3gYWZgQSBfR5XBVd1gTsMv9WZOwkY$); performs cunnilingus, fellatio, or anilingus upon or by another person; engages in sexual intercourse or anal intercourse; touches the unclothed genitals or anus of another person with the intent to sexually arouse or gratify; or allows another to touch his unclothed genitals or anus with the intent to sexually arouse or gratify or (ii) offers to commit any act in violation of § [18.2-361](https://urldefense.com/v3/__https:/law.lis.virginia.gov/vacode/18.2-361/__;!!CHfpmW4!gw6v_UdfnwNSsejgmPLlOPPMxuPSwf7qypnyJpRb77f8ITM5xismZ0XmyJM3gYWZgQSBfR5XBVd1gTsMv9WZOwkY$); perform cunnilingus, fellatio, or anilingus upon or by another person; engage in sexual intercourse or anal intercourse; touch the unclothed genitals or anus of another person with the intent to sexually arouse or gratify; or allow another to touch his unclothed genitals or anus with the intent to sexually arouse or gratify and thereafter does any substantial act in furtherance thereof is guilty of prostitution, which is punishable as a Class 1 misdemeanor.

**§ 18.2-347. Keeping, residing in, or frequenting a bawdy place**

1. It is unlawful for any person to keep any bawdy place, or to reside in or at or visit for immoral purposes any such bawdy place. Each day such bawdy place is kept, resided in, or visited shall constitute a separate offense. In a prosecution under this section, the general reputation of the bawdy place may be proved. A violation of this section is a Class 1 misdemeanor.
2. As used in this Code, "bawdy place" means any place within or outside any building or structure that is used or is to be used for lewdness, assignation, or prostitution.

**Victim of Sex Trafficking** means any person convicted or adjudicated delinquent of a qualifying offense in the Commonwealth **who committed such offense as a direct result of being solicited, invited, recruited, encouraged, forced, intimidated, or deceived by another** to engage in acts of prostitution or unlawful sexual intercourse for money or its equivalent, as described in subsection A of § [18.2-346](https://urldefense.com/v3/__https:/law.lis.virginia.gov/vacode/18.2-346/__;!!CHfpmW4!gw6v_UdfnwNSsejgmPLlOPPMxuPSwf7qypnyJpRb77f8ITM5xismZ0XmyJM3gYWZgQSBfR5XBVd1gTsMvwMxorzv$), regardless of whether any other person has been charged or convicted of an offense related to the sex trafficking of such person.

Optional flyer for survivors (Edit with your info and cut into sixths)

Have you been convicted of Prostitution or Being in a Place of Prostitution in the state of Virginia?

Were you **invited** or **forced** or **manipulated** into that situation/act?

You *may* be eligible to get that charge wiped off of your record. Ask \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (SSP) or go to <https://globaljustice.regent.edu/clinic/> for more information.

Virginia Vacatur law

Va. Code §19.2-327

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**Vacatur Law Data**

Thank you so much for partnering with us in the work of record relief for sex-trafficking survivors. As we proceed with representation under the current Virginia statute (Va. Code § 19.2-327.16), we are also interested in researching and evaluating the law’s efficacy. The Clinic is gathering data related to the intended beneficiaries of the law (trafficking survivors) as part of this research. Any resulting written publication will be made available to our partners.

Survey available online at <https://forms.gle/PXhkZwtxmhYYKzmP9>

Name of organization: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Best contact (name, email, phone): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Total Number of trafficking survivors served by your organization (and in what timeframe): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Number of trafficking survivors currently in your care/ being served: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Today’s Date \_\_\_\_\_\_\_\_\_\_

Number of survivors who have a criminal record due to trafficking (best estimate): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

What screening tool do you use to establish whether victim has been trafficked (please provide a copy of standard intake/questionnaire):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Other notes/comments on the vacatur law: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Please fill out the questionnaire and chart and return to Meg Kelsey at [Mkelsey@regent.edu](mailto:Mkelsey@regent.edu)

OR submit online at <https://forms.gle/PXhkZwtxmhYYKzmP9>

This chart is a recommended format. We do NOT need personal identifying information (unless a survivor wishes to share more info or feedback on his or her individual record and experience).

|  | **Internal identifier** (case or id #) | **Criminal charges**  Type of charge and jurisdiction (state, city), starting with vacatur-eligible charges and year of conviction  Split cells to create 3 columns and however many rows are needed: | | | **Notes** |
| --- | --- | --- | --- | --- | --- |
| 1 | [**example**]  Survivor 1 | charge | jurisdiction | Date of conviction (at least the year) | FTA and drug charges also due to trafficking  … |
|
|
| Prostitution | Norfolk | 5/12/2017  6/27/2019 |
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