

119TH CONGRESS
1ST SESSION

H. R. 4323

AN ACT

To provide for the vacating of certain convictions and expungement of certain arrests of victims of human trafficking.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Trafficking Survivors
3 Relief Act”.

4 **SEC. 2. FEDERAL EXPUNGEMENT FOR VICTIMS OF TRAF-**
5 **FICKING.**

6 (a) IN GENERAL.—Chapter 237 of title 18, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 **“§ 3771A. Motion to vacate; expungement; mitigating**
10 **factors**

11 “(a) DEFINITIONS.—In this section—

12 “(1) the term ‘child’ means an individual who
13 has not attained 18 years of age;

14 “(2) the term ‘covered prisoner’ means an indi-
15 vidual who—

16 “(A) was convicted of a level A offense or
17 level B offense;

18 “(B) was sentenced to a term of imprison-
19 ment for the offense described in subparagraph
20 (A); and

21 “(C) is, or was previously, imprisoned or
22 incarcerated under such sentence for a term of
23 imprisonment;

24 “(3) the terms ‘employee’ and ‘officer’ have the
25 meanings given the terms in section 2105 of title 5;

1 “(4) the term ‘Federal offense’ means an of-
2 fense that is punishable under Federal law;

3 “(5) the term ‘level A offense’ means a Federal
4 offense that is not a violent crime;

5 “(6) the term ‘level B offense’—

6 “(A) means a Federal offense that is a vio-
7 lent crime; and

8 “(B) does not include a Federal offense
9 that is a violent crime of which a child was a
10 victim;

11 “(7) the term ‘victim of trafficking’ has the
12 meaning given that term in section 103 of the Traf-
13 ficking Victims Protection Act of 2000 (22 U.S.C.
14 7102); and

15 “(8) the term ‘violent crime’ has the meaning
16 given the term ‘crime of violence’ in section 16(a) of
17 this title.

18 “(b) MOTIONS TO VACATE CONVICTIONS OR EX-
19 PUNGE ARRESTS.—

20 “(1) IN GENERAL.—

21 “(A) CONVICTIONS OF LEVEL A OF-
22 FENSES.—A person convicted of any level A of-
23 fense (or an attorney representing such a per-
24 son) may move the court that imposed the sen-
25 tence for the level A offense to vacate the judg-

1 ment of conviction if the level A offense was
2 committed as a direct result of the person hav-
3 ing been a victim of trafficking.

4 “(B) ARRESTS FOR LEVEL A OFFENSES.—

5 A person arrested for any level A offense (or an
6 attorney representing such a person) may move
7 the district court of the United States for the
8 district and division embracing the place where
9 the person was arrested to expunge all records
10 of the arrest if the conduct or alleged conduct
11 of the person that resulted in the arrest was di-
12 rectly related to the person having been a vic-
13 tim of trafficking.

14 “(C) ARRESTS FOR LEVEL B OFFENSES.—

15 A person arrested for any level B offense (or an
16 attorney representing such a person) may move
17 the district court of the United States for the
18 district and division embracing the place where
19 the person was arrested to expunge all records
20 of the arrest if—

21 “(i) the conduct or alleged conduct of
22 the movant that resulted in the arrest was
23 directly related to the movant having been
24 a victim of trafficking; and

1 “(ii)(I) the movant was acquitted of
2 the level B offense;

3 “(II) the Government did not pursue,
4 or the Government moved to dismiss,
5 criminal charges against the movant for
6 the level B offense; or

7 “(III)(aa) the charges against the
8 movant for the level B offense were re-
9 duced to an offense that is a level A of-
10 fense; and

11 “(bb) the movant was acquitted of the
12 level A offense, the Government did not
13 pursue, or the Government moved to dis-
14 miss, criminal charges against the movant
15 for the level A offense, or any subsequent
16 conviction of the level A offense was va-
17 cated.

18 “(2) CONTENTS OF MOTION.—A motion de-
19 scribed in paragraph (1) shall—

20 “(A) be in writing;

21 “(B) describe any supporting evidence;

22 “(C) state the offense; and

23 “(D) include copies of any documents
24 showing that the movant is entitled to relief
25 under this section.

1 “(3) HEARING.—

2 “(A) MANDATORY HEARING.—

3 “(i) MOTION IN OPPOSITION.—Not
4 later than 30 days after the date on which
5 a motion is filed under paragraph (1), the
6 Government may file a motion in opposi-
7 tion of the motion filed under paragraph
8 (1).

9 “(ii) MANDATORY HEARING.—If the
10 Government files a motion described in
11 clause (i), not later than 15 days after the
12 date on which the motion is filed, the court
13 shall hold a hearing on the motion.

14 “(B) DISCRETIONARY HEARING.—If the
15 Government does not file a motion described in
16 subparagraph (A)(i), the court may hold a
17 hearing on the motion not later than 45 days
18 after the date on which a motion is filed under
19 paragraph (1).

20 “(4) FACTORS.—

21 “(A) VACATING CONVICTIONS OF LEVEL A
22 OFFENSES.—The court may grant a motion
23 under paragraph (1)(A) if, after notice to the
24 Government and an opportunity to be heard,

1 the court finds, by a preponderance of the evi-
2 dence, that—

3 “(i) the movant was convicted of a
4 level A offense; and

5 “(ii) the participation in the level A
6 offense by the movant was a direct result
7 of the movant having been a victim of traf-
8 ficking.

9 “(B) EXPUNGING ARRESTS FOR LEVEL A
10 OFFENSES.—The court may grant a motion
11 under paragraph (1)(B) if, after notice to the
12 Government and an opportunity to be heard,
13 the court finds, by a preponderance of the evi-
14 dence, that—

15 “(i) the movant was arrested for a
16 level A offense; and

17 “(ii) the conduct or alleged conduct
18 that resulted in the arrest was directly re-
19 lated to the movant having been a victim
20 of trafficking.

21 “(C) EXPUNGING ARRESTS FOR LEVEL B
22 OFFENSES.—The court may grant a motion
23 under paragraph (1)(C) if, after notice to the
24 Government and an opportunity to be heard,

1 the court finds, by a preponderance of the evi-
2 dence, that—

3 “(i) the movant was arrested for a
4 level B offense and the conduct or alleged
5 conduct that resulted in the arrest was di-
6 rectly related to the movant having been a
7 victim of trafficking; and

8 “(ii)(I) the movant was acquitted of
9 the level B offense;

10 “(II) the Government did not pursue,
11 or the Government moved to dismiss,
12 criminal charges against the movant for
13 the level B offense; or

14 “(III)(aa) the charges against the
15 movant for the level B offense were re-
16 duced to a level A offense; and

17 “(bb) the movant was acquitted of the
18 level A offense, the Government did not
19 pursue, or the Government moved to dis-
20 miss, criminal charges against the movant
21 for the level A offense, or any subsequent
22 conviction of that level A offense was va-
23 cated.

24 “(5) SUPPORTING EVIDENCE.—

1 “(A) IN GENERAL.—For purposes of this
2 section, in determining whether the movant is a
3 victim of trafficking, the court—

4 “(i) shall consider an affidavit or
5 sworn testimony of an anti-human traf-
6 ficking service provider or clinician; and

7 “(ii) may consider any supporting evi-
8 dence the court determines is of sufficient
9 credibility and probative value, including
10 sworn testimony from a law enforcement
11 officer detailing the role of the movant in
12 coercing other victims of trafficking into
13 committing criminal offenses.

14 “(B) AFFIDAVIT OR SWORN TESTIMONY
15 SUFFICIENT EVIDENCE.—The affidavit or
16 sworn testimony described in subparagraph
17 (A)(i) shall be sufficient evidence to vacate a
18 conviction or expunge an arrest under this sec-
19 tion if the court determines that—

20 “(i) the affidavit or sworn testimony
21 is credible; and

22 “(ii) no other evidence is readily avail-
23 able.

24 “(6) CONVICTION OR ARREST OF OTHER PER-
25 SONS NOT REQUIRED.—It shall not be necessary

1 that any person other than the movant be convicted
2 of or arrested for an offense before the movant may
3 file a motion under paragraph (1).

4 “(7) DENIAL OF MOTION.—

5 “(A) FINALITY.—If the court denies a mo-
6 tion filed under paragraph (1), the denial shall
7 be final, except as provided under subparagraph
8 (C) of this paragraph and subject to the dis-
9 covery of any new and compelling evidence or
10 information.

11 “(B) REASONS FOR DENIAL.—If the court
12 denies a motion filed under paragraph (1), the
13 court shall state the reasons for the denial in
14 writing.

15 “(C) REASONABLE TIME TO CURE DEFI-
16 CIENCIES IN MOTION.—If the court denies a
17 motion filed under paragraph (1) due to a cur-
18 able deficiency in the motion, the court shall
19 allow the movant sufficient time to cure the de-
20 ficiency.

21 “(8) APPEAL.—An order granting or denying a
22 motion under this section may be appealed in ac-
23 cordance with section 1291 of title 28.

24 “(c) VACATUR OF CONVICTIONS.—

1 “(1) IN GENERAL.—If the court grants a mo-
2 tion to vacate a conviction of a level A offense under
3 subsection (b), the court shall immediately—

4 “(A) vacate the conviction for cause;

5 “(B) set aside the verdict and enter a
6 judgment of acquittal; and

7 “(C) enter an expungement order that di-
8 rects that there be expunged from all official
9 records all references to—

10 “(i) the arrest of the movant for the
11 level A offense;

12 “(ii) the institution of criminal pro-
13 ceedings against the movant relating to the
14 level A offense; and

15 “(iii) the results of the proceedings.

16 “(2) LIMITATION.—Nothing in this subsection
17 requires a court to amend or remove any fine or res-
18 titution order in a criminal or civil proceeding.

19 “(3) EFFECT.—If a conviction is vacated under
20 an order entered under paragraph (1), the conviction
21 shall not be regarded as a conviction under Federal
22 law and the movant for whom the conviction was va-
23 cated shall be considered to have the status occupied
24 by the movant before the arrest or the institution of
25 the criminal proceedings related to such conviction.

1 “(d) EXPUNGEMENT OF ARRESTS.—

2 “(1) IN GENERAL.—If the court grants a mo-
3 tion to expunge all records of an arrest for an of-
4 fense under subsection (b), the court shall imme-
5 diately enter an expungement order that directs that
6 there be expunged from all official records all ref-
7 erences to—

8 “(A) the arrest of the movant for the of-
9 fense;

10 “(B) the institution of any criminal pro-
11 ceedings against the movant relating to the of-
12 fense; and

13 “(C) the results of the proceedings, if any.

14 “(2) EFFECT.—If an arrest is expunged under
15 an order entered under paragraph (1) the arrest
16 shall not be regarded as an arrest under Federal law
17 and the movant for whom the arrest is expunged
18 shall be considered to have the status occupied by
19 the movant before the arrest or the institution of the
20 criminal proceedings related to such arrest, if any.

21 “(e) MITIGATING FACTORS.—

22 “(1) IN GENERAL.—The court that imposed
23 sentence for a level A offense or level B offense upon
24 a covered prisoner may reduce the term of imprison-
25 ment for the offense—

1 “(A) upon—
2 “(i) motion by the covered prisoner;
3 or
4 “(ii) the court’s own motion;
5 “(B) after notice to the Government;
6 “(C) after considering—
7 “(i) the factors set forth in section
8 3553(a);
9 “(ii) the nature and seriousness of the
10 danger to any person, if applicable; and
11 “(iii) the community, or any crime
12 victims; and
13 “(D) if the court finds, by a preponderance
14 of the evidence, that the covered prisoner com-
15 mitted the offense as a direct result of the cov-
16 ered prisoner having been a victim of traf-
17 ficking.
18 “(2) REQUIREMENT.—Any proceeding under
19 this subsection shall be subject to section 3771.
20 “(3) PARTICULARIZED INQUIRY.—For any mo-
21 tion under paragraph (1), the Government shall con-
22 duct a particularized inquiry of the facts and cir-
23 cumstances of the original sentencing of the covered
24 prisoner in order to assess whether a reduction in
25 sentence would be consistent with this section.

1 “(f) ADDITIONAL ACTIONS BY COURT.—The court
2 shall, upon granting a motion under this section, take any
3 additional action necessary to grant the movant full relief.

4 “(g) NO FEES.—A person may not be required to pay
5 a filing fee, service charge, copay fee, processing fee, or
6 any other charge for filing a motion under this section.

7 “(h) CONFIDENTIALITY OF MOVANT.—

8 “(1) IN GENERAL.—A motion under this sec-
9 tion and any documents, pleadings, or orders relat-
10 ing to the motion shall be filed under seal.

11 “(2) INFORMATION NOT AVAILABLE FOR PUB-
12 LIC INSPECTION.—An officer or employee may not
13 make available for public inspection any report,
14 paper, picture, photograph, court file, or other docu-
15 ment, in the custody or possession of the officer or
16 employee, that identifies the movant.

17 “(i) APPLICABILITY.—This section shall apply to any
18 conviction or arrest occurring before, on, or after the date
19 of enactment of this section.”.

20 (b) TECHNICAL AND CONFORMING AMENDMENT.—
21 The table of sections of chapter 237 of title 18, United
22 States Code, is amended by adding at the end the fol-
23 lowing:

“3771A. Motion to vacate; expungement; mitigating factors.”.

1 **SEC. 3. REPORTS.**

2 (a) UNITED STATES ATTORNEY MOTIONS FOR
3 VACATUR OR EXPUNGEMENT.—Not later than 1 year
4 after the date of enactment of this Act, each United States
5 attorney shall submit to the Attorney General a report
6 that details—

7 (1) the number of motions for vacatur or
8 expungement filed under section 3771A of title 18,
9 United States Code, as added by section 2, in the
10 district of the United States attorney; and

11 (2) for each motion described in paragraph
12 (1)—

13 (A) the underlying offense;

14 (B) the response of the United States at-
15 torney to the motion; and

16 (C) the final determination of the court
17 with respect to the motion.

18 (b) UNITED STATES ATTORNEY TRAINING ON
19 HUMAN TRAFFICKING INDICATORS.—Not later than 1
20 year after the date of enactment of this Act, the Attorney
21 General shall submit to Congress a report that details all
22 professional training received by United States attorneys
23 on indicators of human trafficking during the preceding
24 12-month period.

25 (c) GOVERNMENT ACCOUNTABILITY OFFICE.—Not
26 later than 3 years after the date of enactment of this Act,

1 the Comptroller General of the United States shall submit
2 to Congress a report that—

3 (1) assesses the impact of the enactment of sec-
4 tion 3771A of title 18, United States Code, as added
5 by section 2; and

6 (2) includes—

7 (A) the number of human trafficking sur-
8 vivors who have filed motions for vacatur or
9 expungement under such section 3771A;

10 (B) the final determination of each court
11 that adjudicated a motion described in subpara-
12 graph (A);

13 (C) recommendations to increase access to
14 post-conviction relief for human trafficking sur-
15 vivors with Federal criminal records; and

16 (D) recommendations for improving the
17 implementation and tracking of professional
18 training of United States attorneys on indica-
19 tors of human trafficking.

20 **SEC. 4. USE OF GRANTS FOR POST-CONVICTION RELIEF**
21 **REPRESENTATION.**

22 The Office of Justice Programs or the Office on Vio-
23 lence Against Women, in awarding a grant that may be
24 used for legal representation, may not prohibit a recipient

1 from using the grant for legal representation for post-con-
2 viction relief.

3 **SEC. 5. SENSE OF CONGRESS.**

4 It is the sense of Congress that—

5 (1) this Act is a first step to address the chang-
6 ing tactics of human traffickers, who are using
7 forced criminality as a form of force, fraud, and co-
8 ercion in their human trafficking enterprises; and

9 (2) Congress is committed to continuing to find
10 solutions as needed to thwart human traffickers and
11 protect survivors of human trafficking.

12 **SEC. 6. HUMAN TRAFFICKING DEFENSE.**

13 (a) IN GENERAL.—Chapter 1 of title 18, United
14 States Code, is amended by adding at the end the fol-
15 lowing:

16 **“§ 28. Human trafficking defense**

17 “(a) DEFINITIONS.—In this section—

18 “(1) the term ‘covered Federal offense’ means
19 a level A offense or level B offense, as those terms
20 are defined in section 3771A; and

21 “(2) the term ‘victim of trafficking’ has the
22 meaning given the term in section 103 of the Traf-
23 ficking Victims Protection Act of 2000 (22 U.S.C.
24 7102).

1 “(b) DURESS.—In a prosecution for a covered Fed-
2 eral offense, a defendant may establish duress by dem-
3 onstrating that the defendant was a victim of trafficking
4 at the time at which the defendant committed the offense.

5 “(c) RECORD OR PROCEEDING UNDER SEAL.—In
6 any proceeding in which a defense under subsection (b)
7 is raised, any record or part of the proceeding related to
8 the defense shall, on motion, be placed under seal until
9 such time as a conviction is entered for the offense.

10 “(d) POST-CONVICTION RELIEF.—A failure to assert,
11 or failed assertion of, a defense under subsection (b) by
12 an individual who is convicted of a covered Federal offense
13 may not preclude the individual from asserting as a miti-
14 gating factor, at sentencing or in a proceeding for any
15 post-conviction relief, that at the time of the commission
16 of the offense, the defendant was a victim of trafficking
17 and committed the offense under duress.

18 “(e) FEDERAL AID.—A failure to assert, or failed as-
19 ssertion of, a defense under subsection (b) by an individual
20 who is convicted of a covered Federal offense may not be
21 used for the purpose of disqualifying the individual from
22 participating in any federally funded program that aids
23 victims of trafficking.”.

24 (b) TECHNICAL AND CONFORMING AMENDMENT.—
25 The table of sections for chapter 1 of title 18, United

1 States Code, is amended by adding at the end the fol-
2 lowing:

“28. Human trafficking defense.”.

3 **SEC. 7. TECHNICAL AND CONFORMING AMENDMENTS.**

4 Section 103 of the Trafficking Victims Protection Act
5 of 2000 (22 U.S.C. 7102) is amended—

6 (1) in paragraph (16), by striking “(9)” and in-
7 serting “(11)”; and

8 (2) in paragraph (17), by striking “(9) or (10)”
9 and inserting “(11) or (12)”.

10 **SEC. 8. RULE OF CONSTRUCTION.**

11 Nothing in this Act, or the amendments made by this
12 Act, may be construed to conflict with any of the crime
13 victims’ rights described in section 3771 of title 18, United
14 States Code.

Passed the House of Representatives December 1,
2025.

Attest:

Clerk.

119TH CONGRESS
1ST SESSION

H. R. 4323

AN ACT

To provide for the waiving of certain convictions
and expungement of certain arrests of victims of
human trafficking.