

**Suspend the Rules and Pass the Bill, H.R. 7137, With an Amendment**

**(The amendment strikes all after the enacting clause and inserts a new text)**

118<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 7137

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

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 30, 2024

Mr. FRY (for himself, Mr. LIEU, Mrs. WAGNER, Mr. ROBERT GARCIA of California, Mr. DONALDS, Mr. LANGWORTHY, Mr. MOORE of Alabama, Mr. TIMMONS, Ms. MACE, Mr. WILSON of South Carolina, Mr. LATURNER, Mrs. HOUCHIN, Mr. KEAN of New Jersey, Mrs. MILLER of Illinois, Mr. ROUZER, and Ms. JACKSON LEE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Trafficking Survivors  
5 Relief Act of 2024”.

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

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

6 **“§ 3771A. Motion to vacate; expungement; mitigating**  
7 **factors**

8 “(a) DEFINITIONS.—In this section—

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

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

13 “(A) was convicted of a level A offense or  
14 level B offense;

15 “(B) was sentenced to a term of imprison-  
16 ment for the offense described in subparagraph  
17 (A); and

18 “(C) is imprisoned under such term of im-  
19 prisonment;

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

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

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

26 “(6) the term ‘level B offense’—

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

3           “(B) does not include a Federal offense  
4           that is a violent crime of which a child was a  
5           victim;

6           “(7) the term ‘level C offense’ means any Fed-  
7           eral offense that is not a level A offense;

8           “(8) the term ‘victim of trafficking’ has the  
9           meaning given that term in section 103 of the Traf-  
10          fficking Victims Protection Act of 2000 (22 U.S.C.  
11          7102); and

12          “(9) the term ‘violent crime’ has the meaning  
13          given that term in section 103 of the Juvenile Jus-  
14          tice and Delinquency Prevention Act of 1974 (34  
15          U.S.C. 11103).

16          “(b) MOTIONS TO VACATE CONVICTIONS OR EX-  
17          PUNGE ARRESTS.—

18                 “(1) IN GENERAL.—

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

1 committed as a direct result of the person hav-  
2 ing been a victim of trafficking.

3 “(B) ARRESTS FOR LEVEL A OFFENSES.—

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

13 “(C) ARRESTS FOR LEVEL C OFFENSES.—

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

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

24 “(ii)(I) the movant was acquitted of  
25 the level C offense;

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

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

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

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

18                 “(A) be in writing;

19                 “(B) describe any supporting evidence;

20                 “(C) state the offense; and

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

24          “(3) HEARING.—

25                 “(A) MANDATORY HEARING.—

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

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

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

18          “(4) FACTORS.—

19                 “(A) VACATING CONVICTIONS OF LEVEL A  
20                 OFFENSES.—The court may grant a motion  
21                 under paragraph (1)(A) if, after notice to the  
22                 Government and an opportunity to be heard,  
23                 the court finds, by a preponderance of the evi-  
24                 dence, that—

1                   “(i) the movant was convicted of a  
2                   level A offense; and

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

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

13                  “(i) the movant was arrested for a  
14                  level A offense; and

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

19                  “(C) EXPUNGING ARRESTS FOR LEVEL C  
20                  OFFENSES.—The court may grant a motion  
21                  under paragraph (1)(C) if, after notice to the  
22                  Government and an opportunity to be heard,  
23                  the court finds, by a preponderance of the evi-  
24                  dence, that—

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

6           “(ii)(I) the movant was acquitted of  
7           the level C offense;

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

12          “(III)(aa) the charges against the  
13          movant for the level C offense were re-  
14          duced to a level A offense; and

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

22          “(5) SUPPORTING EVIDENCE.—

23          “(A) IN GENERAL.—For purposes of this  
24          section, in determining whether the movant is a  
25          victim of trafficking, the court shall consider an



1 affidavit or sworn testimony of a licensed anti-  
2 human trafficking service provider or clinician.  
3 The court may consider any supporting evi-  
4 dence the court determines is of sufficient credi-  
5 bility and probative value, including sworn testi-  
6 mony from a law enforcement officer detailing  
7 the role of the movant in coercing other victims  
8 into committing Federal offenses.

9 “(B) AFFIDAVIT OR SWORN TESTIMONY  
10 SUFFICIENT EVIDENCE.—The affidavit or  
11 sworn testimony described in subparagraph (A)  
12 shall be sufficient evidence to vacate a convic-  
13 tion or expunge an arrest under this section if  
14 the court determines that—

15 “(i) the affidavit or sworn testimony  
16 is credible; and

17 “(ii) no other evidence is readily avail-  
18 able.

19 “(6) CONVICTION OR ARREST OF OTHER PER-  
20 SONS NOT REQUIRED.—It shall not be necessary  
21 that any person other than the movant be convicted  
22 of or arrested for an offense before the movant may  
23 file a motion under paragraph (1).

24 “(7) DENIAL OF MOTION.—

1           “(A) IN GENERAL.—If the court denies a  
2 motion filed under paragraph (1), the denial  
3 shall be final, subject to the discovery of any  
4 new and compelling evidence or information.

5           “(B) REASONS FOR DENIAL.—If the court  
6 denies a motion filed under paragraph (1), the  
7 court shall state the reasons for the denial in  
8 writing.

9           “(C) REASONABLE TIME TO CURE DEFICI-  
10 CIENCIES IN MOTION.—If the motion was de-  
11 nied due to a curable deficiency in the motion,  
12 the court shall allow the movant sufficient time  
13 to cure the deficiency.

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

17           “(c) VACATUR OF CONVICTIONS.—

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

21                   “(A) vacate the conviction for cause;

22                   “(B) set aside the verdict and enter a  
23 judgment of acquittal; and

1           “(C) enter an expungement order that di-  
2           rects that there be expunged from all official  
3           records all references to—

4                   “(i) the arrest of the movant for the  
5           level A offense;

6                   “(ii) the institution of criminal pro-  
7           ceedings against the movant relating to the  
8           level A offense; and

9                   “(iii) the results of the proceedings.

10           “(2) LIMITATION.—Nothing in this subsection  
11           requires a court to amend, impose, or remove any  
12           fine or restitution order in a criminal or civil pro-  
13           ceeding.

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

21           “(d) EXPUNGEMENT OF ARRESTS.—

22                   “(1) IN GENERAL.—If the court grants a mo-  
23           tion to expunge all records of an arrest for an of-  
24           fense under subsection (b), the court shall imme-  
25           diately enter an expungement order that directs that

1       there be expunged from all official records all ref-  
2       erences to—

3               “(A) the arrest of the movant for the of-  
4       fense;

5               “(B) the institution of any criminal pro-  
6       ceedings against the movant relating to the of-  
7       fense; and

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

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

16      “(e) MITIGATING FACTORS.—

17              “(1) IN GENERAL.—The court that imposed  
18      sentence for a level A offense or level B offense upon  
19      a covered prisoner may reduce the term of imprison-  
20      ment for the offense—

21              “(A) upon—

22                      “(i) motion by the covered prisoner or  
23                      the Director of the Bureau of Prisons; or

24                      “(ii) the court’s own motion;

25              “(B) after notice to the Government;

1 “(C) after considering—

2 “(i) the factors set forth in section  
3 3553(a);

4 “(ii) the nature and seriousness of the  
5 danger to any person, if applicable; and

6 “(iii) the community, or any crime  
7 victims; and

8 “(D) if the court finds, by a preponderance  
9 of the evidence, that the covered prisoner com-  
10 mitted the offense as a direct result of the cov-  
11 ered prisoner having been a victim of traf-  
12 ficking.

13 “(2) REQUIREMENT.—Any proceeding under  
14 this subsection shall be subject to section 3771.

15 “(3) PARTICULARIZED INQUIRY.—For any mo-  
16 tion under paragraph (1), the Government shall con-  
17 duct a particularized inquiry of the facts and cir-  
18 cumstances of the original sentencing of the covered  
19 prisoner in order to assess whether a reduction in  
20 sentence would be consistent with this section.

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

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

4 “(h) CONFIDENTIALITY OF MOVANT.—

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

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

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

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

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

21 **SEC. 3. REPORTS.**

22 (a) UNITED STATES ATTORNEY MOTIONS FOR  
23 VACATUR OR EXPUNGEMENT.—Not later than 1 year  
24 after the date of enactment of this Act, each United States

1 attorney shall submit to the Attorney General a report  
2 that details—

3 (1) the number of motions for vacatur or  
4 expungement filed under section 3771A of title 18,  
5 United States Code, as added by section 2, in the  
6 district of the United States attorney; and

7 (2) for each motion described in paragraph  
8 (1)—

9 (A) the underlying offense;

10 (B) the response of the United States at-  
11 torney to the motion; and

12 (C) the final determination of the court  
13 with respect to the motion.

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

21 (c) GOVERNMENT ACCOUNTABILITY OFFICE.—Not  
22 later than 3 years after the date of enactment of this Act,  
23 the Comptroller General of the United States shall submit  
24 to Congress a report that—

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

4 (2) includes—

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

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

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

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

18 **SEC. 4. USE OF GRANTS FOR POST-CONVICTION RELIEF**

19 **REPRESENTATION.**

20 The Office of Justice Programs or the Office on Vio-  
21 lence Against Women, in awarding a grant that may be  
22 used for legal representation, may not prohibit a recipient  
23 from using the grant for legal representation for post-con-  
24 viction relief.



1 **SEC. 5. SENSE OF CONGRESS.**

2 It is the sense of Congress that—

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

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

10 **SEC. 6. HUMAN TRAFFICKING DEFENSE.**

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

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

15 “(a) DEFINITION.—In this section, the term ‘covered  
16 Federal offense’ means a level A offense or level B offense,  
17 as those terms are defined in section 3771A.

18 “(b) PRESUMPTION OF DURESS.—In a prosecution  
19 for a covered Federal offense, a defendant who establishes  
20 by clear and convincing evidence that the defendant was  
21 a victim of trafficking at the time at which the defendant  
22 committed the offense shall create a rebuttable presump-  
23 tion that the offense was induced by duress.

24 “(c) RECORD OR PROCEEDING UNDER SEAL.—In  
25 any proceeding in which a defense under subsection (b)  
26 is raised, any record or part of the proceeding related to

1 the defense shall, on motion, be placed under seal until  
2 such time as a conviction is entered for the offense.

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

11 “(e) FEDERAL AID.—A failure to assert, or failed as-  
12 sertion of, a defense under subsection (b) by an individual  
13 who is convicted of a covered Federal offense may not be  
14 used for the purpose of disqualifying the individual from  
15 participating in any federally funded program that aids  
16 victims of human trafficking.”.

17 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
18 The table of sections for chapter 1 of title 18, United  
19 States Code, is amended by adding at the end the fol-  
20 lowing:

“28. Human trafficking defense.”.

21 **SEC. 7. RULE OF CONSTRUCTION.**

22 Nothing in this Act, or the amendments made by this  
23 Act, may be construed to conflict with any of the crime  
24 victims’ rights described in section 3771 of title 18, United  
25 States Code.