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118TH CONGRESS
2^D SESSION

H. R. 7137

[Report No. 118-]

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

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

DECEMBER --, 2024

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on January 30, 2024]

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”.*

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

8 *(a) IN GENERAL.—Chapter 237 of title 18, United*
9 *States Code, is amended by adding at the end the following:*
10 **“§3771A. Motion to vacate; expungement; mitigating**
11 **factors**

12 *“(a) DEFINITIONS.—In this section—*

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

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

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

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

22 *“(C) is imprisoned under such term of im-*
23 *prisonment;*

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 offense
2 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 that
9 is a violent crime of which a child was a victim;

10 “(7) the term ‘level C offense’ means any Federal
11 offense that is not a level A offense;

12 “(8) the term ‘victim of trafficking’ has the
13 meaning given that term in section 103 of the Traf-
14 ficking Victims Protection Act of 2000 (22 U.S.C.
15 7102); and

16 “(9) the term ‘violent crime’ has the meaning
17 given that term in section 103 of the Juvenile Justice
18 and Delinquency Prevention Act of 1974 (34 U.S.C.
19 11103).

20 “(b) *MOTIONS TO VACATE CONVICTIONS OR EXPUNGE*
21 *ARRESTS.*—

22 “(1) *IN GENERAL.*—

23 “(A) *CONVICTIONS OF LEVEL A OF-*
24 *FENSES.*—A person convicted of any level A of-
25 fense (or an attorney representing such a person)

1 *may move the court that imposed the sentence for*
2 *the level A offense to vacate the judgment of con-*
3 *viction if the level A offense was committed as a*
4 *direct result of the person having been a victim*
5 *of trafficking.*

6 “(B) *ARRESTS FOR LEVEL A OFFENSES.*—A
7 *person arrested for any level A offense (or an at-*
8 *torney representing such a person) may move the*
9 *district court of the United States for the district*
10 *and division embracing the place where the per-*
11 *son was arrested to expunge all records of the ar-*
12 *rest if the conduct or alleged conduct of the per-*
13 *son that resulted in the arrest was directly re-*
14 *lated to the person having been a victim of traf-*
15 *ficking.*

16 “(C) *ARRESTS FOR LEVEL C OFFENSES.*—A
17 *person arrested for any level C offense (or an at-*
18 *torney representing such a person) may move the*
19 *district court of the United States for the district*
20 *and division embracing the place where the per-*
21 *son was arrested to expunge all records of the ar-*
22 *rest if—*

23 “(i) *the conduct or alleged conduct of*
24 *the movant that resulted in the arrest was*

1 *directly related to the movant having been*
2 *a victim of trafficking; and*

3 “*(ii)(I) the movant was acquitted of*
4 *the level C offense;*

5 “*(II) the Government did not pursue*
6 *or dismissed criminal charges against the*
7 *movant for the level C offense; or*

8 “*(III)(aa) the charges against the mov-*
9 *ant for the level C offense were reduced to*
10 *an offense that is a level A offense; and*

11 “*(bb) the movant was acquitted of the*
12 *level A offense, the Government did not pur-*
13 *sue or dismissed criminal charges against*
14 *the movant for the level A offense, or any*
15 *subsequent conviction of the level A offense*
16 *was vacated.*

17 “(2) *CONTENTS OF MOTION.—A motion described*
18 *in paragraph (1) shall—*

19 “*(A) be in writing;*

20 “*(B) describe any supporting evidence;*

21 “*(C) state the offense; and*

22 “*(D) include copies of any documents show-*
23 *ing that the movant is entitled to relief under*
24 *this section.*

25 “(3) *HEARING.—*

1 “(A) *MANDATORY HEARING.*—

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

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

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

19 “(4) *FACTORS.*—

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

13 “(i) the movant was arrested for a level
14 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 of
18 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, the
23 court finds, by a preponderance of the evidence,
24 that—

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

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

8 “(II) the Government did not pursue
9 or dismissed criminal charges against the
10 movant for the level C offense; or

11 “(III)(aa) the charges against the mov-
12 ant for the level C offense were reduced to
13 a level A offense; and

14 “(bb) the movant was acquitted of the
15 level A offense, the Government did not pur-
16 sue or dismissed criminal charges against
17 the movant for the level A offense, or any
18 subsequent conviction of that level A offense
19 was vacated.

20 “(5) OTHER EVIDENCE.—

21 “(A) IN GENERAL.—For purposes of this
22 section, in determining whether the movant is a
23 victim of trafficking, the court shall consider an
24 affidavit or sworn testimony of a licensed anti-
25 human trafficking service provider or clinician.

1 *The court may consider any other evidence the*
2 *court determines is of sufficient credibility and*
3 *probative value, including sworn testimony from*
4 *a law enforcement officer detailing the role of the*
5 *movant in coercing other victims into commit-*
6 *ting Federal offenses.*

7 “(B) *AFFIDAVIT OR SWORN TESTIMONY SUFFICIENT EVIDENCE.—The affidavit or sworn testimony described in subparagraph (A) shall be sufficient evidence to vacate a conviction or expunge an arrest under this section if the court determines that—*

13 “(i) *the affidavit or sworn testimony is*
14 *credible; and*

15 “(ii) *no other evidence is readily avail-*
16 *able.*

17 “(6) *CONVICTION OR ARREST OF OTHER PERSONS NOT REQUIRED.—It shall not be necessary that any person other than the movant be convicted of or arrested for an offense before the movant may file a motion under paragraph (1).*

22 “(7) *DENIAL OF MOTION.—*

23 “(A) *IN GENERAL.—If the court denies a*
24 *motion filed under paragraph (1), the denial*
25 *shall be without prejudice.*

1 “(B) *REASONS FOR DENIAL.*—If the court
2 denies a motion filed under paragraph (1), the
3 court shall state the reasons for the denial in
4 writing.

5 “(C) *REASONABLE TIME TO CURE DEFICI-*
6 *CIENCIES IN MOTION.*—If the motion was denied
7 due to a curable deficiency in the motion, the
8 court shall allow the movant sufficient time to
9 cure the deficiency.

10 “(8) *APPEAL.*—An order granting or denying a
11 motion under this section may be appealed in accord-
12 ance with section 1291 of title 28.

13 “(c) *VACATUR OF CONVICTIONS.*—

14 “(1) *IN GENERAL.*—If the court grants a motion
15 to vacate a conviction of a level A offense under sub-
16 section (b), the court shall immediately—

17 “(A) vacate the conviction for cause;

18 “(B) set aside the verdict and enter a judg-
19 ment of acquittal;

20 “(C) enter an expungement order that di-
21 rects that there be expunged from all official
22 records all references to—

23 “(i) the arrest of the movant for the
24 level A offense;

1 “(ii) the institution of criminal pro-
2 ceedings against the movant relating to the
3 level A offense; and

4 “(iii) the results of the proceedings;
5 and

6 “(D) return to the movant any fine, fee,
7 cost, or restitution associated with the conviction
8 and paid by the movant.

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

16 “(d) *EXPUNGEMENT OF ARRESTS.*—

17 “(1) *IN GENERAL.*—If the court grants a motion
18 to expunge all records of an arrest for an offense
19 under subsection (b), the court shall immediately
20 enter an expungement order that directs that there be
21 expunged from all official records all references to—

22 “(A) the arrest of the movant for the offense;

23 “(B) the institution of any criminal pro-
24 ceedings against the movant relating to the of-
25 fense; and

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

2 “(2) *EFFECT.—If an arrest is expunged under*
3 *an order entered under paragraph (1) the arrest shall*
4 *not be regarded as an arrest under Federal law and*
5 *the movant for whom the arrest is expunged shall be*
6 *considered to have the status occupied by the movant*
7 *before the arrest or the institution of the criminal*
8 *proceedings related to such arrest, if any.*

9 “(e) *MITIGATING FACTORS.—*

10 “(1) *IN GENERAL.—The court that imposed sen-*
11 *tence for a level A offense or level B offense upon a*
12 *covered prisoner may reduce the term of imprison-*
13 *ment for the offense—*

14 “(A) *upon—*

15 “(i) *motion by the covered prisoner or*
16 *the Director of the Bureau of Prisons; or*

17 “(ii) *the court’s own motion;*

18 “(B) *after notice to the Government;*

19 “(C) *after considering—*

20 “(i) *the factors set forth in section*
21 *3553(a);*

22 “(ii) *the nature and seriousness of the*
23 *danger to any person, if applicable; and*

24 “(iii) *the community, or any crime*
25 *victims; and*

1 “(D) if the court finds, by a preponderance
2 of the evidence, that the covered prisoner com-
3 mitted the offense as a direct result of the covered
4 prisoner having been a victim of trafficking.

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

7 “(3) PARTICULARIZED INQUIRY.—For any mo-
8 tion under paragraph (1), the Government shall con-
9 duct a particularized inquiry of the facts and cir-
10 cumstances of the original sentencing of the covered
11 prisoner in order to assess whether a reduction in
12 sentence would be consistent with this section.

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

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

19 “(h) CONFIDENTIALITY OF MOVANT.—

20 “(1) IN GENERAL.—A motion under this section
21 and any documents, pleadings, or orders relating to
22 the motion shall be filed under seal.

23 “(2) INFORMATION NOT AVAILABLE FOR PUBLIC
24 INSPECTION.—An officer or employee may not make
25 available for public inspection any report, paper, pic-

1 *ture, photograph, court file, or other document, in the*
2 *custody or possession of the officer or employee, that*
3 *identifies the movant.*

4 “(i) *APPLICABILITY.—This section shall apply to any*
5 *conviction or arrest occurring before, on, or after the date*
6 *of enactment of this section.*”.

7 (b) *TECHNICAL AND CONFORMING AMENDMENT.—The*
8 *table of sections of chapter 237 of title 18, United States*
9 *Code, is amended by adding at the end the following:*

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

10 **SEC. 3. REPORTS.**

11 (a) *UNITED STATES ATTORNEY MOTIONS FOR*
12 *VACATUR OR EXPUNGEMENT.—Not later than 1 year after*
13 *the date of enactment of this Act, each United States attor-*
14 *ney shall submit to the Attorney General a report that de-*
15 *tails—*

16 (1) *the number of motions for vacatur or*
17 *expungement filed under section 3771A of title 18,*
18 *United States Code, as added by section 2, in the dis-*
19 *trict of the United States attorney; and*

20 (2) *for each motion described in paragraph*
21 *(1)—*

22 (A) *the underlying offense;*

23 (B) *the response of the United States attor-*
24 *ney to the motion; and*

1 (C) *the final determination of the court*
2 *with respect to the motion.*

3 (b) *UNITED STATES ATTORNEY TRAINING ON HUMAN*
4 *TRAFFICKING INDICATORS.—Not later than 1 year after the*
5 *date of enactment of this Act, the Attorney General shall*
6 *submit to Congress a report that details all professional*
7 *training received by United States attorneys on indicators*
8 *of human trafficking during the preceding 12-month period.*

9 (c) *GOVERNMENT ACCOUNTABILITY OFFICE.—Not*
10 *later than 3 years after the date of enactment of this Act,*
11 *the Comptroller General of the United States shall submit*
12 *to Congress a report that—*

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

16 (2) *includes—*

17 (A) *the number of human trafficking sur-*
18 *vivors who have filed motions for vacatur or*
19 *expungement under such section 3771A;*

20 (B) *the final determination of each court*
21 *that adjudicated a motion described in subpara-*
22 *graph (A);*

23 (C) *recommendations to increase access to*
24 *post-conviction relief for human trafficking sur-*
25 *vivors with Federal criminal records; and*

1 (D) recommendations for improving the im-
2 plementation and tracking of professional train-
3 ing of United States attorneys on indicators of
4 human trafficking.

5 **SEC. 4. USE OF GRANTS FOR POST-CONVICTION RELIEF**
6 **REPRESENTATION.**

7 *The Office of Justice Programs or the Office on Vio-*
8 *lence Against Women, in awarding a grant that may be*
9 *used for legal representation, may not prohibit a recipient*
10 *from using the grant for legal representation for post-con-*
11 *viction relief.*

12 **SEC. 5. SENSE OF CONGRESS.**

13 *It is the sense of Congress that—*

14 (1) *this Act is a first step to address the chang-*
15 *ing tactics of human traffickers, who are using forced*
16 *criminality as a form of force, fraud, and coercion in*
17 *their human trafficking enterprises; and*

18 (2) *Congress is committed to continuing to find*
19 *solutions as needed to thwart human traffickers and*
20 *protect survivors of human trafficking.*

21 **SEC. 6. HUMAN TRAFFICKING DEFENSE.**

22 (a) *IN GENERAL.*—Chapter 1 of title 18, United States
23 Code, is amended by adding at the end the following:

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

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

5 “(b) *PRESUMPTION OF DURESS.*—In a prosecution for
6 a covered Federal offense, a defendant who establishes by
7 clear and convincing evidence that the defendant was a vic-
8 tim of trafficking at the time at which the defendant com-
9 mitted the offense shall create a rebuttable presumption that
10 the offense was induced by duress.

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

16 “(d) *POST-CONVICTION RELIEF.*—A failure to assert,
17 or failed assertion of, a defense under subsection (b) by an
18 individual who is convicted of a covered Federal offense
19 may not preclude the individual from asserting as a miti-
20 gating factor, at sentencing or in a proceeding for any post-
21 conviction relief, that at the time of the commission of the
22 offense, the defendant was a victim of trafficking and com-
23 mitted the offense under duress.

24 “(e) *FEDERAL AID.*—A failure to assert, or failed as-
25 sertion of, a defense under subsection (b) by an individual
26 who is convicted of a covered Federal offense may not be

1 *used for the purpose of disqualifying the individual from*
2 *participating in any federally funded program that aids*
3 *victims of human trafficking.”.*

4 *(b) TECHNICAL AND CONFORMING AMENDMENT.—The*
5 *table of sections for chapter 1 of title 18, United States*
6 *Code, is amended by adding at the end the following:*

“28. Human trafficking defense.”.