

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 7137
OFFERED BY M . _____**

Strike all that follows the enacting clause and insert
the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Trafficking Survivors
3 Relief Act of 2024”.

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 **“§ 3772. 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;

1 “(B) was sentenced to a term of imprison-
2 ment for the offense described in subparagraph
3 (A); and

4 “(C) is imprisoned under such term of im-
5 prisonment;

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

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

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

12 “(6) the term ‘level B offense’—

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

15 “(B) does not include a Federal offense
16 that is a violent crime of which a child was a
17 victim;

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

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

24 “(9) the term ‘violent crime’ has the meaning
25 given that term in section 103 of the Juvenile Jus-

1 tice and Delinquency Prevention Act of 1974 (34
2 U.S.C. 11103).

3 “(b) MOTIONS TO VACATE CONVICTIONS OR EX-
4 PUNGE ARRESTS.—

5 “(1) IN GENERAL.—

6 “(A) CONVICTIONS OF LEVEL A OF-
7 FENSES.—A person convicted of any level A of-
8 fense (or an attorney representing such a per-
9 son) may move the court that imposed the sen-
10 tence for the level A offense to vacate the judg-
11 ment of conviction if the level A offense was
12 committed as a direct result of the person hav-
13 ing been a victim of trafficking.

14 “(B) ARRESTS FOR LEVEL A OFFENSES.—
15 A person arrested for any level A 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 the conduct or alleged conduct
21 of the person that resulted in the arrest was di-
22 rectly related to the person having been a vic-
23 tim of trafficking.

24 “(C) ARRESTS FOR LEVEL C OFFENSES.—
25 A person arrested for any level C offense (or an

1 attorney representing such a person) may move
2 the district court of the United States for the
3 district and division embracing the place where
4 the person was arrested to expunge all records
5 of the arrest if—

6 “(i) the conduct or alleged conduct of
7 the movant that resulted in the arrest was
8 directly related to the movant having been
9 a victim of trafficking; and

10 “(ii)(I) the movant was acquitted of
11 the level C offense;

12 “(II) the Government did not pursue
13 or dismissed criminal charges against the
14 movant for the level C offense; or

15 “(III)(aa) the charges against the
16 movant for the level C offense were re-
17 duced to an offense that is a level A of-
18 fense; and

19 “(bb) the movant was acquitted of the
20 level A offense, the Government did not
21 pursue or dismissed criminal charges
22 against the movant for the level A offense,
23 or any subsequent conviction of the level A
24 offense was vacated.

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

3 “(A) be in writing;

4 “(B) describe any supporting evidence;

5 “(C) state the offense; and

6 “(D) include copies of any documents
7 showing that the movant is entitled to relief
8 under this section.

9 “(3) HEARING.—

10 “(A) MANDATORY HEARING.—

11 “(i) MOTION IN OPPOSITION.—Not
12 later than 30 days after the date on which
13 a motion is filed under paragraph (1), the
14 Government may file a motion in opposi-
15 tion of the motion filed under paragraph
16 (1).

17 “(ii) MANDATORY HEARING.—If the
18 Government files a motion described in
19 clause (i), not later than 15 days after the
20 date on which the motion is filed, the court
21 shall hold a hearing on the motion.

22 “(B) DISCRETIONARY HEARING.—If the
23 Government does not file a motion described in
24 subparagraph (A)(i), the court may hold a
25 hearing on the motion not later than 45 days

1 after the date on which a motion is filed under
2 paragraph (1).

3 “(4) FACTORS.—

4 “(A) VACATING CONVICTIONS OF LEVEL A
5 OFFENSES.—The court may grant a motion
6 under paragraph (1)(A) if, after notice to the
7 Government and an opportunity to be heard,
8 the court finds, by a preponderance of the evi-
9 dence, that—

10 “(i) the movant was convicted of a
11 level A offense; and

12 “(ii) the participation in the level A
13 offense by the movant was a direct result
14 of the movant having been a victim of traf-
15 ficking.

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

22 “(i) the movant was arrested for a
23 level A offense; and

24 “(ii) the conduct or alleged conduct
25 that resulted in the arrest was directly re-

1 lated to the movant having been a victim
2 of trafficking.

3 “(C) EXPUNGING ARRESTS FOR LEVEL C
4 OFFENSES.—The court may grant a motion
5 under paragraph (1)(C) if, after notice to the
6 Government and an opportunity to be heard,
7 the court finds, by a preponderance of the evi-
8 dence, that—

9 “(i) the movant was arrested for a
10 level C offense and the conduct or alleged
11 conduct that resulted in the arrest was di-
12 rectly related to the movant having been a
13 victim of trafficking; and

14 “(ii)(I) the movant was acquitted of
15 the level C offense;

16 “(II) the Government did not pursue
17 or dismissed criminal charges against the
18 movant for the level C offense; or

19 “(III)(aa) the charges against the
20 movant for the level C offense were re-
21 duced to a level A offense; and

22 “(bb) the movant was acquitted of the
23 level A offense, the Government did not
24 pursue or dismissed criminal charges
25 against the movant for the level A offense,

1 or any subsequent conviction of that level
2 A offense was vacated.

3 “(5) OTHER EVIDENCE.—

4 “(A) IN GENERAL.—For purposes of this
5 section, in determining whether the movant is a
6 victim of trafficking, the court shall consider an
7 affidavit or sworn testimony of a licensed anti-
8 human trafficking service provider or clinician.
9 The court may consider any other evidence the
10 court determines is of sufficient credibility and
11 probative value, including sworn testimony from
12 a law enforcement officer detailing the role of
13 the movant in coercing other victims into com-
14 mitting Federal offenses.

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

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

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

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

6 “(7) DENIAL OF MOTION.—

7 “(A) IN GENERAL.—If the court denies a
8 motion filed under paragraph (1), the denial
9 shall be without prejudice.

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

14 “(C) REASONABLE TIME TO CURE DEFICI-
15 ENCIES IN MOTION.—If the motion was de-
16 nied due to a curable deficiency in the motion,
17 the court shall allow the movant sufficient time
18 to cure the deficiency.

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

22 “(c) VACATUR OF CONVICTIONS.—

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

- 1 “(A) vacate the conviction for cause;
- 2 “(B) set aside the verdict and enter a
3 judgment of acquittal;
- 4 “(C) enter an expungement order that di-
5 rects that there be expunged from all official
6 records all references to—
- 7 “(i) the arrest of the movant for the
8 level A offense;
- 9 “(ii) the institution of criminal pro-
10 ceedings against the movant relating to the
11 level A offense; and
- 12 “(iii) the results of the proceedings;
13 and
- 14 “(D) return to the movant any fine, fee,
15 cost, or restitution associated with the convic-
16 tion and paid by the movant.
- 17 “(2) EFFECT.—If a conviction is vacated under
18 an order entered under paragraph (1) the conviction
19 shall not be regarded as a conviction under Federal
20 law and the movant for whom the conviction was va-
21 cated shall be considered to have the status occupied
22 by the movant before the arrest or the institution of
23 the criminal proceedings related to such conviction.
- 24 “(d) EXPUNGEMENT OF ARRESTS.—

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

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

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

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

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

20 “(e) MITIGATING FACTORS.—

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

25 “(A) upon—

1 “(i) motion by the covered prisoner or
2 the Director of the Bureau of Prisons; or

3 “(ii) the court’s own motion;
4 “(B) after notice to the Government;
5 “(C) after considering—

6 “(i) the factors set forth in section
7 3553(a);

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

10 “(iii) the community, or any crime
11 victims; and

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

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

19 “(3) PARTICULARIZED INQUIRY.—For any mo-
20 tion under paragraph (1), the Government shall con-
21 duct a particularized inquiry of the facts and cir-
22 cumstances of the original sentencing of the covered
23 prisoner in order to assess whether a reduction in
24 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:

“3772. 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 3772 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 3772 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 3772;

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) DEFINITION.—In this section, the term ‘covered
18 Federal offense’ means a level A offense or level B offense,
19 as those terms are defined in section 3772.

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

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

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

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

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

“28. Human trafficking defense.”.

