

119TH CONGRESS
1ST SESSION

S. 2255

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

IN THE SENATE OF THE UNITED STATES

JULY 10, 2025

Mrs. GILLIBRAND (for herself, Mrs. HYDE-SMITH, Mr. COONS, and Mr. DAINES) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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 2025”.

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, or was previously, imprisoned or
 19 incarcerated under such sentence for a term of
 20 imprisonment;

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

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

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

1 “(6) the term ‘level B offense’—

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

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

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

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

14 “(b) MOTIONS TO VACATE CONVICTIONS OR EX-
15 PUNGE ARRESTS.—

16 “(1) IN GENERAL.—

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

1 “(B) ARRESTS FOR LEVEL A OFFENSES.—

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

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

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

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

22 “(ii)(I) the movant was acquitted of
 23 the level B offense;

24 “(II) the Government did not pursue,
 25 or the Government moved to dismiss,

1 criminal charges against the movant for
2 the level B offense; or

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

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

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

16 “(A) be in writing;

17 “(B) describe any supporting evidence;

18 “(C) state the offense; and

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

22 “(3) HEARING.—

23 “(A) MANDATORY HEARING.—

24 “(i) MOTION IN OPPOSITION.—Not
25 later than 30 days after the date on which

1 a motion is filed under paragraph (1), the
2 Government may file a motion in opposi-
3 tion of the motion filed under paragraph
4 (1).

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

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

16 “(4) FACTORS.—

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

23 “(i) the movant was convicted of a
24 level A offense; and

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

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

11 “(i) the movant was arrested for a
12 level A offense; and

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

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

23 “(i) the movant was arrested for a
24 level B offense and the conduct or alleged
25 conduct that resulted in the arrest was di-

rectly related to the movant having been a
victim of trafficking; and

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

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

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

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

“(5) SUPPORTING EVIDENCE.—

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

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

1 “(ii) may consider any supporting evi-
2 dence the court determines is of sufficient
3 credibility and probative value, including
4 sworn testimony from a law enforcement
5 officer detailing the role of the movant in
6 coercing other victims of trafficking into
7 committing criminal offenses.

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

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

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

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

23 “(7) DENIAL OF MOTION.—

24 “(A) FINALITY.—If the court denies a mo-
25 tion filed under paragraph (1), the denial shall

1 be final, except as provided under subparagraph
 2 (C) of this paragraph and subject to the dis-
 3 covery of any new and compelling evidence or
 4 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 court denies a
 11 motion filed under paragraph (1) due to a cur-
 12 able deficiency in the motion, the court shall
 13 allow the movant sufficient time to cure the de-
 14 ficiency.

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

18 “(c) VACATUR OF CONVICTIONS.—

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

22 “(A) vacate the conviction for cause;

23 “(B) set aside the verdict and enter a
 24 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 or remove any fine or res-
12 titution order in a criminal or civil proceeding.

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

20 “(d) EXPUNGEMENT OF ARRESTS.—

21 “(1) IN GENERAL.—If the court grants a mo-
22 tion to expunge all records of an arrest for an of-
23 fense under subsection (b), the court shall imme-
24 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;

23 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) DEFINITIONS.—In this section—

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

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

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

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 sersion 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 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.”.

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

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

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

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

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

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

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