

# TRAFFICKING SURVIVORS RELIEF ACT OF 2017 (S.104)

**SENATE SPONSORS:** SENATOR GILLIBRAND, SENATOR PORTMAN, SENATOR RUBIO, SENATOR BLUMENTHAL, AND SENATOR HARRIS

**HOUSE SPONSORS:** CONGRESSWOMAN WAGNER

The bill provides post-conviction relief from criminal charges stemming from offenses committed as a direct result of being a victim of human trafficking. The law ensures that only those offenses committed as a direct result of the person having been a victim of trafficking are eligible to be vacated. This law builds on state laws already present in Arizona, Florida, Hawaii, Illinois, Maryland, Nevada, New Jersey, New York, Oklahoma, Washington, Wyoming, and Connecticut.

**Supported by:** Polaris, Rights4Girls, FAIR Girls, Sanctuary for Families, the Urban Justice Center's Sex Workers Project, the Family Focused Treatment Association, the Coalition to Abolish Slavery & Trafficking, the National Survivor Network, the New York State Anti-Trafficking Coalition, the American Bar Association, and the National District Attorneys Association.

## THE PROBLEM

- Human trafficking is a modern day form of slavery affecting millions in the United States and abroad. This crime involves either the use of force, fraud, or coercion to exploit a person for labor or commercial sex, or the exploitation of a minor for commercial sex.
- As a result of being trafficked, victims are commonly charged with crimes such as conspiracy, money laundering, drug trafficking, and related offenses that then follow them throughout the duration of their lives.
- A criminal record impairs a victim's ability to find jobs and housing, leaving them vulnerable to additional exploitation and trafficking.
- Vacating (making legally void) and expunging a trafficking victim's criminal record is an important step toward improving their ability to obtain gainful employment and safe housing.
- This improved self-sufficiency allows victims of trafficking to move on with their lives and heal from the trauma of their experiences.

## BILL SUMMARY

A federal law to vacate and expunge non-violent criminal convictions of individuals who are victims of trafficking, as defined under the *Trafficking Victims Protection Act*<sup>1</sup>, if those crimes were committed as a direct result of the individual being a victim of trafficking. This law would require victims to provide supporting documentation. These documents can include:

- Certified criminal or immigration court proceedings or law enforcement records demonstrating that the individual was a victim of trafficking at the time they were charged with the trafficking-related offense(s).
- Testimony or sworn statement from a trained professional staff member of a victim services organization, an attorney, member of the clergy, a health care professional, a therapist, or other professional from whom the person has sought assistance in addressing the trauma associated with being a victim of trafficking.
- An affidavit or sworn testimony of the movant indicating that they were a victim of human trafficking at the time of their arrest and that they engaged in or were otherwise accused of engaging in criminal activities as a direct result of being a victim of human trafficking.

## PROVISIONS

- A person convicted of any non-violent offense or offenses may petition the court which imposed the sentence to vacate the conviction(s) if the person's participation in the offense or offenses was the direct result of the person having been a victim of trafficking.
- If a court grants the motion to vacate, the court must vacate the conviction, enter a judgment of acquittal, and expunge the record.
- Victim's identity will be protected; no officer or employee may make public any document or image that identifies the victim.

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<sup>1</sup> <https://www.congress.gov/bill/113th-congress/house-bill/898>