



Survivors of human trafficking continue to be charged with crimes related to their victimization. These crimes frequently include prostitution offenses but also include misdemeanors and felonies ranging from non-violent, nonperson offenses to more serious violations. A survivor is often left with no choice but to commit these crimes to appease their trafficker or survive their trafficking situation. These “victim–offenders,” or survivors who find themselves at the intersection of victimization and criminal offender, are retraumatized by their detention and prosecution and often face barriers to needed services. They are also left with a criminal record that hinders their ability to rebuild and creates additional vulnerabilities that may increase the risk of re-exploitation.

To address this issue and provide enduring support for trafficking victims, Shared Hope International supports a Federal affirmative defense and comprehensive vacatur legislation. An affirmative defense allows survivors to raise, during their prosecution, that they were forced by their trafficker to commit the crimes with which they

are being charged. For the many survivors of trafficking who have already been prosecuted and convicted for offenses that were directly related to their trafficking, vacatur allows judges to set aside, or “vacate” those convictions. Both an affirmative defense and vacatur are necessary to ensure protection from unjust criminalization. This is because few survivors self-identify to assert an affirmative defense, often resulting in their conviction. By introducing and passing this critical legislation, Congress can alleviate some of the long-lasting legal effects traffickers have on survivors and give them hope for a brighter future.

## CONGRESS CAN ACCOMPLISH THESE GOALS BY:

- Enacting comprehensive vacatur legislation that permits survivors of human trafficking to vacate and expunge convictions and arrests directly related to their trafficking.
- Enacting legislation to allow a rebuttable presumption that offenses committed by survivors of human trafficking were induced by coercion, establishing an affirmative defense to prevent unjust criminalization at the outset of a prosecution.
- Expunging arrest records for offenses for which vacatur is granted.

### CURRENT LEGISLATION:

- 118<sup>th</sup> Congress—Trafficking Survivor’s Relief Act of 2024; House Bill, H.R.7137, sponsored by Representatives Fry (R), Lieu (D), Garcia (D), and Wagner (R); and Senate Bill, S.4214, sponsored by Senators Gillibrand (D) and Rubio (R).

### HISTORY OF THE TRAFFICKING SURVIVORS RELIEF ACT:

- 117<sup>th</sup>—Trafficking Survivor’s Relief Act of 2022; H.R. 8672 sponsored by Rep. Burgess Owens (R), Ted Lieu (D), Rep. Hakeem Jeffries (D), Rep. Ann Wagner (R); S. 9 sponsored by Sen. Kristen Gillibrand (D), Sen. Rob Portman (R).
- 116<sup>th</sup>—Trafficking Survivor’s Relief Act of 2019; H.R. 3627 sponsored by Rep. Ann Wagner (R), Rep. Ross Spano (R), Rep. Joyce Beatty (D); S. 3240 sponsored by Sen. Kristen Gillibrand (D), Sen. Rob Portman (R).
- 115<sup>th</sup>—Trafficking Survivor’s Relief Act of 2017; H.R. 459 sponsored by Ann Wagner (R), Rep. Tulsi Gabbard (D), Rep. James Sensenbrenner (R), Rep. Joyce Beatty (D); S. 104 sponsored by Sen. Kristen Gillibrand (D), Sen. Rob Portman (R), Sen. Marco Rubio, Sen. Richard Blumenthal (D).
- 114<sup>th</sup>—Trafficking Survivor’s Relief Act of 2016; H.R. 6292 sponsored by Rep. Ann Wagner (R), Rep. Tulsi Gabbard (D), Rep. David Jolly (R), Rep. James Sensenbrenner (R); S. 3441 sponsored by Sen. Kristen Gillibrand (D), Sen. Rob Portman (R), Sen. Richard Blumenthal (D), Sen. Marco Rubio (R).

## LEARN MORE

- Unjust Criminalization Fact Sheet: <https://reportcards.sharedhope.org/ucpp>.
- Responding to Sex Trafficking Victim-Offender Intersectionality: A Guide for Criminal Justice Stakeholders: [https://sharedhope.org/wp-content/uploads/2020/01/SH\\_Responding-to-Sex-Trafficking-Victim-Offender-Intersectionality2020\\_FINAL.pdf](https://sharedhope.org/wp-content/uploads/2020/01/SH_Responding-to-Sex-Trafficking-Victim-Offender-Intersectionality2020_FINAL.pdf).
- Access To Justice For Trafficking Survivors (Vacatur) Issue Brief: <https://reportcards.sharedhope.org/wp-content/uploads/2024/02/2023-Issue-Briefs-4.3.pdf>.
- Visit <https://sharedhope.org/what-we-do/bring-justice/just-response-council/voi/> to access additional research and resources related to Victim-Offender Intersectionality.

For technical assistance, contact Christine Raino at [christine@sharedhope.org](mailto:christine@sharedhope.org).

## ADDITIONAL SOURCES

- National Survivor Network Member's Survey: Impact of Criminal Arrest and Detention on Survivors of Human Trafficking: <https://nationalsurvivornetwork.org/wp-content/uploads/2017/12/VacateSurveyFinal.pdf>.
- Left Behind: How the Absence of a Federal Vacatur Law Disadvantages Survivors of Human Trafficking: [https://scholarworks.law.ubalt.edu/cgi/viewcontent.cgi?article=2054&context=all\\_fac](https://scholarworks.law.ubalt.edu/cgi/viewcontent.cgi?article=2054&context=all_fac).
- State Report Cards: Grading Criminal Record Relief Laws for Survivors of Human Trafficking (March 1, 2019) <https://polarisproject.org/resources/state-report-cards-grading-criminal-record-relief-laws-for-survivors-of-human-trafficking>.