



TRAFFICKING SURVIVORS' RELIEF ACT OF 2026 (TSRA)

On January 23, 2026, the federal Trafficking Survivors' Relief Act of 2026 (TSRA) became law. The TSRA provides a federal remedy for trafficking survivors to obtain relief from criminal records stemming directly from their exploitation. In enacting the TSRA, Congress acknowledged that trafficking survivors frequently acquire a criminal history as a result of their exploitation, which can be a barrier to employment, housing, education, and essential support services and make them more vulnerable to re-exploitation.

What criminal record relief does it provide to survivors?

Three forms of relief:

1. *Vacatur*: vacates any criminal convictions = as if conviction never occurred
 - a. Only applies to Level A offense = any offense that is not a violent crime
 - b. The TSRA provides that upon vacatur of any convictions under this Act, the judge shall also enter an order expunging all related records
2. *Expungement*: erases all evidence of criminal record including arrest
 - a. Level A offense: all arrest records if directly related to trafficking
 - b. Level B offense = violent crime (defined as a crime of violence under federal law at 18 U.S.C. § 16) where victim is NOT a child if:
 - i. Movant is acquitted of the level B offense
 - ii. Government dismissed the criminal charges for a level B offense, or
 - iii. Charges for a level B offense were reduced to a level A offense and
 - Movant was acquitted of the level A offense,
 - The Government dismissed or did not otherwise pursue the level A criminal charge(s), or
 - Movant was convicted of the level A offense, but conviction was later vacated.
3. *Reduction in Sentence*: Judge may reduce active prison sentence if:
 - a. Criminal conduct was a direct result of the trafficking, and
 - b. Judge considers other relevant factors set forth in the TSRA

What must a movant show to qualify for relief under the TSRA ?

In order to qualify for relief under the TSRA, the movant must demonstrate, by a preponderance of the evidence, that they are a victim of trafficking as defined under the Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7102) and the arrest, charge, or conviction must be “directly related to the trafficking.” However, the TSRA does not define “directly related to”. It is not yet clear whether TSRA relief requires proof that the movant was coerced or otherwise forced into the underlying criminal activity or merely needs to show a direct connection between the trafficking and criminality.

What is the process for seeking relief under the TSRA?

- The TSRA requires a written motion which:
 - Clearly states the offense from which client is seeking relief
 - Describes supporting evidence and explains how it demonstrates that client is entitled to relief and
 - Includes copies of any documentation showing the client is entitled to relief
- The Government must file a motion to oppose within 30 days of petition
- If opposed, a mandatory hearing must take place within 15 days
- If not opposed, a discretionary hearing may be held within 45 days
- NO FEE is required for motion

What supporting evidence should be included with the petition for TSRA relief?

In determining whether a movant is a victim of human trafficking, the TSRA requires that the court consider an affidavit or sworn testimony of an anti-human trafficking service provider or clinician. The TSRA further notes that such an affidavit or sworn testimony is sufficient to vacate a conviction or expunge an arrest if it is credible and no other evidence is readily available. It does not require an affidavit or testimony from the movant, but such evidence may be helpful in demonstrating that the movant was a victim of trafficking and that the criminal conduct was a direct result of such trafficking.

How will relief under the TSRA impact the client’s immigration case?

The TSRA provides that any charge vacated or expunged under the statute “shall not” be considered for any purpose under federal law. As immigration is a “purpose under federal law,” ASISTA believes that relief obtained through the TSRA could be valid for immigration purposes. To ensure that criminal records vacated and/or expunged under this statute will not still be considered for immigration purposes, practitioners should ensure that petitions seeking TSRA relief and orders vacating or expunging a survivor’s criminal record comply with *Matter of Pickering*, 23 I&N Dec. 621 (BIA 2003), and *Matter of Thompson and Thomas*, 27 I&N Dec. (A.G. 2019). Specifically, the orders should reflect that the basis of the change is to correct a procedural or substantive defect in the underlying case, rather than rehabilitation or other equities. In addition, practitioners should obtain certified copies of the complete criminal file, including police reports, charging documents, and dispositions, prior to seeking TSRA relief to preserve documentation that may be required when seeking immigration relief.