

Criminal Record Clearing for Human Trafficking Survivors in Georgia

O.C.G.A. §§ 17-10-21 and 35-3-37(j)(6)

GEORGIA
JUSTICE
PROJECT

In 2020, Gov. Kemp signed SB 435, known as “The Survivors First Act,” which created remedies for survivors of sex or labor trafficking to clean up their Georgia criminal history. The law was updated in 2022 to eliminate waiting periods (SB 565) and in 2026 to protect survivors’ privacy by guaranteeing petitions are easily filed under seal (SB 207). These remedies remove barriers to employment, housing, and other opportunities, and help survivors heal from the trauma they’ve experienced.

Impact

SB 435 helps trafficking survivors clean up their Georgia criminal history in two different ways:

1. **If a survivor’s conviction occurred as a direct result of being a victim of trafficking:** A survivor can petition the original sentencing court to ***vacate*** the conviction (O.C.G.A. § 17-10-21). If vacated, the charge is no longer a conviction and can be restricted and sealed* pursuant to O.C.G.A. § 35-3-37(j)(6). This avenue is the most powerful remedy for the individual who was convicted. (**Note:** If a conviction is vacated, any fines and fees paid in relation to the conviction must be returned.)
2. **Alternatively, if a survivor’s conviction occurred while they were the victim of trafficking (but not as a direct result of the trafficking):** A survivor can petition the original sentencing court to ***restrict and seal**** the conviction. The conviction will remain a conviction, but it will be restricted and sealed from public view.

Eligibility

1. An individual must be a survivor of **sex or labor trafficking** as defined in O.C.G.A. § 16-5-46.
 - Trafficking comes in **many forms**. Examples of trafficking can include someone forcing you to work for them (even doing something illegal) or to participate in commercial sex through some form of coercion. Coercion can look like being:
 - Forced by physical harm or verbal threat
 - Deprived of anything (food, water, sleep, legal documents, or medical care), or
 - Promised, given, or offered anything.
2. A survivor may **immediately** seek relief for misdemeanor and felony convictions by **petitioning the court** to vacate and/or restrict and seal the record.

Process

1. Vacating and/or restricting and sealing records are both petition-based processes. Petitions are [submitted on forms created by the Attorney General](#) and are filed under seal** in the original sentencing court. To support the petition, include the following:
 - **Required Documents:** A copy of the survivor’s GCIC (dated no more than 10 business days prior to filing).
 - **Recommended Documents** (if available):
 - Documentation of status as a victim of trafficking (for example, a letter from a treatment provider)
 - Proposed order requesting vacatur and/or restriction and sealing. For a template order, please contact GJP’s Intake at Intake@GJP.org.
2. A copy of the petition must be served on the prosecuting attorney.
3. If the prosecuting attorney **consents** to the petition **or does not respond within 30 days**, the court **MUST** issue an order granting the petition.
4. If the prosecutor **objects in writing**, the court must hold a **hearing within 90 days** and determine by a preponderance of the evidence if the offenses were committed as a direct result of being a victim of trafficking or occurred while the victim was being trafficked.

*Restriction and sealing is what most states call **expungement**. Restriction and sealing hides a record from public view and prevents a record from appearing on most background checks. The record remains visible to law enforcement and certain employers.

Thanks to SB 207 (Effective July 1st, 2026), a court order is **not required to file these petitions under the seal. The clerk’s office **must** accept the petition and any further filings under seal to protect a survivor’s privacy and safety.

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