

SB2574



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2574

Introduced 2/7/2018, by Sen. Karen McConnaughay

SYNOPSIS AS INTRODUCED:

720 ILCS 5/10-9

Amends the Criminal Code of 2012. Makes a technical change in a Section concerning trafficking in persons, involuntary servitude, and related offenses.

LRB100 18361 SLF 33568 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Section 10-9 as follows:

6 (720 ILCS 5/10-9)

7 Sec. 10-9. Trafficking in persons, involuntary servitude,
8 and related offenses.

9 (a) Definitions. In this ~~this~~ Section:

10 (1) "Intimidation" has the meaning prescribed in
11 Section 12-6.

12 (2) "Commercial sexual activity" means any sex act on
13 account of which anything of value is given, promised to,
14 or received by any person.

15 (3) "Financial harm" includes intimidation that brings
16 about financial loss, criminal usury, or employment
17 contracts that violate the Frauds Act.

18 (4) (Blank).

19 (5) "Labor" means work of economic or financial value.

20 (6) "Maintain" means, in relation to labor or services,
21 to secure continued performance thereof, regardless of any
22 initial agreement on the part of the victim to perform that
23 type of service.

1 (7) "Obtain" means, in relation to labor or services,
2 to secure performance thereof.

3 (7.5) "Serious harm" means any harm, whether physical
4 or nonphysical, including psychological, financial, or
5 reputational harm, that is sufficiently serious, under all
6 the surrounding circumstances, to compel a reasonable
7 person of the same background and in the same circumstances
8 to perform or to continue performing labor or services in
9 order to avoid incurring that harm.

10 (8) "Services" means activities resulting from a
11 relationship between a person and the actor in which the
12 person performs activities under the supervision of or for
13 the benefit of the actor. Commercial sexual activity and
14 sexually-explicit performances are forms of activities
15 that are "services" under this Section. Nothing in this
16 definition may be construed to legitimize or legalize
17 prostitution.

18 (9) "Sexually-explicit performance" means a live,
19 recorded, broadcast (including over the Internet), or
20 public act or show intended to arouse or satisfy the sexual
21 desires or appeal to the prurient interests of patrons.

22 (10) "Trafficking victim" means a person subjected to
23 the practices set forth in subsection (b), (c), or (d).

24 (b) Involuntary servitude. A person commits involuntary
25 servitude when he or she knowingly subjects, attempts to
26 subject, or engages in a conspiracy to subject another person

1 to labor or services obtained or maintained through any of the
2 following means, or any combination of these means:

3 (1) causes or threatens to cause physical harm to any
4 person;

5 (2) physically restrains or threatens to physically
6 restrain another person;

7 (3) abuses or threatens to abuse the law or legal
8 process;

9 (4) knowingly destroys, conceals, removes,
10 confiscates, or possesses any actual or purported passport
11 or other immigration document, or any other actual or
12 purported government identification document, of another
13 person;

14 (5) uses intimidation, or exerts financial control
15 over any person; or

16 (6) uses any scheme, plan, or pattern intended to cause
17 the person to believe that, if the person did not perform
18 the labor or services, that person or another person would
19 suffer serious harm or physical restraint.

20 Sentence. Except as otherwise provided in subsection (e) or
21 (f), a violation of subsection (b)(1) is a Class X felony,
22 (b)(2) is a Class 1 felony, (b)(3) is a Class 2 felony, (b)(4)
23 is a Class 3 felony, (b)(5) and (b)(6) is a Class 4 felony.

24 (c) Involuntary sexual servitude of a minor. A person
25 commits involuntary sexual servitude of a minor when he or she
26 knowingly recruits, entices, harbors, transports, provides, or

1 obtains by any means, or attempts to recruit, entice, harbor,
2 provide, or obtain by any means, another person under 18 years
3 of age, knowing that the minor will engage in commercial sexual
4 activity, a sexually-explicit performance, or the production
5 of pornography, or causes or attempts to cause a minor to
6 engage in one or more of those activities and:

7 (1) there is no overt force or threat and the minor is
8 between the ages of 17 and 18 years;

9 (2) there is no overt force or threat and the minor is
10 under the age of 17 years; or

11 (3) there is overt force or threat.

12 Sentence. Except as otherwise provided in subsection (e) or
13 (f), a violation of subsection (c)(1) is a Class 1 felony,
14 (c)(2) is a Class X felony, and (c)(3) is a Class X felony.

15 (d) Trafficking in persons. A person commits trafficking in
16 persons when he or she knowingly: (1) recruits, entices,
17 harbors, transports, provides, or obtains by any means, or
18 attempts to recruit, entice, harbor, transport, provide, or
19 obtain by any means, another person, intending or knowing that
20 the person will be subjected to involuntary servitude; or (2)
21 benefits, financially or by receiving anything of value, from
22 participation in a venture that has engaged in an act of
23 involuntary servitude or involuntary sexual servitude of a
24 minor.

25 Sentence. Except as otherwise provided in subsection (e) or
26 (f), a violation of this subsection is a Class 1 felony.

1 (e) Aggravating factors. A violation of this Section
2 involving kidnapping or an attempt to kidnap, aggravated
3 criminal sexual assault or an attempt to commit aggravated
4 criminal sexual assault, or an attempt to commit first degree
5 murder is a Class X felony.

6 (f) Sentencing considerations.

7 (1) Bodily injury. If, pursuant to a violation of this
8 Section, a victim suffered bodily injury, the defendant may
9 be sentenced to an extended-term sentence under Section
10 5-8-2 of the Unified Code of Corrections. The sentencing
11 court must take into account the time in which the victim
12 was held in servitude, with increased penalties for cases
13 in which the victim was held for between 180 days and one
14 year, and increased penalties for cases in which the victim
15 was held for more than one year.

16 (2) Number of victims. In determining sentences within
17 statutory maximums, the sentencing court should take into
18 account the number of victims, and may provide for
19 substantially increased sentences in cases involving more
20 than 10 victims.

21 (g) Restitution. Restitution is mandatory under this
22 Section. In addition to any other amount of loss identified,
23 the court shall order restitution including the greater of (1)
24 the gross income or value to the defendant of the victim's
25 labor or services or (2) the value of the victim's labor as
26 guaranteed under the Minimum Wage Law and overtime provisions

1 of the Fair Labor Standards Act (FLSA) or the Minimum Wage Law,
2 whichever is greater.

3 (g-5) Fine distribution. If the court imposes a fine under
4 subsection (b), (c), or (d) of this Section, it shall be
5 collected and distributed to the Specialized Services for
6 Survivors of Human Trafficking Fund in accordance with Section
7 5-9-1.21 of the Unified Code of Corrections.

8 (h) Trafficking victim services. Subject to the
9 availability of funds, the Department of Human Services may
10 provide or fund emergency services and assistance to
11 individuals who are victims of one or more offenses defined in
12 this Section.

13 (i) Certification. The Attorney General, a State's
14 Attorney, or any law enforcement official shall certify in
15 writing to the United States Department of Justice or other
16 federal agency, such as the United States Department of
17 Homeland Security, that an investigation or prosecution under
18 this Section has begun and the individual who is a likely
19 victim of a crime described in this Section is willing to
20 cooperate or is cooperating with the investigation to enable
21 the individual, if eligible under federal law, to qualify for
22 an appropriate special immigrant visa and to access available
23 federal benefits. Cooperation with law enforcement shall not be
24 required of victims of a crime described in this Section who
25 are under 18 years of age. This certification shall be made
26 available to the victim and his or her designated legal

1 representative.

2 (j) A person who commits involuntary servitude,
3 involuntary sexual servitude of a minor, or trafficking in
4 persons under subsection (b), (c), or (d) of this Section is
5 subject to the property forfeiture provisions set forth in
6 Article 124B of the Code of Criminal Procedure of 1963.

7 (Source: P.A. 97-897, eff. 1-1-13; 98-756, eff. 7-16-14;
8 98-1013, eff. 1-1-15.)