

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 1961 is amended by adding
5 Article 10A as follows:

6 (720 ILCS 5/Art. 10A heading new)

7 ARTICLE 10A. TRAFFICKING OF PERSONS AND INVOLUNTARY SERVITUDE

8 (720 ILCS 5/10A-5 new)

9 Sec. 10A-5. Definitions. In this Article:

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

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

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

18 (4) "Forced labor or services" means labor or services that
19 are performed or provided by another person and are obtained or
20 maintained through:

21 (A) any scheme, plan, or pattern intending to cause or
22 threatening to cause serious harm to any person;

23 (B) an actor's physically restraining or threatening
24 to physically restrain another person;

25 (C) an actor's abusing or threatening to abuse the law
26 or legal process;

27 (D) an actor's knowingly destroying, concealing,
28 removing, confiscating, or possessing any actual or
29 purported passport or other immigration document, or any
30 other actual or purported government identification
31 document, of another person;

1 (E) an actor's blackmail; or
2 (F) an actor's causing or threatening to cause
3 financial harm to or exerting financial control over any
4 person.

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

6 (6) "Maintain" means, in relation to labor or services, to
7 secure continued performance thereof, regardless of any
8 initial agreement on the part of the victim to perform such
9 type of service.

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

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

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

22 (10) "Trafficking victim" means a person subjected to the
23 practices set forth in subsection (a) of Section 10A-10
24 (involuntary servitude) or subsection (b) of Section 10A-10
25 (sexual servitude of a minor), or transported in violation of
26 subsection (c) of Section 10A-10 (trafficking of persons for
27 forced labor or services).

28 (720 ILCS 5/10A-10 new)

29 Sec. 10A-10. Criminal provisions.

30 (a) Involuntary servitude. Whoever knowingly subjects,
31 attempts to subject, or engages in a conspiracy to subject
32 another person to forced labor or services shall be punished as
33 follows, subject to subsection (d):

34 (1) by causing or threatening to cause physical harm to
35 any person, is guilty of a Class X felony;

1 (2) by physically restraining or threatening to
2 physically restrain another person, is guilty of a Class 1
3 felony;

4 (3) by abusing or threatening to abuse the law or legal
5 process, is guilty of a Class 2 felony;

6 (4) by knowingly destroying, concealing, removing,
7 confiscating or possessing any actual or purported
8 passport or other immigration document, or any other actual
9 or purported government identification document, of
10 another person, is guilty of a Class 3 felony;

11 (5) by using intimidation, or using or threatening to
12 cause financial harm to or by exerting financial control
13 over any person, is guilty of a Class 4 felony.

14 (b) Involuntary servitude of a minor. Whoever knowingly
15 recruits, entices, harbors, transports, provides, or obtains
16 by any means, or attempts to recruit, entice, harbor, provide,
17 or obtain by any means, another person under 18 years of age,
18 knowing that the minor will engage in commercial sexual
19 activity, a sexually-explicit performance, or the production
20 of pornography, or causes or attempts to cause a minor to
21 engage in commercial sexual activity, a sexually-explicit
22 performance, or the production of pornography, shall be
23 punished as follows, subject to the provisions of subsection
24 (d):

25 (1) In cases involving a minor between the ages of 17
26 and 18 years, not involving overt force or threat, the
27 defendant is guilty of a Class 1 felony.

28 (2) In cases in which the minor had not attained the
29 age of 17 years, not involving overt force or threat, the
30 defendant is guilty of a Class X felony.

31 (3) In cases in which the violation involved overt
32 force or threat, the defendant is guilty of a Class X
33 felony.

34 (c) Trafficking of persons for forced labor or services.
35 Whoever knowingly: (1) recruits, entices, harbors, transports,
36 provides, or obtains by any means, or attempts to recruit,

1 entice, harbor, transport, provide, or obtain by any means,
2 another person, intending or knowing that the person will be
3 subjected to forced labor or services; or (2) benefits,
4 financially or by receiving anything of value, from
5 participation in a venture which has engaged in an act
6 described in violation of paragraphs (a) or (b) of this
7 Section, subject to the provisions of subsection (d), is guilty
8 of a Class 1 felony.

9 (d) Sentencing enhancements.

10 (1) Statutory maximum; sexual assault and extreme
11 violence. If the violation of this Article involves
12 kidnapping or an attempt to kidnap, aggravated criminal
13 sexual assault or the attempt to commit aggravated criminal
14 sexual assault, or an attempt to commit first degree
15 murder, the defendant is guilty of a Class X felony.

16 (2) Sentencing considerations within statutory
17 maximums.

18 (A) Bodily injury. If, pursuant to a violation of
19 this Article, a victim suffered bodily injury, the
20 defendant may be sentenced to an extended term sentence
21 under Section 5-8-2 of the Unified Code of Corrections.
22 The sentencing court must take into account the time in
23 which the victim was held in servitude, with increased
24 penalties for cases in which the victim was held for
25 between 180 days and one year, and increased penalties
26 for cases in which the victim was held for more than
27 one year.

28 (B) Number of victims. In determining sentences
29 within statutory maximums, the sentencing court should
30 take into account the number of victims, and may
31 provide for substantially-increased sentences in cases
32 involving more than 10 victims.

33 (e) Restitution. Restitution is mandatory under this
34 Article. In addition to any other amount of loss identified,
35 the court shall order restitution including the greater of (1)
36 the gross income or value to the defendant of the victim's

1 labor or services or (2) the value of the victim's labor as
2 guaranteed under the Minimum Wage Law and overtime provisions
3 of the Fair Labor Standards Act (FLSA) or the Minimum Wage Law,
4 whichever is greater.

5 (f) Trafficking victim services. Subject to the
6 availability of funds, the Department of Human Services may
7 provide or fund emergency services and assistance to
8 individuals who are victims of one or more offenses defined in
9 this Article 10A.

10 (720 ILCS 5/10A-15 new)

11 Sec. 10A-15. Forfeitures.

12 (a) A person who commits the offense of involuntary
13 servitude, involuntary servitude of a minor, or trafficking of
14 persons for forced labor or services under Section 10A-10 of
15 this Code shall forfeit to the State of Illinois any profits or
16 proceeds and any interest or property he or she has acquired or
17 maintained in violation of Section 10A-10 of this Code that the
18 sentencing court determines, after a forfeiture hearing, to
19 have been acquired or maintained as a result of maintaining a
20 person in involuntary servitude or participating in
21 trafficking in persons for forced labor or services.

22 (b) The court shall, upon petition by the Attorney General
23 or State's Attorney at any time following sentencing, conduct a
24 hearing to determine whether any property or property interest
25 is subject to forfeiture under this Section. At the forfeiture
26 hearing the people shall have the burden of establishing, by a
27 preponderance of the evidence, that property or property
28 interests are subject to forfeiture under this Section.

29 (c) In any action brought by the People of the State of
30 Illinois under this Section, wherein any restraining order,
31 injunction, or prohibition or any other action in connection
32 with any property or interest subject to forfeiture under this
33 Section is sought, the circuit court presiding over the trial
34 of the person or persons charged with involuntary servitude,
35 involuntary servitude of a minor, or trafficking in persons for

1 forced labor or services shall first determine whether there is
2 probable cause to believe that the person or persons so charged
3 have committed the offense of involuntary servitude,
4 involuntary servitude of a minor, or trafficking in persons for
5 forced labor or services and whether the property or interest
6 is subject to forfeiture pursuant to this Section. In order to
7 make such a determination, prior to entering any such order,
8 the court shall conduct a hearing without a jury, wherein the
9 People shall establish that there is: (i) probable cause that
10 the person or persons so charged have committed the offense of
11 involuntary servitude, involuntary servitude of a minor, or
12 trafficking in persons for forced labor or services and (ii)
13 probable cause that any property or interest may be subject to
14 forfeiture pursuant to this Section. The hearing may be
15 conducted simultaneously with a preliminary hearing, if the
16 prosecution is commenced by information or complaint, or by
17 motion of the People, at any stage in the proceedings. The
18 court may accept a finding of probable cause at a preliminary
19 hearing following the filing of an information charging the
20 offense of involuntary servitude, involuntary servitude of a
21 minor, or trafficking in persons for forced labor or services
22 or the return of an indictment by a grand jury charging the
23 offense of involuntary servitude, involuntary servitude of a
24 minor, or trafficking in persons for forced labor or services
25 as sufficient evidence of probable cause as provided in item
26 (i) of this subsection (c). Upon such a finding, the circuit
27 court shall enter such restraining order, injunction or
28 prohibition, or shall take such other action in connection with
29 any such property or other interest subject to forfeiture, as
30 is necessary to insure that such property is not removed from
31 the jurisdiction of the court, concealed, destroyed, or
32 otherwise disposed of by the owner of that property or interest
33 prior to a forfeiture hearing under this Section. The Attorney
34 General or State's Attorney shall file a certified copy of the
35 restraining order, injunction, or other prohibition with the
36 recorder of deeds or registrar of titles of each county where

1 any such property of the defendant may be located. No such
2 injunction, restraining order, or other prohibition shall
3 affect the rights of any bona fide purchaser, mortgagee,
4 judgment creditor, or other lien holder arising prior to the
5 date of such filing. The court may, at any time, upon verified
6 petition by the defendant or an innocent owner or innocent bona
7 fide third party lien holder who neither had knowledge of, nor
8 consented to, the illegal act or omission, conduct a hearing to
9 release all or portions of any such property or interest that
10 the court previously determined to be subject to forfeiture or
11 subject to any restraining order, injunction, or prohibition or
12 other action. The court may release such property to the
13 defendant or innocent owner or innocent bona fide third party
14 lien holder who neither had knowledge of, nor consented to, the
15 illegal act or omission for good cause shown and within the
16 sound discretion of the court.

17 (d) Upon conviction of a person of involuntary servitude,
18 involuntary servitude of a minor, or trafficking in persons for
19 forced labor or services, the court shall authorize the
20 Attorney General to seize all property or other interest
21 declared forfeited under this Section upon such terms and
22 conditions as the court shall deem proper.

23 (e) All monies forfeited and the sale proceeds of all other
24 property forfeited and seized under this Section shall be
25 distributed as follows:

26 (1) one-half shall be divided equally among all State
27 agencies and units of local government whose officers or
28 employees conducted the investigation that resulted in the
29 forfeiture; and

30 (2) one-half shall be deposited into the Violent Crime
31 Victims Assistance Fund and targeted to services for
32 victims of the offenses of involuntary servitude,
33 involuntary servitude of a minor, and trafficking of
34 persons for forced labor or services.

1 Sec. 10A-20. Certification. The Attorney General, State's
2 Attorneys, or any law enforcement official shall certify in
3 writing to the United States Department of Justice or other
4 federal agency, such as the United States Department of
5 Homeland Security, that an investigation or prosecution under
6 this Article 10A has begun and the individual who is a likely
7 victim of a crime described in this Article 10A is willing to
8 cooperate or is cooperating with the investigation to enable
9 the individual, if eligible under federal law, to qualify for
10 an appropriate special immigrant visa and to access available
11 federal benefits. Cooperation with law enforcement shall not be
12 required of victims of a crime described in this Article 10A
13 who are under 18 years of age. This certification shall be made
14 available to the victim and his or her designated legal
15 representative.