



Sen. Toi W. Hutchinson

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09700SB2191sam001

LRB097 07823 AJ0 53126 a

1 AMENDMENT TO SENATE BILL 2191

2 AMENDMENT NO. _____. Amend Senate Bill 2191 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by
5 changing Section 2-1401 as follows:

6 (735 ILCS 5/2-1401) (from Ch. 110, par. 2-1401)

7 Sec. 2-1401. Relief from judgments.

8 (a) Relief from final orders and judgments, after 30 days
9 from the entry thereof, may be had upon petition as provided in
10 this Section. Writs of error coram nobis and coram vobis, bills
11 of review and bills in the nature of bills of review are
12 abolished. All relief heretofore obtainable and the grounds for
13 such relief heretofore available, whether by any of the
14 foregoing remedies or otherwise, shall be available in every
15 case, by proceedings hereunder, regardless of the nature of the
16 order or judgment from which relief is sought or of the

1 proceedings in which it was entered. Except as provided in
2 Section 6 of the Illinois Parentage Act of 1984, there shall be
3 no distinction between actions and other proceedings,
4 statutory or otherwise, as to availability of relief, grounds
5 for relief or the relief obtainable.

6 (b) The petition must be filed in the same proceeding in
7 which the order or judgment was entered but is not a
8 continuation thereof. The petition must be supported by
9 affidavit or other appropriate showing as to matters not of
10 record. All parties to the petition shall be notified as
11 provided by rule.

12 (c) Except as provided in Section 20b of the Adoption Act
13 and Section 2-32 of the Juvenile Court Act of 1987 or in a
14 petition based upon Section 116-3 of the Code of Criminal
15 Procedure of 1963, the petition must be filed not later than 2
16 years after the entry of the order or judgment. Time during
17 which the person seeking relief is under legal disability or
18 duress or the ground for relief is fraudulently concealed shall
19 be excluded in computing the period of 2 years.

20 (d) The filing of a petition under this Section does not
21 affect the order or judgment, or suspend its operation.

22 (e) Unless lack of jurisdiction affirmatively appears from
23 the record proper, the vacation or modification of an order or
24 judgment pursuant to the provisions of this Section does not
25 affect the right, title or interest in or to any real or
26 personal property of any person, not a party to the original

1 action, acquired for value after the entry of the order or
2 judgment but before the filing of the petition, nor affect any
3 right of any person not a party to the original action under
4 any certificate of sale issued before the filing of the
5 petition, pursuant to a sale based on the order or judgment.

6 (f) Nothing contained in this Section affects any existing
7 right to relief from a void order or judgment, or to employ any
8 existing method to procure that relief.

9 (g) A petition under this Section may be filed at any time
10 after the entry of judgment, if the judgment is a conviction
11 where the arresting charge was under Section 11-14
12 (prostitution) or Section 11-14.2 (first offender; felony
13 prostitution) of the Criminal Code of 1961 or a similar local
14 ordinance and the defendant's participation in the offense was
15 a result of having been a "trafficking victim" under Section
16 10-9 (involuntary servitude, involuntary sexual servitude of a
17 minor, or trafficking in persons for forced labor or services)
18 of the Criminal Code of 1961 or a "victim of a severe form of
19 trafficking" under the federal Trafficking Victims Protection
20 Act (U.S.C., Title 22, Chapter 78, Section 7102 (13)), provided
21 that:

22 (1) A petition under this subsection (g) shall be made
23 with due diligence, after the defendant has ceased to be a
24 victim of such trafficking or has sought services for
25 victims of such trafficking, subject to reasonable
26 concerns for the safety of the defendant, family members of

1 the defendant, or other victims of such trafficking that
2 may be jeopardized by the bringing of such motion, or for
3 other reasons consistent with the purpose of this
4 subsection (g).

5 (2) A petition under this subsection (g) must be
6 supported by an affidavit or other appropriate showing as
7 to matters not of record. All parties to the petition shall
8 be notified as provided by rule.

9 (3) Official documentation of the defendant's status
10 as a "trafficking victim" or a "victim of a severe form of
11 trafficking" from a federal, state, or local government
12 agency shall create a presumption that the defendant's
13 participation in the offense was a result of having been a
14 "trafficking victim" or a "victim of a severe form of
15 trafficking", but shall not be required for granting a
16 petition under this subsection (g).

17 (4) "Official documentation" includes, but is not
18 limited to, a police report, court record, or affidavit
19 generated from a federal, state, or local government
20 agency.

21 (5) To be entitled to relief under this subsection (g),
22 the petition must affirmatively set forth specific factual
23 allegations supporting each of the following elements: (i)
24 the existence of a meritorious defense or claim; (ii) due
25 diligence in presenting this defense or claim; and (iii)
26 due diligence in filing the petition for relief.

1 If the court grants a petition under this subsection (g),
2 it must vacate the judgment and dismiss the accusatory
3 instrument, and may take such additional action as is
4 appropriate in the circumstances.

5 (Source: P.A. 95-331, eff. 8-21-07.)".