



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3365

Introduced 2/22/2021, by Rep. Chris Bos

SYNOPSIS AS INTRODUCED:

New Act

Creates the Human Trafficking Order of Protection Act. Provides that the following persons may bring an action under the Act: (1) a person who is a victim of human trafficking regardless of the relationship between the victim and the trafficker. Allow a person who has been the victim of human trafficking; or (2) a person on behalf of a minor child or an adult who has been the victim of human trafficking. Establishes procedures, venue, and remedies in these actions.

LRB102 11449 RLC 16783 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning human trafficking orders.

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

4 Section 1. Short title. This Act may be cited as the Human
5 Trafficking Order of Protection Act.

6 Section 3. Purpose and construction. The purpose of this
7 Article is to protect the safety of victims of human
8 trafficking and the safety of their family and household
9 members; and to minimize the trauma and inconvenience
10 associated with attending separate and multiple civil court
11 proceedings to obtain human trafficking orders. This Article
12 shall be interpreted in accordance with the constitutional
13 rights of crime victims set forth in Article I, Section 8.1 of
14 the Illinois Constitution, the purposes set forth in Section 2
15 of the Rights of Crime Victims and Witnesses Act, and the use
16 of human trafficking orders to implement the victim's right to
17 be reasonably protected from the defendant as provided in
18 Section 4.5 of the Rights of Victims and Witnesses Act.

19 Section 5. Definitions. In this Act:

20 "Human trafficking means a violation of:

21 (1) subsection (b) of Section 10-9 of the Criminal
22 Code of 2012 (involuntary servitude);

- 1 (2) subsection (c) of Section 10-9 of the Criminal
2 Code of 2012 (involuntary sexual servitude of a minor); or
3 (3) subsection (d) of Section 10-9 of the Criminal
4 Code of 2012 (trafficking in persons).

5 Section 10. Persons who may bring actions. The following
6 persons may bring an action under this Act:

7 (1) a person who is a victim of human trafficking
8 regardless of the relationship between the victim and the
9 trafficker; or

10 (2) a person on behalf of a minor child or an adult who has
11 been the victim of human trafficking.

12 Section 15. Commencement of action; filing fees;
13 dismissal.

14 (a) How to commence action. Actions for human trafficking
15 orders of protection are commenced:

16 (1) Independently: By filing a petition for a human
17 trafficking order of protection in any civil court, unless
18 specific courts are designated by local rule or order.

19 (2) In conjunction with another civil proceeding: By
20 filing a petition for a human trafficking order of
21 protection under the same case number as another civil
22 proceeding involving the parties.

23 (3) In conjunction with a delinquency petition or a
24 criminal prosecution.

1 (a-5) When a petition for an emergency human trafficking
2 order of protection is filed, the petition shall not be
3 publicly available until the petition is served on the
4 respondent.

5 (b) Filing, certification, and service fees. No fee shall
6 be charged by the clerk for filing, amending, vacating,
7 certifying, or photocopying petitions or orders; or for
8 issuing alias summons; or for any related filing service. No
9 fee shall be charged by the sheriff for service by the sheriff
10 of a petition, rule, motion, or order in an action commenced
11 under this Section.

12 (c) Dismissal and consolidation. Withdrawal or dismissal
13 of any petition for a human trafficking order of protection
14 prior to adjudication where the petitioner is represented by
15 the State shall operate as a dismissal without prejudice. No
16 action for a human trafficking order of protection shall be
17 dismissed because the respondent is being prosecuted for a
18 crime against the petitioner. An independent action may be
19 consolidated with another civil proceeding, as provided by
20 paragraph (2) of subsection (a) of this Section.

21 For any action commenced under paragraph (2) or (3) of
22 subsection (a) of this Section, dismissal of the conjoined
23 case (or a finding of not guilty) shall not require dismissal
24 of the action for the human trafficking order of protection;
25 instead, it may be treated as an independent action and, if
26 necessary and appropriate, transferred to a different court or

1 division. Dismissal of any conjoined case shall not affect the
2 validity of any previously issued a human trafficking order of
3 protection.

4 (d) Pro se petitions. The court shall provide, through the
5 office of the clerk of the court, simplified forms and
6 clerical assistance to help with the writing and filing of a
7 petition under this Section by any person not represented by
8 counsel. In addition, that assistance may be provided by the
9 State's Attorney.

10 (e) As provided in this subsection, the Director of the
11 Administrative Office of the Illinois Courts, with the
12 approval of the administrative board of the courts, may adopt
13 rules to establish and implement a pilot program to allow the
14 electronic filing of petitions for temporary orders of
15 protection and the issuance of such orders by audio-visual
16 means to accommodate litigants for whom attendance in court to
17 file for and obtain emergency relief would constitute an undue
18 hardship or would constitute a risk of harm to the litigant. As
19 used in this subsection:

20 "Electronic means" means any method of transmission of
21 information between computers or other machines designed
22 for the purpose of sending or receiving electronic
23 transmission and that allows for the recipient of
24 information to reproduce the information received in a
25 tangible medium of expression.

26 "Independent audio-visual system" means an electronic

1 system for the transmission and receiving of audio and
2 visual signals, including those with the means to preclude
3 the unauthorized reception and decoding of the signals by
4 commercially available television receivers, channel
5 converters, or other available receiving devices.

6 "Electronic appearance" means an appearance in which
7 one or more of the parties are not present in the court,
8 but in which, by means of an independent audio-visual
9 system, all of the participants are simultaneously able to
10 see and hear reproductions of the voices and images of the
11 judge, counsel, parties, witnesses, and any other
12 participants.

13 Section 20. Application of rules of civil procedure.

14 (a) Rules of civil procedure applicable. Any proceeding to
15 obtain, modify, reopen, or appeal a human trafficking order of
16 protection, whether commenced alone or in conjunction with a
17 civil or criminal proceeding, shall be governed by the rules
18 of civil procedure of this State. The standard of proof in such
19 a proceeding is proof by a preponderance of the evidence,
20 whether the proceeding is heard in criminal or civil court.
21 The Code of Civil Procedure and Supreme Court and local court
22 rules applicable to civil proceedings shall apply, except as
23 otherwise provided by this law.

24 (b) Trial by jury. There shall be no right to trial by jury
25 in any proceeding to obtain, modify, vacate or extend any

1 human trafficking order of protection under this Act. However,
2 nothing in this Section shall deny any existing right to trial
3 by jury in a criminal proceeding.

4 (c) Venue; filing. A petition for a human trafficking
5 order of protection may be filed in any county where: (i) the
6 petitioner resides, (ii) respondent resides, or (iii) the
7 alleged human trafficking occurred.

8 (d) Objection. Objection to venue is waived if not made
9 within such time as respondent's response is due, except as
10 otherwise provided in this Section. In no event shall venue be
11 deemed jurisdictional.

12 (e) Process; summons. Any action for a human trafficking
13 of protection, whether commenced alone or in conjunction with
14 another proceeding, is a distinct cause of action and requires
15 that a separate summons be issued and served, except that in
16 pending cases the following methods may be used:

17 (1) by delivery of the summons to respondent
18 personally in open court in pending civil or criminal
19 cases; or

20 (2) by notice in civil cases in which the defendant
21 has filed a general appearance.

22 The summons shall be in the form prescribed by Supreme
23 Court Rule 101(d), except that it shall require respondent to
24 answer or appear within 7 days. Attachments to the summons or
25 notice shall include the petition for the human trafficking
26 order of protection and supporting affidavits, if any, and any

1 emergency human trafficking of protection that has been
2 issued. The enforcement of a human trafficking order of
3 protection shall not be affected by the lack of service,
4 delivery, or notice.

5 Section 25. Remedies. The court may provide relief as
6 follows:

7 (1) prohibit the respondent from knowingly coming within,
8 or knowingly remaining within, a specified distance from the
9 petitioner;

10 (2) restrain the respondent from having any contact,
11 including nonphysical contact, with the petitioner directly,
12 indirectly, or through third parties, regardless of whether
13 those third parties know of the order;

14 (3) prohibit the respondent from knowingly coming within,
15 or knowingly remaining within, a specified distance from the
16 petitioner's residence, school, day care or other specified
17 location;

18 (4) order the respondent to stay away from any property or
19 animal owned, possessed, leased, kept, or held by the
20 petitioner and forbid the respondent from taking,
21 transferring, encumbering, concealing, harming, or otherwise
22 disposing of the property or animal; and

23 (5) order any other injunctive relief as necessary or
24 appropriate for the protection of the petitioner.