



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5106

Introduced 2/8/2024, by Rep. Adam M. Niemerg

SYNOPSIS AS INTRODUCED:

720 ILCS 5/10-9

Amends the Criminal Code of 2012. Provides for enhanced mandatory sentences of imprisonment for trafficking in persons, involuntary servitude, and involuntary sexual servitude of a minor and aggravating factors concerning those offenses.

LRB103 33853 RLC 63668 b

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
5 changing 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 Section:

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 (2.5) "Company" means any sole proprietorship,
16 organization, association, corporation, partnership, joint
17 venture, limited partnership, limited liability partnership,
18 limited liability limited partnership, limited liability
19 company, or other entity or business association, including
20 all wholly owned subsidiaries, majority-owned subsidiaries,
21 parent companies, or affiliates of those entities or business
22 associations, that exist for the purpose of making profit.

23 (3) "Financial harm" includes intimidation that brings

1 about financial loss, criminal usury, or employment contracts
2 that violate the Frauds Act.

3 (4) (Blank).

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

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

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

11 (7.5) "Serious harm" means any harm, whether physical or
12 nonphysical, including psychological, financial, or
13 reputational harm, that is sufficiently serious, under all the
14 surrounding circumstances, to compel a reasonable person of
15 the same background and in the same circumstances to perform
16 or to continue performing labor or services in order to avoid
17 incurring that harm.

18 (8) "Services" means activities resulting from a
19 relationship between a person and the actor in which the
20 person performs activities under the supervision of or for the
21 benefit of the actor. Commercial sexual activity and
22 sexually-explicit performances are forms of activities that
23 are "services" under this Section. Nothing in this definition
24 may be construed to legitimize or legalize prostitution.

25 (9) "Sexually-explicit performance" means a live,
26 recorded, broadcast (including over the Internet), or public

1 act or show intended to arouse or satisfy the sexual desires or
2 appeal to the prurient interests of patrons.

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

5 (b) Involuntary servitude. A person commits involuntary
6 servitude when he or she knowingly subjects, attempts to
7 subject, or engages in a conspiracy to subject another person
8 to labor or services obtained or maintained through any of the
9 following means, or any combination of these means:

10 (1) causes or threatens to cause physical harm to any
11 person;

12 (2) physically restrains or threatens to physically
13 restrain another person;

14 (3) abuses or threatens to abuse the law or legal
15 process;

16 (4) knowingly destroys, conceals, removes,
17 confiscates, or possesses any actual or purported passport
18 or other immigration document, or any other actual or
19 purported government identification document, of another
20 person;

21 (5) uses intimidation, or exerts financial control
22 over any person; or

23 (6) uses any scheme, plan, or pattern intended to
24 cause the person to believe that, if the person did not
25 perform the labor or services, that person or another
26 person would suffer serious harm or physical restraint.

1 Sentence. Except as otherwise provided in subsection (e)
2 or (f), a violation of subsection (b)(1) is a Class X felony
3 for which a person shall be sentenced to a term of imprisonment
4 of not less than 12 years and not more than 60 years, (b)(2) is
5 a Class 1 felony for which a person shall be sentenced to a
6 term of imprisonment of not less than 8 years and not more than
7 30 years, (b)(3) is a Class 2 felony for which a person shall
8 be sentenced to a term of imprisonment of not less than 6 years
9 and not more than 14 years, (b)(4) is a Class 3 felony for
10 which a person shall be sentenced to a term of imprisonment of
11 not less 4 years and not more than 10 years, (b)(5) and (b)(6)
12 is a Class 4 felony for which a person shall be sentenced to a
13 term of imprisonment of not less than 2 years and not more than
14 8 years.

15 (c) Involuntary sexual servitude of a minor. A person
16 commits involuntary sexual servitude of a minor when he or she
17 knowingly recruits, entices, harbors, transports, provides, or
18 obtains by any means, or attempts to recruit, entice, harbor,
19 provide, or obtain by any means, another person under 18 years
20 of age, knowing that the minor will engage in commercial
21 sexual activity, a sexually-explicit performance, or the
22 production of pornography, or causes or attempts to cause a
23 minor to engage in one or more of those activities and:

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

26 (2) there is no overt force or threat and the minor is

1 under the age of 17 years; or

2 (3) there is overt force or threat.

3 Sentence. Except as otherwise provided in subsection (e)
4 or (f), a violation of subsection (c)(1) is a Class 1 felony
5 for which a person shall be sentenced to a term of imprisonment
6 of not less than 8 years and not more than 30 years, (c)(2) is
7 a Class X felony for which a person shall be sentenced to a
8 term of imprisonment of not less than 12 years and not more
9 than 60 years, and (c)(3) is a Class X felony for which a
10 person shall be sentenced to a term of imprisonment of not less
11 than 12 years and not more than 60 years.

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

26 Sentence. Except as otherwise provided in subsection (e)

1 or (f), a violation of this subsection by a person is a Class 1
2 felony for which a person shall be sentenced to a term of
3 imprisonment of not less than 8 years and not more than 30
4 years. A violation of this subsection by a company is a
5 business offense for which a fine of up to \$100,000 may be
6 imposed.

7 (e) Aggravating factors. A violation of this Section
8 involving kidnapping or an attempt to kidnap, aggravated
9 criminal sexual assault or an attempt to commit aggravated
10 criminal sexual assault, or an attempt to commit first degree
11 murder is a Class X felony for which a person shall be
12 sentenced to a term of imprisonment of not less than 20 years
13 and not more than 60 years.

14 (f) Sentencing considerations.

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

24 (2) Number of victims. In determining sentences within
25 statutory maximums, the sentencing court should take into
26 account the number of victims, and may provide for

1 substantially increased sentences in cases involving more
2 than 10 victims.

3 (g) Restitution. Restitution is mandatory under this
4 Section. In addition to any other amount of loss identified,
5 the court shall order restitution including the greater of (1)
6 the gross income or value to the defendant of the victim's
7 labor or services or (2) the value of the victim's labor as
8 guaranteed under the Minimum Wage Law and overtime provisions
9 of the Fair Labor Standards Act (FLSA) or the Minimum Wage Law,
10 whichever is greater.

11 (g-5) Fine distribution. If the court imposes a fine under
12 subsection (b), (c), or (d) of this Section, it shall be
13 collected and distributed to the Specialized Services for
14 Survivors of Human Trafficking Fund in accordance with Section
15 5-9-1.21 of the Unified Code of Corrections.

16 (h) Trafficking victim services. Subject to the
17 availability of funds, the Department of Human Services may
18 provide or fund emergency services and assistance to
19 individuals who are victims of one or more offenses defined in
20 this Section.

21 (i) Certification. The Attorney General, a State's
22 Attorney, or any law enforcement official shall certify in
23 writing to the United States Department of Justice or other
24 federal agency, such as the United States Department of
25 Homeland Security, that an investigation or prosecution under
26 this Section has begun and the individual who is a likely

1 victim of a crime described in this Section is willing to
2 cooperate or is cooperating with the investigation to enable
3 the individual, if eligible under federal law, to qualify for
4 an appropriate special immigrant visa and to access available
5 federal benefits. Cooperation with law enforcement shall not
6 be required of victims of a crime described in this Section who
7 are under 18 years of age. This certification shall be made
8 available to the victim and his or her designated legal
9 representative.

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

15 (Source: P.A. 101-18, eff. 1-1-20.)