



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB1299

Introduced 02/09/05, by Rep. Constance A. Howard

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Predator Accountability Act. Creates a cause of action against a person who: (i) coerced an individual into prostitution; (ii) coerced an individual to remain in prostitution; (iii) used coercion to collect or receive any of an individual's earnings derived from prostitution; or (iv) advertised or published advertisements for purposes of recruitment into prostitution. Provides for damages for violation of the Act. Exempts the provisions of joint and several liability to actions brought under the Act. Lists non-defenses to an action brought under the Act. Provides for award of costs to the prevailing party.

LRB094 09423 LCB 39670 b

1 AN ACT concerning civil law.

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  
5 Predator Accountability Act.

6 Section 5. Definitions. As used in this Act:

7 "Prostitution" means any forms of prostitution including,  
8 but not limited to, street level, stripping, massage parlors,  
9 pornography, and escort services and involve adults and youth  
10 of all gender and sexual orientations. "Prostitution" includes  
11 attempts to prostitute an individual or to engage in  
12 "no-touching" activities.

13 "Coerce" means to use or threaten to use any form of  
14 domination, restraint, or inducement for the purpose or with  
15 the reasonably foreseeable effect of causing an individual to  
16 engage in or remain in prostitution or to relinquish earnings  
17 derived from prostitution. "Coercion" may include, but is not  
18 limited to, the following:

19 (1) physical force or actual or implied threats of  
20 physical force or restraint;

21 (2) physical or mental torture;

22 (3) implicitly or explicitly leading an individual to  
23 believe that the individual will be protected from violence  
24 or arrest;

25 (4) kidnapping;

26 (5) exploiting age difference or individual's status  
27 of minor;

28 (6) using lies and false promises to deceive;

29 (7) causing an individual to believe that failure to  
30 perform an act would result in serious harm to or physical  
31 restraint against that individual or any person;

32 (8) defining the terms of an individual's employment or

1 working conditions in a manner that can foreseeably lead to  
2 the individual's use in prostitution;

3 (9) blackmail;

4 (10) extortion or claims of indebtedness;

5 (11) restraining speech or communication with others,  
6 such as exploiting a language difference or interfering  
7 with the use of mail, telephone, email, fax, or other forms  
8 of communication;

9 (12) controlling or interfering with financial  
10 transactions;

11 (13) isolating an individual from others;

12 (14) introducing or utilizing drugs or alcohol to  
13 control an individual and exploiting an individual's  
14 addiction to drugs and alcohol;

15 (15) exploiting a condition of developmental  
16 disability, cognitive limitation, or affective and other  
17 mental health disorder;

18 (16) taking advantage of lack of intervention by child  
19 protection;

20 (17) exploiting victimization by previous sexual abuse  
21 or battering;

22 (18) exploiting pornographic performance;

23 (19) exploiting an individual's crisis situation, such  
24 as runaway status;

25 (20) interfering with opportunities for education or  
26 skills training;

27 (21) destroying property;

28 (22) restraining movement;

29 (23) exploiting HIV status, particularly where the  
30 defendant's previous coercion led to the HIV;

31 (24) exploiting the need for food, shelter, safety, or  
32 affection or intimate marital relationship;

33 (25) taking advantage of parental, custodial, or other  
34 familial authority over an individual;

35 (26) taking advantage of an individual's love and need  
36 for bonding and affection from a parental, custodial, or

- 1 other familial figure;
- 2 (27) exploiting immigrant status;
- 3 (28) exploiting an individual's family members' or  
4 dependents' economic needs;
- 5 (29) a threat of an act described in items (1) through  
6 (28) of this definition causing a realistic apprehension  
7 that the originator of the threat will commit the act;
- 8 (30) threat of legal complaint or report of  
9 delinquency;
- 10 (31) threat to interfere with parental rights or  
11 responsibilities, whether by judicial or administrative  
12 action or otherwise;
- 13 (32) promise of a legal benefit, such as posting bail,  
14 procuring an attorney, protecting from arrest, or  
15 promising unionization;
- 16 (33) promise of financial rewards;
- 17 (34) promise of marriage;
- 18 (35) threatening to reveal information about perceived  
19 or actual sexual orientation ("outing");
- 20 (36) threatening to harm an individual's dependents or  
21 family members; or
- 22 (37) hiring an adult or minor for the purposes of  
23 prostitution knowing that he or she has been coerced by  
24 another.

25 Section 10. Cause of action. An individual has a cause of  
26 action against a person or entity who:

- 27 (1) coerced an individual into prostitution;
- 28 (2) coerced an individual to remain in prostitution;
- 29 (3) used coercion to collect or receive any of an  
30 individual's earnings derived from prostitution;
- 31 (4) hired, offered, or agreed to hire an individual to  
32 engage in prostitution, knowing or having reason to believe  
33 that the individual was coerced into or coerced to remain  
34 in prostitution; or
- 35 (5) advertised or published advertisements for

1 purposes of recruitment into prostitution.

2 (b) An individual has a cause of action against any person,  
3 entity, or organization for any act of solicitation, hiring,  
4 promotion of, prostitution, or receiving money from a minor's  
5 prostitution whether or not the coercive factors are present.

6 Section 15. Relief.

7 (a) A person against whom a cause of action may be  
8 maintained under Section 10 is liable for damages that resulted  
9 from the plaintiff being used in prostitution or to which the  
10 plaintiff's use in prostitution significantly contributed, as  
11 well as all relief that would make the plaintiff whole.

12 (b) Damages may include, without limitation, a declaratory  
13 judgment, an injunction, recovery of costs for expert  
14 testimony, and monetary relief.

15 (c) Monetary relief may include:

16 (1) punitive and compensatory damages;

17 (2) economic loss, including damage, destruction, or  
18 loss of use of personal property; loss of past or future  
19 income or earning capacity; and income, profits, or money  
20 owed to the plaintiff from legal or illegal contracts with  
21 the person, unless an illegal contract is current,  
22 nonexecutory, and the plaintiff is no longer a prostitute;

23 (3) damages for death, personal injury, physical  
24 impairment, disease, and burial expenses; and

25 (4) pain and suffering, including mental and emotional  
26 harm and any medical or rehabilitation expenses.

27 Section 20. Joint and several liability. The provisions of  
28 joint and several liability do not apply to actions brought  
29 under this Act.

30 Section 25. Non-defenses. It is not a defense to an action  
31 brought under this Act that:

32 (1) the plaintiff consented to engage in acts of  
33 prostitution;

1 (2) the plaintiff and defendant had a marital or  
2 consenting sexual relationship;

3 (3) the defendant is related to plaintiff by blood or  
4 marriage or has lived in any formal or informal household  
5 arrangement;

6 (4) the plaintiff was paid or otherwise compensated for  
7 the acts of prostitution;

8 (5) the plaintiff engaged in acts of prostitution prior  
9 to any involvement with the defendant;

10 (6) the defendant had not engaged in prior acts of  
11 prostitution with the plaintiff;

12 (7) the plaintiff was owed a debt, monetary or  
13 otherwise;

14 (8) the defendant signed a legal or illegal contract  
15 with the plaintiff;

16 (9) the plaintiff apparently initiated involvement  
17 with the defendant;

18 (10) the plaintiff made no attempt to escape, flee, or  
19 otherwise terminate contact with the defendant;

20 (11) as a condition of employment, the defendant  
21 required the plaintiff to agree not to engage in  
22 prostitution;

23 (12) the defendant's place of business was posted with  
24 signs prohibiting prostitution or prostitution related  
25 activities; or

26 (13) one or more acts of coercion as defined in this  
27 Act were committed, at least in part, to induce someone  
28 into prostitution whether or not those acts have resulted  
29 in criminal charges, prosecution, or conviction.

30 Section 30. Evidence. In the course of litigation under  
31 this Act, any transaction about which a plaintiff testifies or  
32 produces evidence does not subject the plaintiff to criminal  
33 prosecution or any penalty or forfeiture. Any testimony or  
34 evidence, documentary or otherwise, or information directly or  
35 indirectly derived from that testimony or evidence that is

1 given or produced by a plaintiff or a witness for a plaintiff  
2 may not be used against that person in any other investigation  
3 or proceeding other than a criminal investigation or proceeding  
4 for perjury committed while giving the testimony or producing  
5 the evidence.

6 Evidence of any convictions, particularly for prostitution  
7 or prostitution related offenses, is inadmissible in a  
8 proceeding brought under this Act for purposes of attacking the  
9 plaintiff's credibility. If the court admits evidence of prior  
10 convictions for purposes permitted under the rules of evidence  
11 with respect to motive, opportunity, intent, preparation,  
12 plan, knowledge, identity, or absence of mistake or accident,  
13 the fact finder may consider the evidence solely for those  
14 purposes and shall disregard details offered to prove any fact  
15 that is not relevant.

16 Section 35. Statute of limitations.

17 (a) An action for damages must be commenced within 10 years  
18 of the age of majority, if coercion of the plaintiff occurred  
19 as a minor. If coercion of an adult occurred, then an action  
20 for damages must be commenced within 10 years after the last  
21 act of coercion.

22 (b) An action for damages under this Act must be commenced  
23 within 10 years of the time the plaintiff knew and full  
24 understood that the plaintiff had been injured and that the  
25 injury was caused by the conduct of the defendant as described  
26 in Section 10.

27 (c) The court shall grant an extension of the limitations  
28 period upon a showing that the plaintiff was or is unable, due  
29 to a prostitution-related injury, to commence the action within  
30 the limitations period. The injury may be psychological and  
31 need not be traceable to any action by the defendant. A  
32 plaintiff may not be compelled to personally appear to attest  
33 to these facts. Affidavits from the plaintiff and the  
34 plaintiff's doctor stating the required facts are sufficient to  
35 constitute a showing as required by this Section.

1 (d) The court shall grant an extension of the limitations  
2 period upon a showing that despite the reasonable efforts, the  
3 plaintiff was unable to ascertain the identity, true name, or  
4 location of the of the defendant during the limitations period.  
5 In determining whether the plaintiffs efforts were reasonable,  
6 the court shall consider the totality of the plaintiff's  
7 circumstances during the limitations period, including the  
8 plaintiff's emotional condition, financial resources, freedom  
9 of movement and communication, and reasonable fear of the  
10 defendant for himself or herself or for others.

11 (e) The court shall grant an extension of the limitations  
12 period upon showing that the defendant in any way inhibited the  
13 plaintiff's understanding of the right to pursue the cause of  
14 action or the plaintiff's ability to pursue the cause of  
15 action. Behavior constituting inhibition includes, but is not  
16 limited to, the following:

17 (1) minimizing by words or deeds the harm inflicted  
18 upon the plaintiff;

19 (2) isolating the plaintiff from access to legal  
20 representation;

21 (3) threatening the plaintiff with retaliation for  
22 pursuing the claim; or

23 (4) misrepresenting the injury as the plaintiff's  
24 fault rather than the fault of the abuser.

25 (f) There is no limitation of time on actions for  
26 declaratory or injunctive relief under this Act.

27 Section 40. Remedies preserved. This Act does not affect  
28 the right of any person to bring an action or use any remedy  
29 available under other law, including common law, to recover  
30 damages arising out of the use of the individual in  
31 prostitution or the coercion incident to the individual being  
32 used in prostitution nor does this Act limit or restrict the  
33 liability of any person under other law. This Act does not  
34 reflect a determination of a policy regarding the applicability  
35 of strict liability to activities relating to prostitution.



1           Section 45. Double recovery prohibited. Any person who  
2 recovers damages under this Act may not recover the same costs  
3 or damages under any other Act. A person who recovers damages  
4 under any other Act may not recover for the same costs or  
5 damages under this Act.

6           Section 50. Award of costs. Upon the motion of a party  
7 prevailing in an action under this Act, the court may award  
8 costs, disbursements, reasonable attorneys' fees, and expert  
9 testimony and witness fees to that party.

10          Section 55. Avoidance of liability. No person may avoid  
11 liability under this Act by means of any conveyance of any  
12 right, title, or interest in real property, or by any  
13 indemnification, hold harmless agreement, or similar agreement  
14 that purports to show consent of the plaintiff.