



Sen. Iris Y. Martinez

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1 AMENDMENT TO HOUSE BILL 1299

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1299 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Predator Accountability Act.

6 Section 5. Purpose. The purpose of this Act is to allow  
7 persons who have been or who are subjected to the sex trade to  
8 seek civil damages and remedies from individuals and entities  
9 that recruited, harmed, profited from, or maintained them in  
10 the sex trade.

11 Section 10. Definitions. As used in this Act:

12 "Sex trade" means any act, which if proven beyond a  
13 reasonable doubt could support a conviction for a violation or  
14 attempted violation of any of the following Sections of the  
15 Criminal Code of 1961: 11-15 (soliciting for a prostitute);  
16 11-15.1 (soliciting for a juvenile prostitute); 11-16  
17 (pandering); 11-17 (keeping a place of prostitution); 11-17.1  
18 (keeping a place of juvenile prostitution); 11-19 (pimping);  
19 11-19.1 (juvenile pimping and aggravated juvenile pimping);  
20 11-19.2 (exploitation of a child); 11-20 (obscenity); or  
21 11-20.1 (child pornography); or Article 10A of the Criminal  
22 Code of 1961 (trafficking of persons and involuntary  
23 servitude).

1 "Sex trade" activity may involve adults and youth of all  
2 genders and sexual orientations.

3 "Victim of the sex trade" means, for the following sex  
4 trade acts, the person or persons indicated:

5 (1) soliciting for a prostitute: the prostitute who is  
6 the object of the solicitation;

7 (2) soliciting for a juvenile prostitute: the juvenile  
8 prostitute, or severely or profoundly mentally retarded  
9 person, who is the object of the solicitation;

10 (3) pandering: the person intended or compelled to act  
11 as a prostitute;

12 (4) keeping a place of prostitution: any person  
13 intended or compelled to act as a prostitute, while present  
14 at the place, during the time period in question;

15 (5) keeping a place of juvenile prostitution: any  
16 juvenile intended or compelled to act as a prostitute,  
17 while present at the place, during the time period in  
18 question;

19 (6) pimping: the prostitute from whom anything of value  
20 is received;

21 (7) juvenile pimping and aggravated juvenile pimping:  
22 the juvenile, or severely or profoundly mentally retarded  
23 person, from whom anything of value is received for that  
24 person's act of prostitution;

25 (8) exploitation of a child: the juvenile, or severely  
26 or profoundly mentally retarded person, intended or  
27 compelled to act as a prostitute or from whom anything of  
28 value is received for that person's of prostitution;

29 (9) obscenity: any person who appears in or is  
30 described or depicted in the offending conduct or material;

31 (10) child pornography: any child, or severely or  
32 profoundly mentally retarded person, who appears in or is  
33 described or depicted in the offending conduct or material;  
34 or

1 (11) trafficking of persons or involuntary servitude:  
2 a "trafficking victim" as defined in Section 10A-5 of the  
3 Criminal Code of 1961.

4 Section 15. Cause of action.

5 (a) Violations of this Act are actionable in civil court.

6 (b) A victim of the sex trade has a cause of action against  
7 a person or entity who:

8 (1) recruits, harms or profits from, or maintains the  
9 victim in any sex trade act; or

10 (2) knowingly advertises or publishes advertisements  
11 for purposes of recruitment into sex trade activity.

12 Section 20. Relief.

13 (a) A prevailing victim of the sex trade shall be entitled  
14 to all relief that would make him or her whole. This includes,  
15 but is not limited to:

16 (1) declaratory relief;

17 (2) injunctive relief;

18 (3) recovery of costs and attorney fees including, but  
19 not limited to, costs for expert testimony and witness  
20 fees;

21 (4) compensatory damages including, but not limited  
22 to:

23 (A) economic loss, including damage, destruction,  
24 or loss of use of personal property, and loss of past  
25 or future earning capacity; and

26 (B) damages for death, personal injury, disease,  
27 and mental and emotional harm, including medical,  
28 rehabilitation, burial expenses, pain and suffering,  
29 and physical impairment;

30 (5) punitive damages; and

31 (6) damages in the amount of the gross revenues  
32 received by the defendant from, or related to, the sex

1 trade activities of the plaintiff.

2 Section 25. Non-defenses.

3 (a) It is not a defense to an action brought under this Act  
4 that:

5 (1) the victim of the sex trade and the defendant had a  
6 marital or consenting sexual relationship;

7 (2) the defendant is related to the victim of the sex  
8 trade by blood or marriage, or has lived with the defendant  
9 in any formal or informal household arrangement;

10 (3) the victim of the sex trade was paid or otherwise  
11 compensated for sex trade activity;

12 (4) the victim of the sex trade engaged in sex trade  
13 activity prior to any involvement with the defendant;

14 (5) the victim of the sex trade made no attempt to  
15 escape, flee, or otherwise terminate contact with the  
16 defendant;

17 (6) the victim of the sex trade consented to engage in  
18 acts of the sex trade;

19 (7) it was a single incident of activity; or

20 (8) there was no physical contact involved.

21 (b) Any illegality of the sex trade activity on the part of  
22 the victim of the sex trade shall not be an affirmative defense  
23 to any action brought under this Act.

24 Section 30. Evidence. Related to a cause of action under  
25 this Act, the fact that a plaintiff or other witness has  
26 testified under oath or given evidence relating to an act that  
27 may be a violation of any provision of the Criminal Code of  
28 1961 shall not be construed to require the State's Attorney to  
29 criminally charge any person for such violation.

30 Section 35. Remedies preserved. This Act does not affect  
31 the right of any person to bring an action or use any remedy

1 available under other law, including common law, to recover  
2 damages arising out of the use of the victim of the sex trade  
3 in the sex trade nor does this Act limit or restrict the  
4 liability of any person under other law. This Act does not  
5 reflect a determination of a policy regarding the applicability  
6 of strict liability to activities relating to the sex trade.

7 Section 40. Double recovery prohibited. Any person who  
8 recovers damages under this Act may not recover the same costs  
9 or damages under any other Act. A person who recovers damages  
10 under any other Act may not recover for the same costs or  
11 damages under this Act.

12 Section 45. No avoidance of liability. No person may avoid  
13 liability under this Act by means of any conveyance of any  
14 right, title, or interest in real property, or by any  
15 indemnification, hold harmless agreement, or similar agreement  
16 that purports to show consent of the victim of the sex trade.

17 Section 55. Severability. If any provision of this Act or  
18 its application to any person or circumstance is held invalid,  
19 the invalidity of that provision or its application does not  
20 affect other provisions or application of this Act that can be  
21 given effect without the invalid provision or application.

22 Section 80. The Code of Civil Procedure is amended by  
23 adding Section 13-225 as follows:

24 (735 ILCS 5/13-225 new)

25 Sec. 13-225. Predator accountability.

26 (a) In this Section, "sex trade" and "victim of the sex  
27 trade" have the meanings ascribed to them in Section 10 of the  
28 Predator Accountability Act.

29 (b) Subject to both subsections (e) and (f) and

1 notwithstanding any other provision of law, an action under the  
2 Predator Accountability Act must be commenced within 10 years  
3 of the date the limitation period begins to run under  
4 subsection (d) or within 10 years of the date the plaintiff  
5 discovers or through the use of reasonable diligence should  
6 discover both (i) that the sex trade act occurred, and (ii)  
7 that the defendant caused, was responsible for, or profited  
8 from the sex trade act. The fact that the plaintiff discovers  
9 or through the use of reasonable diligence should discover that  
10 the sex trade act occurred is not, by itself, sufficient to  
11 start the discovery period under this subsection (b).

12 (c) If the injury is caused by 2 or more acts that are part  
13 of a continuing series of sex trade acts by the same defendant,  
14 then the discovery period under subsection (b) shall be  
15 computed from the date the person abused discovers or through  
16 the use of reasonable diligence should discover (i) that the  
17 last sex trade act in the continuing series occurred, and (ii)  
18 that the defendant caused, was responsible for, or profited  
19 from the series of sex trade acts. The fact that the plaintiff  
20 discovers or through the use of reasonable diligence should  
21 discover that the last sex trade act in the continuing series  
22 occurred is not, by itself, sufficient to start the discovery  
23 period under subsection (b).

24 (d) The limitation periods in subsection (b) do not begin  
25 to run before the plaintiff attains the age of 18 years; and,  
26 if at the time the plaintiff attains the age of 18 years he or  
27 she is under other legal disability, the limitation periods  
28 under subsection (b) do not begin to run until the removal of  
29 the disability.

30 (e) The limitation periods in subsection (b) do not run  
31 during a time period when the plaintiff is subject to threats,  
32 intimidation, manipulation, or fraud perpetrated by the  
33 defendant or by any person acting in the interest of the  
34 defendant.

1       (f) The limitation periods in subsection (b) do not  
2       commence running until the expiration of all limitations  
3       periods applicable to the criminal prosecution of the plaintiff  
4       for any acts which form the basis of a cause of action under  
5       the Predator Accountability Act.

6       Section 99. Effective date. This Act takes effect upon  
7       becoming law.".