

AN ACT concerning criminal law.

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

Section 5. The Criminal Code of 1961 is amended by adding Article 10A as follows:

(720 ILCS 5/Art. 10A heading new)

ARTICLE 10A. TRAFFICKING OF PERSONS AND INVOLUNTARY SERVITUDE

(720 ILCS 5/10A-5 new)

Sec. 10A-5. Definitions. In this Article:

(1) "Intimidation" has the meaning prescribed in Section 12-6.

(2) "Commercial sexual activity" means any sex act on account of which anything of value is given, promised to, or received by any person.

(3) "Financial harm" includes intimidation that brings about financial loss, criminal usury, or employment contracts that violate the Frauds Act.

(4) "Forced labor or services" means labor or services that are performed or provided by another person and are obtained or maintained through:

(A) any scheme, plan, or pattern intending to cause or threatening to cause serious harm to any person;

(B) an actor's physically restraining or threatening to physically restrain another person;

(C) an actor's abusing or threatening to abuse the law or legal process;

(D) an actor's knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person;

(E) an actor's blackmail; or

(F) an actor's causing or threatening to cause financial harm to or exerting financial control over any person.

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

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

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

(8) "Services" means a relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor. Commercial sexual activity and sexually-explicit performances are forms of "services" under this Section. Nothing in this provision should be construed to legitimize or legalize prostitution.

(9) "Sexually-explicit performance" means a live, recorded, broadcast (including over the Internet) or public act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons.

(10) "Trafficking victim" means a person subjected to the practices set forth in subsection (a) of Section 10A-10 (involuntary servitude) or subsection (b) of Section 10A-10 (sexual servitude of a minor), or transported in violation of subsection (c) of Section 10A-10 (trafficking of persons for forced labor or services).

(720 ILCS 5/10A-10 new)

Sec. 10A-10. Criminal provisions.

(a) Involuntary servitude. Whoever knowingly subjects, attempts to subject, or engages in a conspiracy to subject another person to forced labor or services shall be punished as follows, subject to subsection (d):

(1) by causing or threatening to cause physical harm to any person, is guilty of a Class X felony;

(2) by physically restraining or threatening to physically restrain another person, is guilty of a Class 1 felony;

(3) by abusing or threatening to abuse the law or legal process, is guilty of a Class 2 felony;

(4) by knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person, is guilty of a Class 3 felony;

(5) by using intimidation, or using or threatening to cause financial harm to or by exerting financial control over any person, is guilty of a Class 4 felony.

(b) Involuntary servitude of a minor. Whoever knowingly recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, provide, or obtain by any means, another person under 18 years of age, knowing that the minor will engage in commercial sexual activity, a sexually-explicit performance, or the production of pornography, or causes or attempts to cause a minor to engage in commercial sexual activity, a sexually-explicit performance, or the production of pornography, shall be punished as follows, subject to the provisions of subsection (d):

(1) In cases involving a minor between the ages of 17 and 18 years, not involving overt force or threat, the defendant is guilty of a Class 1 felony.

(2) In cases in which the minor had not attained the age of 17 years, not involving overt force or threat, the defendant is guilty of a Class X felony.

(3) In cases in which the violation involved overt force or threat, the defendant is guilty of a Class X felony.

(c) Trafficking of persons for forced labor or services. Whoever knowingly: (1) recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit,

entice, harbor, transport, provide, or obtain by any means, another person, intending or knowing that the person will be subjected to forced labor or services; or (2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraphs (a) or (b) of this Section, subject to the provisions of subsection (d), is guilty of a Class 1 felony.

(d) Sentencing enhancements.

(1) Statutory maximum; sexual assault and extreme violence. If the violation of this Article involves kidnapping or an attempt to kidnap, aggravated criminal sexual assault or the attempt to commit aggravated criminal sexual assault, or an attempt to commit first degree murder, the defendant is guilty of a Class X felony.

(2) Sentencing considerations within statutory maximums.

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

(B) Number of victims. In determining sentences within statutory maximums, the sentencing court should take into account the number of victims, and may provide for substantially-increased sentences in cases involving more than 10 victims.

(e) Restitution. Restitution is mandatory under this Article. In addition to any other amount of loss identified, the court shall order restitution including the greater of (1) the gross income or value to the defendant of the victim's

labor or services or (2) the value of the victim's labor as guaranteed under the Minimum Wage Law and overtime provisions of the Fair Labor Standards Act (FLSA) or the Minimum Wage Law, whichever is greater.

(f) Trafficking victim services. Subject to the availability of funds, the Department of Human Services may provide or fund emergency services and assistance to individuals who are victims of one or more offenses defined in this Article 10A.

(720 ILCS 5/10A-15 new)

Sec. 10A-15. Forfeitures.

(a) A person who commits the offense of involuntary servitude, involuntary servitude of a minor, or trafficking of persons for forced labor or services under Section 10A-10 of this Code shall forfeit to the State of Illinois any profits or proceeds and any interest or property he or she has acquired or maintained in violation of Section 10A-10 of this Code that the sentencing court determines, after a forfeiture hearing, to have been acquired or maintained as a result of maintaining a person in involuntary servitude or participating in trafficking in persons for forced labor or services.

(b) The court shall, upon petition by the Attorney General or State's Attorney at any time following sentencing, conduct a hearing to determine whether any property or property interest is subject to forfeiture under this Section. At the forfeiture hearing the people shall have the burden of establishing, by a preponderance of the evidence, that property or property interests are subject to forfeiture under this Section.

(c) In any action brought by the People of the State of Illinois under this Section, wherein any restraining order, injunction, or prohibition or any other action in connection with any property or interest subject to forfeiture under this Section is sought, the circuit court presiding over the trial of the person or persons charged with involuntary servitude, involuntary servitude of a minor, or trafficking in persons for

forced labor or services shall first determine whether there is probable cause to believe that the person or persons so charged have committed the offense of involuntary servitude, involuntary servitude of a minor, or trafficking in persons for forced labor or services and whether the property or interest is subject to forfeiture pursuant to this Section. In order to make such a determination, prior to entering any such order, the court shall conduct a hearing without a jury, wherein the People shall establish that there is: (i) probable cause that the person or persons so charged have committed the offense of involuntary servitude, involuntary servitude of a minor, or trafficking in persons for forced labor or services and (ii) probable cause that any property or interest may be subject to forfeiture pursuant to this Section. The hearing may be conducted simultaneously with a preliminary hearing, if the prosecution is commenced by information or complaint, or by motion of the People, at any stage in the proceedings. The court may accept a finding of probable cause at a preliminary hearing following the filing of an information charging the offense of involuntary servitude, involuntary servitude of a minor, or trafficking in persons for forced labor or services or the return of an indictment by a grand jury charging the offense of involuntary servitude, involuntary servitude of a minor, or trafficking in persons for forced labor or services as sufficient evidence of probable cause as provided in item (i) of this subsection (c). Upon such a finding, the circuit court shall enter such restraining order, injunction or prohibition, or shall take such other action in connection with any such property or other interest subject to forfeiture, as is necessary to insure that such property is not removed from the jurisdiction of the court, concealed, destroyed, or otherwise disposed of by the owner of that property or interest prior to a forfeiture hearing under this Section. The Attorney General or State's Attorney shall file a certified copy of the restraining order, injunction, or other prohibition with the recorder of deeds or registrar of titles of each county where

any such property of the defendant may be located. No such injunction, restraining order, or other prohibition shall affect the rights of any bona fide purchaser, mortgagee, judgment creditor, or other lien holder arising prior to the date of such filing. The court may, at any time, upon verified petition by the defendant or an innocent owner or innocent bona fide third party lien holder who neither had knowledge of, nor consented to, the illegal act or omission, conduct a hearing to release all or portions of any such property or interest that the court previously determined to be subject to forfeiture or subject to any restraining order, injunction, or prohibition or other action. The court may release such property to the defendant or innocent owner or innocent bona fide third party lien holder who neither had knowledge of, nor consented to, the illegal act or omission for good cause shown and within the sound discretion of the court.

(d) Upon conviction of a person of involuntary servitude, involuntary servitude of a minor, or trafficking in persons for forced labor or services, the court shall authorize the Attorney General to seize all property or other interest declared forfeited under this Section upon such terms and conditions as the court shall deem proper.

(e) All monies forfeited and the sale proceeds of all other property forfeited and seized under this Section shall be distributed as follows:

(1) one-half shall be divided equally among all State agencies and units of local government whose officers or employees conducted the investigation that resulted in the forfeiture; and

(2) one-half shall be deposited into the Violent Crime Victims Assistance Fund and targeted to services for victims of the offenses of involuntary servitude, involuntary servitude of a minor, and trafficking of persons for forced labor or services.

Sec. 10A-20. Certification. The Attorney General, State's Attorneys, or any law enforcement official shall certify in writing to the United States Department of Justice or other federal agency, such as the United States Department of Homeland Security, that an investigation or prosecution under this Article 10A has begun and the individual who is a likely victim of a crime described in this Article 10A is willing to cooperate or is cooperating with the investigation to enable the individual, if eligible under federal law, to qualify for an appropriate special immigrant visa and to access available federal benefits. Cooperation with law enforcement shall not be required of victims of a crime described in this Article 10A who are under 18 years of age. This certification shall be made available to the victim and his or her designated legal representative.