



Sen. Toi W. Hutchinson

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09700SB1037sam001

LRB097 04762 RLC 54305 a

1 AMENDMENT TO SENATE BILL 1037

2 AMENDMENT NO. _____. Amend Senate Bill 1037 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Criminal Procedure of 1963 is
5 amended by adding Section 116-2.1 as follows:

6 (725 ILCS 5/116-2.1 new)

7 Sec. 116-2.1. Motion to vacate prostitution convictions
8 for sex trafficking victims.

9 (a) A motion under this Section may be filed at any time
10 following the entry of a verdict or finding of guilty where the
11 conviction was under Section 11-14 (prostitution) or Section
12 11-14.2 (first offender; felony prostitution) of the Criminal
13 Code of 1961 or a similar local ordinance and the defendant's
14 participation in the offense was a result of having been a
15 trafficking victim under Section 10-9 (involuntary servitude,
16 involuntary sexual servitude of a minor, or trafficking in

1 persons for forced labor or services) of the Criminal Code of
2 1961; or a victim of a severe form of trafficking under the
3 federal Trafficking Victims Protection Act (22 U.S.C. Section
4 7102(13)); provided that:

5 (1) a motion under this Section shall state why the
6 facts giving rise to this motion were not presented to the
7 trial court, and shall be made with due diligence, after
8 the defendant has ceased to be a victim of such trafficking
9 or has sought services for victims of such trafficking,
10 subject to reasonable concerns for the safety of the
11 defendant, family members of the defendant, or other
12 victims of such trafficking that may be jeopardized by the
13 bringing of such motion, or for other reasons consistent
14 with the purpose of this Section; and

15 (2) reasonable notice of the motion shall be served
16 upon the State.

17 (b) The court may grant the motion if, in the discretion of
18 the court, the violation was a result of the defendant having
19 been a victim of human trafficking. Evidence of such may
20 include, but is not limited to:

21 (1) certified records of federal or State court
22 proceedings which demonstrate that the defendant was a
23 victim of a trafficker charged with a trafficking offense
24 under Section 10-9 of the Criminal Code of 1961 or under 22
25 U.S.C. Chapter 78;

26 (2) certified records of "approval notices" or "law

1 enforcement certifications" generated from federal
2 immigration proceedings available to such victims; or

3 (3) a sworn statement from a trained professional staff
4 of a victim services organization, an attorney, a member of
5 the clergy, or a medical or other professional from whom
6 the defendant has sought assistance in addressing the
7 trauma associated with being trafficked.

8 Alternatively, the court may consider such other evidence
9 as it deems of sufficient credibility and probative value in
10 determining whether the defendant is a trafficking victim or
11 victim of a severe form of trafficking.

12 (c) If the court grants a motion under this Section, it
13 must vacate the conviction and may take such additional action
14 as is appropriate in the circumstances."