



Rep. Ann M. Williams

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10000HB2843ham001

LRB100 09542 SLF 24101 a

1 AMENDMENT TO HOUSE BILL 2843

2 AMENDMENT NO. _____. Amend House Bill 2843 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 changing Section 116-2.1 as follows:

6 (725 ILCS 5/116-2.1)

7 Sec. 116-2.1. Motion to vacate ~~prostitution~~ convictions
8 for human 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 of an
11 offense ~~where the conviction was under Section 11-14~~
12 ~~(prostitution) or Section 11-14.2 (first offender; felony~~
13 ~~prostitution) of the Criminal Code of 1961 or the Criminal Code~~
14 ~~of 2012 or a similar local ordinance~~ and the movant's
15 ~~defendant's~~ participation in the offense was a result of having
16 been a trafficking victim under Section 10-9 (involuntary

1 servitude, involuntary sexual servitude of a minor, or
2 trafficking in persons) of the Criminal Code of 1961 or the
3 Criminal Code of 2012; or a victim of a severe form of
4 trafficking under the federal Trafficking Victims Protection
5 Act (22 U.S.C. Section 7102(13)). The motion shall comply with
6 subsection (a-5) or (a-7) of this Section, whichever is
7 applicable. ~~provided that:~~

8 (a-5) For motions to vacate a conviction under Section
9 11-14 (prostitution) or Section 11-14.2 (first offender;
10 felony prostitution) of the Criminal Code of 1961 or the
11 Criminal Code of 2012 or a similar local ordinance:

12 (1) ~~The a~~ motion under this Section shall state why the
13 facts giving rise to this motion were not presented to the
14 trial court, and shall be made with due diligence, after
15 the movant defendant has ceased to be a victim of ~~such~~
16 trafficking or has sought services for victims of such
17 trafficking, subject to reasonable concerns for the safety
18 of the movant defendant, family members of the movant
19 ~~defendant~~, or other victims of such trafficking that may be
20 jeopardized by the bringing of the ~~such~~ motion, or for
21 other reasons consistent with the purpose of this Section.

22 ~~;~~ and

23 (2) Reasonable ~~reasonable~~ notice of the motion shall be
24 served upon the State.

25 (3) The court may grant the motion if, in the
26 discretion of the court, the violation was a result of the

1 movant having been a victim of human trafficking.

2 (a-7) For a motion to vacate a conviction under any other
3 provision of the Criminal Code of 1961 or the Criminal Code of
4 2012 except offenses in subsection (a-5) of this Section:

5 (1) The motion shall be supported by affidavit or other
6 appropriate showing as to matters not of record and shall
7 be served upon the State with reasonable notice.

8 (2) The court shall grant a motion under this
9 subsection (a-7) if the movant establishes, by clear and
10 convincing evidence, that:

11 (A) the movant was a victim of human trafficking or
12 involuntary servitude as defined in Section 10-9 of the
13 Criminal Code of 2012 or 22 U.S.C. Chapter 78, on the
14 date of the offense for which he or she has been
15 convicted;

16 (B) the movant did not raise the facts giving rise
17 to this motion at trial because at the time of trial he
18 or she was a victim of human trafficking or involuntary
19 servitude as defined under as defined by Section 10-9
20 of the Criminal Code of 2012 or 22 U.S.C. Chapter 78;

21 (C) the movant's participation in the offense for
22 which he or she was convicted was as a direct result of
23 human trafficking as defined by Section 10-9 of the
24 Criminal Code of 2012 or 22 U.S.C. Chapter 78; and

25 (D) the movant exercised due diligence in bringing
26 the motion after he or she ceased to be a victim of

1 human trafficking or has sought services for victims of
2 trafficking, subject to reasonable concerns for the
3 safety of the movant, family members of the movant, or
4 other victims of trafficking that may be jeopardized by
5 the bringing of a motion, or for other reasons
6 consistent with the purpose of this Section.

7 (3) Notwithstanding this Section, the Court shall not
8 vacate a conviction under paragraph (1) or (2) of
9 subsection (a) of Section 9-1 of the Criminal Code of 1961
10 or the Criminal Code of 2012.

11 (b) For the purposes of this Section, evidence of the
12 movant having been a victim of human trafficking ~~The court may~~
13 ~~grant the motion if, in the discretion of the court, the~~
14 ~~violation was a result of the defendant having been a victim of~~
15 ~~human trafficking. Evidence of such~~ may include, but is not
16 limited to:

17 (1) certified records of federal or State court
18 proceedings which demonstrate that the movant ~~defendant~~
19 was a victim of a trafficker charged with a trafficking
20 offense under Section 10-9 of the Criminal Code of 1961 or
21 the Criminal Code of 2012, or under 22 U.S.C. Chapter 78;

22 (2) certified records of "approval notices" or "law
23 enforcement certifications" generated from federal
24 immigration proceedings available to the ~~such~~ victims; or

25 (3) a sworn statement from a trained professional staff
26 of a victim services organization, an attorney, a member of

1 the clergy, or a medical or other professional from whom
2 the movant ~~defendant~~ has sought assistance in addressing
3 the trauma associated with being trafficked.

4 Alternatively, the court may consider such other evidence
5 as it deems of sufficient credibility and probative value in
6 determining whether the movant ~~defendant~~ is a trafficking
7 victim or victim of a severe form of trafficking.

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

11 (Source: P.A. 97-267, eff. 1-1-12; 97-897, eff. 1-1-13;
12 97-1150, eff. 1-25-13.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.".