



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3629

by Rep. Jay Hoffman

SYNOPSIS AS INTRODUCED:

See Index

Amends the Criminal Code of 2012. Provides that when the victim is under 18 years of age at the time of the offense, a prosecution for involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons and related offenses may be commenced within 25 years (rather than one year) of the victim attaining the age of 18 years. Provides that involuntary sexual servitude of a minor is a Class X felony for which the person shall be sentenced to a minimum term of imprisonment of 25 years if the person under 18 years of age who is the victim of the offense has engaged in commercial sexual activity, a sexually-explicit performance, or the production of pornography. Provides that involuntary sexual servitude of a minor is a Class X felony for which the person shall be sentenced to a minimum term of imprisonment of 10 years if the person under 18 years of age has not engaged in the prohibited activities. Provides for the same penalty for trafficking in persons and involuntary servitude if the victim of the offense was under 18 years of age. Amends the Code of Civil Procedure. Includes in the definition of "childhood sexual abuse" human trafficking violation in which a person under 18 years of age was a victim. Provides that notwithstanding any other provision of law, an action for damages for personal injury based on childhood sexual abuse may be commenced at any time.

LRB100 08999 RLC 19145 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning human trafficking.

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

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Sections 3-6 and 10-9 as follows:

6 (720 ILCS 5/3-6) (from Ch. 38, par. 3-6)

7 Sec. 3-6. Extended limitations. The period within which a
8 prosecution must be commenced under the provisions of Section
9 3-5 or other applicable statute is extended under the following
10 conditions:

11 (a) A prosecution for theft involving a breach of a
12 fiduciary obligation to the aggrieved person may be commenced
13 as follows:

14 (1) If the aggrieved person is a minor or a person
15 under legal disability, then during the minority or legal
16 disability or within one year after the termination
17 thereof.

18 (2) In any other instance, within one year after the
19 discovery of the offense by an aggrieved person, or by a
20 person who has legal capacity to represent an aggrieved
21 person or has a legal duty to report the offense, and is
22 not himself or herself a party to the offense; or in the
23 absence of such discovery, within one year after the proper

1 prosecuting officer becomes aware of the offense. However,
2 in no such case is the period of limitation so extended
3 more than 3 years beyond the expiration of the period
4 otherwise applicable.

5 (b) A prosecution for any offense based upon misconduct in
6 office by a public officer or employee may be commenced within
7 one year after discovery of the offense by a person having a
8 legal duty to report such offense, or in the absence of such
9 discovery, within one year after the proper prosecuting officer
10 becomes aware of the offense. However, in no such case is the
11 period of limitation so extended more than 3 years beyond the
12 expiration of the period otherwise applicable.

13 (b-5) When the victim is under 18 years of age at the time
14 of the offense, a prosecution for involuntary servitude,
15 involuntary sexual servitude of a minor, or trafficking in
16 persons and related offenses under Section 10-9 of this Code
17 may be commenced within 25 years ~~one year~~ of the victim
18 attaining the age of 18 years. ~~However, in no such case shall~~
19 ~~the time period for prosecution expire sooner than 3 years~~
20 ~~after the commission of the offense.~~

21 (c) (Blank).

22 (d) A prosecution for child pornography, aggravated child
23 pornography, indecent solicitation of a child, soliciting for a
24 juvenile prostitute, juvenile pimping, exploitation of a
25 child, or promoting juvenile prostitution except for keeping a
26 place of juvenile prostitution may be commenced within one year

1 of the victim attaining the age of 18 years. However, in no
2 such case shall the time period for prosecution expire sooner
3 than 3 years after the commission of the offense. When the
4 victim is under 18 years of age, a prosecution for criminal
5 sexual abuse may be commenced within one year of the victim
6 attaining the age of 18 years. However, in no such case shall
7 the time period for prosecution expire sooner than 3 years
8 after the commission of the offense.

9 (e) Except as otherwise provided in subdivision (j), a
10 prosecution for any offense involving sexual conduct or sexual
11 penetration, as defined in Section 11-0.1 of this Code, where
12 the defendant was within a professional or fiduciary
13 relationship or a purported professional or fiduciary
14 relationship with the victim at the time of the commission of
15 the offense may be commenced within one year after the
16 discovery of the offense by the victim.

17 (f) A prosecution for any offense set forth in Section 44
18 of the "Environmental Protection Act", approved June 29, 1970,
19 as amended, may be commenced within 5 years after the discovery
20 of such an offense by a person or agency having the legal duty
21 to report the offense or in the absence of such discovery,
22 within 5 years after the proper prosecuting officer becomes
23 aware of the offense.

24 (f-5) A prosecution for any offense set forth in Section
25 16-30 of this Code may be commenced within 5 years after the
26 discovery of the offense by the victim of that offense.

1 (g) (Blank).

2 (h) (Blank).

3 (i) Except as otherwise provided in subdivision (j), a
4 prosecution for criminal sexual assault, aggravated criminal
5 sexual assault, or aggravated criminal sexual abuse may be
6 commenced within 10 years of the commission of the offense if
7 the victim reported the offense to law enforcement authorities
8 within 3 years after the commission of the offense.

9 Nothing in this subdivision (i) shall be construed to
10 shorten a period within which a prosecution must be commenced
11 under any other provision of this Section.

12 (i-5) A prosecution for armed robbery, home invasion,
13 kidnapping, or aggravated kidnaping may be commenced within 10
14 years of the commission of the offense if it arises out of the
15 same course of conduct and meets the criteria under one of the
16 offenses in subsection (i) of this Section.

17 (j) (1) When the victim is under 18 years of age at the
18 time of the offense, a prosecution for criminal sexual assault,
19 aggravated criminal sexual assault, predatory criminal sexual
20 assault of a child, aggravated criminal sexual abuse, or felony
21 criminal sexual abuse may be commenced at any time when
22 corroborating physical evidence is available or an individual
23 who is required to report an alleged or suspected commission of
24 any of these offenses under the Abused and Neglected Child
25 Reporting Act fails to do so.

26 (2) In circumstances other than as described in paragraph

1 (1) of this subsection (j), when the victim is under 18 years
2 of age at the time of the offense, a prosecution for criminal
3 sexual assault, aggravated criminal sexual assault, predatory
4 criminal sexual assault of a child, aggravated criminal sexual
5 abuse, or felony criminal sexual abuse, or a prosecution for
6 failure of a person who is required to report an alleged or
7 suspected commission of any of these offenses under the Abused
8 and Neglected Child Reporting Act may be commenced within 20
9 years after the child victim attains 18 years of age.

10 (3) When the victim is under 18 years of age at the time of
11 the offense, a prosecution for misdemeanor criminal sexual
12 abuse may be commenced within 10 years after the child victim
13 attains 18 years of age.

14 (4) Nothing in this subdivision (j) shall be construed to
15 shorten a period within which a prosecution must be commenced
16 under any other provision of this Section.

17 (j-5) A prosecution for armed robbery, home invasion,
18 kidnapping, or aggravated kidnaping may be commenced at any
19 time if it arises out of the same course of conduct and meets
20 the criteria under one of the offenses in subsection (j) of
21 this Section.

22 (k) (Blank).

23 (l) A prosecution for any offense set forth in Section 26-4
24 of this Code may be commenced within one year after the
25 discovery of the offense by the victim of that offense.

26 (Source: P.A. 98-293, eff. 1-1-14; 98-379, eff. 1-1-14; 98-756,

1 eff. 7-16-14; 99-234, eff. 8-3-15; 99-820, eff. 8-15-16.)

2 (720 ILCS 5/10-9)

3 Sec. 10-9. Trafficking in persons, involuntary servitude,
4 and related offenses.

5 (a) Definitions. In this Section:

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

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

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

14 (4) (Blank).

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

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

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

22 (7.5) "Serious harm" means any harm, whether physical
23 or nonphysical, including psychological, financial, or
24 reputational harm, that is sufficiently serious, under all
25 the surrounding circumstances, to compel a reasonable

1 person of the same background and in the same circumstances
2 to perform or to continue performing labor or services in
3 order to avoid incurring that harm.

4 (8) "Services" means activities resulting from a
5 relationship between a person and the actor in which the
6 person performs activities under the supervision of or for
7 the benefit of the actor. Commercial sexual activity and
8 sexually-explicit performances are forms of activities
9 that are "services" under this Section. Nothing in this
10 definition may be construed to legitimize or legalize
11 prostitution.

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

16 (10) "Trafficking victim" means a person subjected to
17 the practices set forth in subsection (b), (c), or (d).

18 (b) Involuntary servitude. A person commits involuntary
19 servitude when he or she knowingly subjects, attempts to
20 subject, or engages in a conspiracy to subject another person
21 to labor or services obtained or maintained through any of the
22 following means, or any combination of these means:

23 (1) causes or threatens to cause physical harm to any
24 person;

25 (2) physically restrains or threatens to physically
26 restrain another person;

1 (3) abuses or threatens to abuse the law or legal
2 process;

3 (4) knowingly destroys, conceals, removes,
4 confiscates, or possesses any actual or purported passport
5 or other immigration document, or any other actual or
6 purported government identification document, of another
7 person;

8 (5) uses intimidation, or exerts financial control
9 over any person; or

10 (6) uses any scheme, plan, or pattern intended to cause
11 the person to believe that, if the person did not perform
12 the labor or services, that person or another person would
13 suffer serious harm or physical restraint.

14 Sentence. Except as otherwise provided in subsection (e) or
15 (f), a violation of subsection (b) (1) is a Class X felony,
16 (b) (2) is a Class 1 felony, (b) (3) is a Class 2 felony, (b) (4)
17 is a Class 3 felony, (b) (5) and (b) (6) is a Class 4 felony. If
18 the victim of the offense is under 18 years of age at the time
19 of the commission of the offense, the sentence shall be the
20 same as the sentence for involuntary sexual servitude of a
21 minor.

22 (c) Involuntary sexual servitude of a minor. A person
23 commits involuntary sexual servitude of a minor when he or she
24 knowingly recruits, entices, harbors, transports, provides, or
25 obtains by any means, or attempts to recruit, entice, harbor,
26 provide, or obtain by any means, another person under 18 years

1 of age, knowing that the minor will engage in commercial sexual
2 activity, a sexually-explicit performance, or the production
3 of pornography, or causes or attempts to cause a minor to
4 engage in one or more of those activities and:

5 (1) there is no overt force or threat and the minor is
6 between the ages of 17 and 18 years;

7 (2) there is no overt force or threat and the minor is
8 under the age of 17 years; or

9 (3) there is overt force or threat.

10 Sentence. Involuntary sexual servitude of a minor is a
11 Class X felony for which the person shall be sentenced to a
12 minimum term of imprisonment of 25 years if the person under 18
13 years of age who is the victim of the offense has engaged in
14 commercial sexual activity, a sexually-explicit performance,
15 or the production of pornography. Involuntary sexual servitude
16 of a minor is a Class X felony for which the person shall be
17 sentenced to a minimum term of imprisonment of 10 years if the
18 person under 18 years of age is recruited, enticed, harbored,
19 transported, provided, or obtained by any means, or if there
20 was an attempt to recruit, entice, harbor, provide, or obtain
21 by any means, another person under 18 years of age, knowing
22 that the minor will engage in commercial sexual activity, a
23 sexually-explicit performance, or the production of
24 pornography, or causes or attempts to cause a minor to engage
25 in one or more of those activities but the minor has not
26 engaged in one or more of those activities.~~Except as otherwise~~

1 ~~provided in subsection (e) or (f), a violation of subsection~~
2 ~~(e) (1) is a Class 1 felony, (e) (2) is a Class X felony, and~~
3 ~~(e) (3) is a Class X felony.~~

4 (d) Trafficking in persons. A person commits trafficking in
5 persons when he or she knowingly: (1) recruits, entices,
6 harbors, transports, provides, or obtains by any means, or
7 attempts to recruit, entice, harbor, transport, provide, or
8 obtain by any means, another person, intending or knowing that
9 the person will be subjected to involuntary servitude; or (2)
10 benefits, financially or by receiving anything of value, from
11 participation in a venture that has engaged in an act of
12 involuntary servitude or involuntary sexual servitude of a
13 minor.

14 Sentence. Except as otherwise provided in this Section
15 ~~subsection (e) or (f)~~, a violation of this subsection is a
16 Class 1 felony. If the victim of the offense is under 18 years
17 of age at the time of the commission of the offense, the
18 sentence shall be the same as the sentence for involuntary
19 sexual servitude of a minor.

20 (e) Aggravating factors. A violation of this Section
21 involving kidnapping or an attempt to kidnap, aggravated
22 criminal sexual assault or an attempt to commit aggravated
23 criminal sexual assault, or an attempt to commit first degree
24 murder is a Class X felony.

25 (f) Sentencing considerations.

26 (1) Bodily injury. If, pursuant to a violation of this

1 Section, a victim suffered bodily injury, the defendant may
2 be sentenced to an extended-term sentence under Section
3 5-8-2 of the Unified Code of Corrections. The sentencing
4 court must take into account the time in which the victim
5 was held in servitude, with increased penalties for cases
6 in which the victim was held for between 180 days and one
7 year, and increased penalties for cases in which the victim
8 was held for more than one year.

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

14 (g) Restitution. Restitution is mandatory under this
15 Section. In addition to any other amount of loss identified,
16 the court shall order restitution including the greater of (1)
17 the gross income or value to the defendant of the victim's
18 labor or services or (2) the value of the victim's labor as
19 guaranteed under the Minimum Wage Law and overtime provisions
20 of the Fair Labor Standards Act (FLSA) or the Minimum Wage Law,
21 whichever is greater.

22 (g-5) Fine distribution. If the court imposes a fine under
23 subsection (b), (c), or (d) of this Section, it shall be
24 collected and distributed to the Specialized Services for
25 Survivors of Human Trafficking Fund in accordance with Section
26 5-9-1.21 of the Unified Code of Corrections.

1 (h) Trafficking victim services. Subject to the
2 availability of funds, the Department of Human Services may
3 provide or fund emergency services and assistance to
4 individuals who are victims of one or more offenses defined in
5 this Section.

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

21 (j) A person who commits involuntary servitude,
22 involuntary sexual servitude of a minor, or trafficking in
23 persons under subsection (b), (c), or (d) of this Section is
24 subject to the property forfeiture provisions set forth in
25 Article 124B of the Code of Criminal Procedure of 1963.

26 (Source: P.A. 97-897, eff. 1-1-13; 98-756, eff. 7-16-14;

1 98-1013, eff. 1-1-15.)

2 Section 10. The Code of Civil Procedure is amended by
3 changing Section 13-202.2 as follows:

4 (735 ILCS 5/13-202.2) (from Ch. 110, par. 13-202.2)

5 Sec. 13-202.2. Childhood sexual abuse.

6 (a) In this Section:

7 "Childhood sexual abuse" means an act of sexual abuse that
8 occurs when the person abused is under 18 years of age.
9 "Childhood sexual abuse" includes an act committed against a
10 victim under 18 years of age in violation of Section 10-9 of
11 the Criminal Code of 2012

12 "Sexual abuse" includes but is not limited to sexual
13 conduct and sexual penetration as defined in Section 11-0.1 of
14 the Criminal Code of 2012.

15 (b) Notwithstanding any other provision of law, an action
16 for damages for personal injury based on childhood sexual abuse
17 ~~may must~~ be commenced at any time ~~within 20 years of the date~~
18 ~~the limitation period begins to run under subsection (d) or~~
19 ~~within 20 years of the date the person abused discovers or~~
20 ~~through the use of reasonable diligence should discover both~~
21 ~~(i) that the act of childhood sexual abuse occurred and (ii)~~
22 ~~that the injury was caused by the childhood sexual abuse. The~~
23 ~~fact that the person abused discovers or through the use of~~
24 ~~reasonable diligence should discover that the act of childhood~~

1 ~~sexual abuse occurred is not, by itself, sufficient to start~~
2 ~~the discovery period under this subsection (b). Knowledge of~~
3 ~~the abuse does not constitute discovery of the injury or the~~
4 ~~causal relationship between any later discovered injury and~~
5 ~~the abuse.~~

6 (c) (Blank). ~~If the injury is caused by 2 or more acts of~~
7 ~~childhood sexual abuse that are part of a continuing series of~~
8 ~~acts of childhood sexual abuse by the same abuser, then the~~
9 ~~discovery period under subsection (b) shall be computed from~~
10 ~~the date the person abused discovers or through the use of~~
11 ~~reasonable diligence should discover both (i) that the last act~~
12 ~~of childhood sexual abuse in the continuing series occurred and~~
13 ~~(ii) that the injury was caused by any act of childhood sexual~~
14 ~~abuse in the continuing series. The fact that the person abused~~
15 ~~discovers or through the use of reasonable diligence should~~
16 ~~discover that the last act of childhood sexual abuse in the~~
17 ~~continuing series occurred is not, by itself, sufficient to~~
18 ~~start the discovery period under subsection (b). Knowledge of~~
19 ~~the abuse does not constitute discovery of the injury or the~~
20 ~~causal relationship between any later discovered injury and~~
21 ~~the abuse.~~

22 (d) (Blank). ~~The limitation periods under subsection (b) do~~
23 ~~not begin to run before the person abused attains the age of 18~~
24 ~~years; and, if at the time the person abused attains the age of~~
25 ~~18 years he or she is under other legal disability, the~~
26 ~~limitation periods under subsection (b) do not begin to run~~

1 ~~until the removal of the disability.~~

2 (d-1) (Blank). ~~The limitation periods in subsection (b) do~~
3 ~~not run during a time period when the person abused is subject~~
4 ~~to threats, intimidation, manipulation, or fraud perpetrated~~
5 ~~by the abuser or by any person acting in the interest of the~~
6 ~~abuser.~~

7 (e) (Blank). ~~This Section applies to actions pending on the~~
8 ~~effective date of this amendatory Act of 1990 as well as to~~
9 ~~actions commenced on or after that date. The changes made by~~
10 ~~this amendatory Act of 1993 shall apply only to actions~~
11 ~~commenced on or after the effective date of this amendatory Act~~
12 ~~of 1993. The changes made by this amendatory Act of the 93rd~~
13 ~~General Assembly apply to actions pending on the effective date~~
14 ~~of this amendatory Act of the 93rd General Assembly as well as~~
15 ~~actions commenced on or after that date. The changes made by~~
16 ~~this amendatory Act of the 96th General Assembly apply to~~
17 ~~actions commenced on or after the effective date of this~~
18 ~~amendatory Act of the 96th General Assembly if the action would~~
19 ~~not have been time barred under any statute of limitations or~~
20 ~~statute of repose prior to the effective date of this~~
21 ~~amendatory Act of the 96th General Assembly.~~

22 (f) (Blank). ~~Notwithstanding any other provision of law, an~~
23 ~~action for damages based on childhood sexual abuse may be~~
24 ~~commenced at any time; provided, however, that the changes made~~
25 ~~by this amendatory Act of the 98th General Assembly apply to~~
26 ~~actions commenced on or after the effective date of this~~

1 ~~amendatory Act of the 98th General Assembly if the action would~~
2 ~~not have been time barred under any statute of limitations or~~
3 ~~statute of repose prior to the effective date of this~~
4 ~~amendatory Act of the 98th General Assembly.~~

5 (Source: P.A. 97-1150, eff. 1-25-13; 98-276, eff. 1-1-14.)

1 INDEX

2 Statutes amended in order of appearance

3 720 ILCS 5/3-6 from Ch. 38, par. 3-6

4 720 ILCS 5/10-9

5 735 ILCS 5/13-202.2 from Ch. 110, par. 13-202.2