

# SB1704



## 100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1704

Introduced 2/9/2017, by Sen. Toi W. Hutchinson

### SYNOPSIS AS INTRODUCED:

725 ILCS 5/116-2.1

Amends the Code of Criminal Procedure of 1963. Eliminates convictions of prostitution and felony prostitution under the Criminal Code of 1961 or the Criminal Code of 2012 or a similar local ordinance from a provision permitting a motion to vacate the conviction. Effective immediately.

LRB100 09540 SLF 19706 b

A BILL FOR

1 AN ACT concerning criminal law.

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

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 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 the Criminal Code of 2012 or a similar local~~  
14 ~~ordinance and~~ the defendant's participation in the offense was  
15 a result of having been a trafficking victim under Section 10-9  
16 (involuntary servitude, involuntary sexual servitude of a  
17 minor, or trafficking in persons) of the Criminal Code of 1961  
18 or the Criminal Code of 2012; or a victim of a severe form of  
19 trafficking under the federal Trafficking Victims Protection  
20 Act (22 U.S.C. Section 7102(13)); provided that:

21 (1) a motion under this Section shall state why the  
22 facts giving rise to this motion were not presented to the  
23 trial court, and shall be made with due diligence, after

1 the defendant has ceased to be a victim of such trafficking  
2 or has sought services for victims of such trafficking,  
3 subject to reasonable concerns for the safety of the  
4 defendant, family members of the defendant, or other  
5 victims of such trafficking that may be jeopardized by the  
6 bringing of such motion, or for other reasons consistent  
7 with the purpose of this Section; and

8 (2) reasonable notice of the motion shall be served  
9 upon the State.

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

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

19 (2) certified records of "approval notices" or "law  
20 enforcement certifications" generated from federal  
21 immigration proceedings available to such victims; or

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

1           Alternatively, the court may consider such other evidence  
2           as it deems of sufficient credibility and probative value in  
3           determining whether the defendant is a trafficking victim or  
4           victim of a severe form of trafficking.

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

8           (Source: P.A. 97-267, eff. 1-1-12; 97-897, eff. 1-1-13;  
9           97-1150, eff. 1-25-13.)

10           Section 99. Effective date. This Act takes effect upon  
11           becoming law.