



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3108

Introduced 2/15/2018, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

735 ILCS 5/13-225
740 ILCS 128/1
740 ILCS 128/5
740 ILCS 128/10
740 ILCS 128/15
740 ILCS 128/20
740 ILCS 128/25
740 ILCS 128/45

Amends the Predator Accountability Act. Changes the short title of the Act to the Trafficking Victims Protection Act. Adds references to involuntary servitude and labor trafficking throughout the Act. Provides that a victim of involuntary servitude or labor trafficking has a cause of action against any person or entity who knowingly subjects, attempts to subject, or engages in a conspiracy to subject the victim to involuntary servitude or labor trafficking. Provides that the standard of proof in specified actions under the Act is a preponderance of the evidence. Provides that a legal guardian, family member, agent of the victim, court appointee, certain type of organization, or government entity responsible for enforcing the laws of this State may bring an action on behalf of a victim. Provides that it is not a defense to an action brought under the Act that a defendant has been acquitted or has not been investigated, arrested, prosecuted, or convicted under the Criminal Code of 2012 or has been convicted of a different offense for the conduct that is alleged to give rise to liability under the Act. Makes other changes, including corresponding changes in the Code of Civil Procedure.

LRB100 19512 HEP 34779 b

1 AN ACT concerning civil 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 Civil Procedure is amended by
5 changing Section 13-225 as follows:

6 (735 ILCS 5/13-225)

7 Sec. 13-225. Trafficking victims protection ~~Predator~~
8 ~~accountability~~.

9 (a) In this Section, "involuntary servitude", "labor
10 trafficking", "sex trade", and "victim of the sex trade" have
11 the meanings ascribed to them in Section 10 of the Trafficking
12 Victims Protection ~~Predator Accountability~~ Act.

13 (b) Subject to both subsections (e) and (f) and
14 notwithstanding any other provision of law, an action under the
15 Trafficking Victims Protection ~~Predator Accountability~~ Act
16 must be commenced within 10 years of the date the limitation
17 period begins to run under subsection (d) or within 10 years of
18 the date the plaintiff discovers or through the use of
19 reasonable diligence should discover both (i) that the sex
20 trade, involuntary servitude, or labor trafficking act
21 occurred, and (ii) that the defendant caused, was responsible
22 for, or profited from the sex trade, involuntary servitude, or
23 labor trafficking act. The fact that the plaintiff discovers or

1 through the use of reasonable diligence should discover that
2 the sex trade, involuntary servitude, or labor trafficking act
3 occurred is not, by itself, sufficient to start the discovery
4 period under this subsection (b).

5 (c) If the injury is caused by 2 or more acts that are part
6 of a continuing series of sex trade, involuntary servitude, or
7 labor trafficking acts by the same defendant, then the
8 discovery period under subsection (b) shall be computed from
9 the date the person abused discovers or through the use of
10 reasonable diligence should discover (i) that the last sex
11 trade, involuntary servitude, or labor trafficking act in the
12 continuing series occurred, and (ii) that the defendant caused,
13 was responsible for, or profited from the series of sex trade,
14 involuntary servitude, or labor trafficking acts. The fact that
15 the plaintiff discovers or through the use of reasonable
16 diligence should discover that the last sex trade, involuntary
17 servitude, or labor trafficking act in the continuing series
18 occurred is not, by itself, sufficient to start the discovery
19 period under subsection (b).

20 (d) The limitation periods in subsection (b) do not begin
21 to run before the plaintiff attains the age of 18 years; and,
22 if at the time the plaintiff attains the age of 18 years he or
23 she is under other legal disability, the limitation periods
24 under subsection (b) do not begin to run until the removal of
25 the disability.

26 (e) The limitation periods in subsection (b) do not run

1 during a time period when the plaintiff is subject to threats,
2 intimidation, manipulation, or fraud perpetrated by the
3 defendant or by any person acting in the interest of the
4 defendant.

5 (f) The limitation periods in subsection (b) do not
6 commence running until the expiration of all limitations
7 periods applicable to the criminal prosecution of the plaintiff
8 for any acts which form the basis of a cause of action under
9 the Trafficking Victims Protection ~~Predator Accountability~~
10 Act.

11 (Source: P.A. 94-998, eff. 7-3-06.)

12 Section 10. The Predator Accountability Act is amended by
13 changing Sections 1, 5, 10, 15, 20, 25, and 45 as follows:

14 (740 ILCS 128/1)

15 Sec. 1. Short title. This Act may be cited as the
16 Trafficking Victims Protection ~~Predator Accountability~~ Act.

17 (Source: P.A. 94-998, eff. 7-3-06.)

18 (740 ILCS 128/5)

19 Sec. 5. Purpose. The purpose of this Act is to allow
20 persons who have been or who are subjected to the sex trade,
21 involuntary servitude, or labor trafficking to seek civil
22 damages and remedies from individuals and entities that
23 recruited, harmed, profited from, or maintained them in the sex

1 trade or involuntary servitude or subjected them to labor
2 trafficking.

3 (Source: P.A. 94-998, eff. 7-3-06.)

4 (740 ILCS 128/10)

5 Sec. 10. Definitions. As used in this Act:

6 "Involuntary servitude" means any act in which a person
7 knowingly subjects, attempts to subject, or engages in a
8 conspiracy to subject another person to labor or services
9 obtained or maintained through any of the following means, or
10 any combination of these means:

11 (1) causes or threatens to cause physical harm to any
12 person;

13 (2) physically restrains or threatens to physically
14 restrain another person;

15 (3) abuses or threatens to abuse the law or legal
16 process;

17 (4) knowingly destroys, conceals, removes,
18 confiscates, or possesses any actual or purported passport
19 or other immigration document, or any other actual or
20 purported government identification document, of another
21 person;

22 (5) uses intimidation or exerts financial control over
23 any person; or

24 (6) uses any scheme, plan, or pattern intended to cause
25 the person to believe that if the person does not perform

1 the labor or services, that person or another person will
2 suffer serious harm or physical restraint.

3 "Labor trafficking" means any act in which a person or
4 entity knowingly (1) recruits, entices, harbors, transports,
5 provides, or obtains by any means, or attempts to recruit,
6 entice, harbor, transport, provide, or obtain by any means,
7 another person, intending or knowing that the person will be
8 subjected to involuntary servitude; or (2) benefits
9 financially or by receiving anything of value from
10 participating in a venture that has engaged in an act of
11 involuntary servitude.

12 "Sex trade" means ~~any act, which if proven beyond a~~
13 ~~reasonable doubt could support a conviction for~~ a violation or
14 attempted violation of any of the following Sections of the
15 Criminal Code of 1961 or the Criminal Code of 2012: 11-14.3
16 (promoting prostitution); 11-14.4 (promoting juvenile
17 prostitution); 11-15 (soliciting for a prostitute); 11-15.1
18 (soliciting for a juvenile prostitute); 11-16 (pandering);
19 11-17 (keeping a place of prostitution); 11-17.1 (keeping a
20 place of juvenile prostitution); 11-19 (pimping); 11-19.1
21 (juvenile pimping and aggravated juvenile pimping); 11-19.2
22 (exploitation of a child); 11-20 (obscenity); 11-20.1 (child
23 pornography); ~~or~~ 11-20.1B or 11-20.3 (aggravated child
24 pornography); or subsection (c) of Section 10-9 (~~trafficking in~~
25 ~~persons and~~ involuntary sexual servitude of a minor).

26 "Sex trade" activity may involve adults and youth of all

1 genders and sexual orientations.

2 "Victim of the sex trade" means, for the following sex
3 trade acts, the person or persons indicated:

4 (1) soliciting for a prostitute: the prostitute who is
5 the object of the solicitation;

6 (2) soliciting for a juvenile prostitute: the juvenile
7 prostitute, or person with a severe or profound
8 intellectual disability, who is the object of the
9 solicitation;

10 (3) promoting prostitution as described in subdivision
11 (a) (2) (A) or (a) (2) (B) of Section 11-14.3 of the Criminal
12 Code of 1961 or the Criminal Code of 2012, or pandering:
13 the person intended or compelled to act as a prostitute;

14 (4) keeping a place of prostitution: any person
15 intended or compelled to act as a prostitute, while present
16 at the place, during the time period in question;

17 (5) keeping a place of juvenile prostitution: any
18 juvenile intended or compelled to act as a prostitute,
19 while present at the place, during the time period in
20 question;

21 (6) promoting prostitution as described in subdivision
22 (a) (2) (C) of Section 11-14.3 of the Criminal Code of 1961
23 or the Criminal Code of 2012, or pimping: the prostitute
24 from whom anything of value is received;

25 (7) promoting juvenile prostitution as described in
26 subdivision (a) (2) or (a) (3) of Section 11-14.4 of the

1 Criminal Code of 1961 or the Criminal Code of 2012, or
2 juvenile pimping and aggravated juvenile pimping: the
3 juvenile, or person with a severe or profound intellectual
4 disability, from whom anything of value is received for
5 that person's act of prostitution;

6 (8) promoting juvenile prostitution as described in
7 subdivision (a) (4) of Section 11-14.4 of the Criminal Code
8 of 1961 or the Criminal Code of 2012, or exploitation of a
9 child: the juvenile, or person with a severe or profound
10 intellectual disability, intended or compelled to act as a
11 prostitute or from whom anything of value is received for
12 that person's act of prostitution;

13 (9) obscenity: any person who appears in or is
14 described or depicted in the offending conduct or material;

15 (10) child pornography or aggravated child
16 pornography: any child, or person with a severe or profound
17 intellectual disability, who appears in or is described or
18 depicted in the offending conduct or material; or

19 (11) ~~trafficking of persons or involuntary sexual~~
20 ~~servitude of a minor: a "trafficking victim"~~ as defined in
21 subsection (c) of Section 10-9 of the Criminal Code of 1961
22 or the Criminal Code of 2012.

23 (Source: P.A. 99-143, eff. 7-27-15.)

24 (740 ILCS 128/15)

25 Sec. 15. Cause of action.

1 (a) A victim of the sex trade, involuntary servitude, or
2 labor trafficking may bring an action in civil court under this
3 Act ~~Violations of this Act are actionable in civil court.~~

4 (a-1) A legal guardian, agent of the victim, court
5 appointee, or organization that represents the interests of or
6 serves victims may bring a cause of action on behalf of a
7 victim. An action may also be brought by a government entity
8 responsible for enforcing the laws of this State.

9 (b) A victim of the sex trade has a cause of action against
10 a person or entity who:

11 (1) recruits, profits from, or maintains the victim in
12 any sex trade act;

13 (2) intentionally abuses, as defined in Section 103 of
14 the Illinois Domestic Violence Act of 1986, or causes
15 bodily harm, as defined in Section 11-0.1 of the Criminal
16 Code of 2012, to a victim of the sex trade ~~the victim in~~
17 ~~any sex trade act;~~ or

18 (3) knowingly advertises or publishes advertisements
19 for purposes of recruitment into sex trade activity.

20 (b-1) A victim of involuntary servitude or labor
21 trafficking has a cause of action against any person or entity
22 who knowingly subjects, attempts to subject, or engages in a
23 conspiracy to subject the victim to involuntary servitude or
24 labor trafficking.

25 (c) This Section shall not be construed to create liability
26 to any person or entity who provides goods or services to the

1 general public, who also provides those goods or services to
2 persons who would be liable under subsection (b) of this
3 Section, absent a showing that the person or entity either:

4 (1) knowingly markets or provides its goods or services
5 primarily to persons or entities liable under subsection
6 (b) of this Section;

7 (2) knowingly receives a higher level of compensation
8 from persons or entities liable under subsection (b) of
9 this Section than it generally receives from customers; or

10 (3) supervises or exercises control over persons or
11 entities liable under subsection (b) of this Section.

12 (d) The standard of proof in any action brought under this
13 Section is a preponderance of the evidence.

14 (Source: P.A. 96-1551, eff. 7-1-11; 97-1150, eff. 1-25-13.)

15 (740 ILCS 128/20)

16 Sec. 20. Relief. A prevailing victim of the sex trade,
17 involuntary servitude, or labor trafficking shall be entitled
18 to all relief that would make him or her whole. This includes,
19 but is not limited to:

20 (1) declaratory relief;

21 (2) injunctive relief;

22 (3) recovery of costs and attorney fees including, but
23 not limited to, costs for expert testimony and witness
24 fees;

25 (4) compensatory damages including, but not limited

1 to:

2 (A) economic loss, including damage, destruction,
3 or loss of use of personal property, ~~and~~ loss of past
4 or future earning capacity, and, for a victim of
5 involuntary servitude or labor trafficking, any
6 statutorily required wages under applicable State or
7 federal law; and

8 (B) damages for death, personal injury, disease,
9 and mental and emotional harm, including medical,
10 rehabilitation, burial expenses, pain and suffering,
11 and physical impairment;

12 (5) punitive damages; and

13 (6) damages in the amount of the gross revenues
14 received by the defendant from, or related to, the sex
15 trade, involuntary servitude, or labor trafficking
16 activities of the plaintiff or the trafficking and
17 involuntary servitude of the plaintiff.

18 (Source: P.A. 94-998, eff. 7-3-06; 95-331, eff. 8-21-07.)

19 (740 ILCS 128/25)

20 Sec. 25. Non-defenses.

21 (a) It is not a defense to an action brought under this Act
22 that:

23 (1) the victim of the sex trade, involuntary servitude,
24 or labor trafficking and the defendant had a marital or
25 consenting sexual relationship;

1 (2) the defendant is related to the victim of the sex
2 trade, involuntary servitude, or labor trafficking by
3 blood or marriage, or has lived with the defendant in any
4 formal or informal household arrangement;

5 (3) the victim of the sex trade, involuntary servitude,
6 or labor trafficking was paid or otherwise compensated for
7 sex trade activity, labor, or other services;

8 (4) the victim of the sex trade engaged in sex trade
9 activity or had been subjected to involuntary servitude or
10 labor trafficking prior to any involvement with the
11 defendant;

12 (5) the victim of the sex trade, involuntary servitude,
13 or labor trafficking made no attempt to escape, flee, or
14 otherwise terminate contact with the defendant;

15 (6) the victim of the sex trade, involuntary servitude,
16 or labor trafficking consented to engage in acts of the sex
17 trade, labor, or other services;

18 (7) it was a single incident of activity; ~~or~~

19 (8) there was no physical contact involved; ~~or~~

20 (9) a defendant has been acquitted or has not been
21 investigated, arrested, prosecuted, or convicted under the
22 Criminal Code of 2012 or has been convicted of a different
23 offense for the conduct that is alleged to give rise to
24 liability under this Act.

25 (b) Any illegality of the sex trade activity, labor, or
26 services on the part of the victim of the sex trade,

1 involuntary servitude, or labor trafficking shall not be an
2 affirmative defense to any action brought under this Act.

3 (Source: P.A. 94-998, eff. 7-3-06.)

4 (740 ILCS 128/45)

5 Sec. 45. No avoidance of liability. No person may avoid
6 liability under this Act by means of any conveyance of any
7 right, title, or interest in real property, or by any
8 indemnification, hold harmless agreement, or similar agreement
9 that purports to show consent of the victim of the sex trade,
10 involuntary servitude, or labor trafficking.

11 (Source: P.A. 94-998, eff. 7-3-06.)