



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4402

Introduced 1/21/2022, by Rep. Chris Bos and Mark Batinick

SYNOPSIS AS INTRODUCED:

New Act

Creates the Human Trafficking Order of Protection Act. Provides that the following persons may bring an action under the Act: (1) a person who is a victim of human trafficking regardless of the relationship between the victim and the trafficker; or (2) a person on behalf of a minor child or an adult who has been the victim of human trafficking. Establishes procedures on how to commence actions for human trafficking, including independently, in conjunction with another civil proceeding, or in conjunction with a delinquency petition or a criminal prosecution. Establishes further procedures in relation to filing fees and dismissal and consolidation. Provides that the Administrative Office of the Illinois Courts may adopt rules to establish a pilot program to allow for electronic filing of petitions for temporary orders of protection and issuance of orders by audio-visual means. Establishes the applicability of the rules of civil procedure including venue, objections, and summons. Provides for specified remedies.

LRB102 21882 RLC 31003 b

1 AN ACT concerning human trafficking orders.

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

4 Section 1. Short title. This Act may be cited as the Human
5 Trafficking Order of Protection Act.

6 Section 3. Purpose and construction. The purpose of this
7 Act is to protect the safety of victims of human trafficking
8 and the safety of their family and household members and to
9 minimize the trauma and inconvenience associated with
10 attending separate and multiple civil court proceedings to
11 obtain orders of protection. This Act shall be interpreted in
12 accordance with the constitutional rights of crime victims set
13 forth in Article I, Section 8.1 of the Illinois Constitution,
14 the purposes set forth in Section 2 of the Rights of Crime
15 Victims and Witnesses Act, and the use of orders of protection
16 to implement the victim's right to be reasonably protected
17 from the defendant as provided in Section 4.5 of the Rights of
18 Victims and Witnesses Act.

19 Section 5. Definitions. As used in this Act:

20 "Electronic" means any method of transmission of
21 information between computers or other machines designed for
22 the purpose of sending or receiving electronic transmission

1 and that allows for the recipient of information to reproduce
2 the information received in a tangible medium of expression.

3 "Electronic appearance" means an appearance in which one
4 or more of the parties are not present in the court, but in
5 which, by means of an independent audio-visual system, all of
6 the participants are simultaneously able to see and hear
7 reproductions of the voices and images of the judge, counsel,
8 parties, witnesses, and any other participants.

9 "Human trafficking" means a violation of:

10 (1) subsection (b) of Section 10-9 of the Criminal
11 Code of 2012 (involuntary servitude);

12 (2) subsection (c) of Section 10-9 of the Criminal
13 Code of 2012 (involuntary sexual servitude of a minor); or

14 (3) subsection (d) of Section 10-9 of the Criminal
15 Code of 2012 (trafficking in persons).

16 "Independent audio-visual system" means an electronic
17 system for the transmission and receiving of audio and visual
18 signals, including those with the means to preclude the
19 unauthorized reception and decoding of the signals by
20 commercially available television receivers, channel
21 converters, or other available receiving devices.

22 Section 10. Persons who may bring actions. The following
23 persons may bring an action under this Act:

24 (1) a person who is a victim of human trafficking
25 regardless of the relationship between the victim and the

1 trafficker; or

2 (2) a person on behalf of a minor child or an adult who has
3 been the victim of human trafficking.

4 Section 15. Commencement of action; filing fees;
5 dismissal.

6 (a) Actions for human trafficking orders of protection are
7 commenced:

8 (1) Independently, by filing a petition for a human
9 trafficking order of protection in the circuit court,
10 unless otherwise designated by local rule or order.

11 (2) In conjunction with another civil proceeding, by
12 filing a petition for a human trafficking order of
13 protection under the same case number as another civil
14 proceeding involving the parties.

15 (3) In conjunction with a delinquency petition or a
16 criminal prosecution, by filing a petition for a human
17 trafficking order of protection under the same case number
18 as the delinquency petition or a criminal case involving
19 the parties.

20 (b) When a petition for an emergency human trafficking
21 order of protection is filed, the petition shall not be
22 publicly available until the petition has been served on the
23 respondent.

24 (c) No fee shall be charged by the clerk for filing,
25 amending, vacating, certifying, or photocopying petitions or

1 orders, for issuing alias summons, or for any related filing
2 service. No fee shall be charged by the sheriff for service by
3 the sheriff of a petition, rule, motion, or order in an action
4 commenced under this Section.

5 (d) Withdrawal or dismissal of any petition for a human
6 trafficking order of protection prior to adjudication where
7 the petitioner is represented by the State shall operate as a
8 dismissal without prejudice. No action for a human trafficking
9 order of protection shall be dismissed because the respondent
10 is being prosecuted for a crime against the petitioner. An
11 independent action may be consolidated with another civil
12 proceeding, as provided by paragraph (2) of subsection (a).

13 For any action commenced under paragraph (2) or (3) of
14 subsection (a), dismissal of the conjoined case (or a finding
15 of not guilty) shall not require dismissal of the action for
16 the human trafficking order of protection; instead, action for
17 the human trafficking order of protection may be treated as an
18 independent action and, if necessary and appropriate,
19 transferred to a different court or division. Dismissal of any
20 conjoined case shall not affect the validity of any previously
21 issued human trafficking order of protection.

22 (e) The court shall provide, through the office of the
23 clerk of the court, simplified forms and clerical assistance
24 to help with the writing and filing of a petition under this
25 Section by any person not represented by counsel. In addition,
26 that assistance may be provided by the State's Attorney.

1 (f) The Administrative Office of the Illinois Courts, with
2 the approval of the Supreme Court, may adopt rules to
3 establish and implement a pilot program to allow the
4 electronic filing of petitions for temporary human trafficking
5 orders of protection and the issuance of such orders by
6 audio-visual means to accommodate litigants for whom
7 attendance in court to file for and obtain emergency relief
8 would constitute an undue hardship or would constitute a risk
9 of harm to the litigant.

10 Section 20. Application of rules of civil procedure.

11 (a) Any proceeding to obtain, modify, reopen, or appeal a
12 human trafficking order of protection, whether commenced alone
13 or in conjunction with a civil or criminal proceeding, shall
14 be governed by the rules of civil procedure of this State. The
15 standard of proof in such a proceeding is proof by a
16 preponderance of the evidence, whether the proceeding is heard
17 in criminal or civil court. The Code of Civil Procedure and
18 Supreme Court and local court rules applicable to civil
19 proceedings shall apply, except as otherwise provided by this
20 Act.

21 (b) There shall be no right to trial by jury in any
22 proceeding to obtain, modify, vacate, or extend any human
23 trafficking order of protection under this Act. However,
24 nothing in this Section shall deny any existing right to trial
25 by jury in a criminal proceeding.

1 (c) A petition for a human trafficking order of protection
2 may be filed in any county where: (i) the petitioner resides;
3 (ii) respondent resides; or (iii) the alleged human
4 trafficking occurred.

5 (d) Objection to venue is waived if not made within such
6 time as respondent's response is due, except as otherwise
7 provided in this Section. In no event shall venue be deemed
8 jurisdictional.

9 (e) Any action for a human trafficking order of
10 protection, whether commenced alone or in conjunction with
11 another proceeding, is a distinct cause of action and requires
12 that a separate summons be issued and served, except that in
13 pending cases the following methods may be used:

14 (1) by delivery of the summons to respondent
15 personally in open court in pending civil or criminal
16 cases; or

17 (2) by notice in civil cases in which the defendant
18 has filed a general appearance.

19 The summons shall be in the form prescribed by Supreme
20 Court Rule 101(d), except that it shall require the respondent
21 to answer or appear within 7 days. Attachments to the summons
22 or notice shall include the petition for the human trafficking
23 order of protection and supporting affidavits, if any, and any
24 emergency human trafficking order of protection that has been
25 issued. The enforcement of a human trafficking order of
26 protection shall not be affected by the lack of service,

1 delivery, or notice.

2 Section 25. Remedies. The court may provide relief as
3 follows:

4 (1) prohibit the respondent from knowingly coming within,
5 or knowingly remaining within, a specified distance from the
6 petitioner;

7 (2) restrain the respondent from having any contact,
8 including nonphysical contact, with the petitioner directly,
9 indirectly, or through third parties, regardless of whether
10 those third parties know of the order;

11 (3) prohibit the respondent from knowingly coming within,
12 or knowingly remaining within, a specified distance from the
13 petitioner's residence, school, day care, or other specified
14 location;

15 (4) order the respondent to stay away from any property or
16 animal owned, possessed, leased, kept, or held by the
17 petitioner and forbid the respondent from taking,
18 transferring, encumbering, concealing, harming, or otherwise
19 disposing of the property or animal; and

20 (5) order any other injunctive relief as necessary or
21 appropriate for the protection of the petitioner.