



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

**HB4592**

Introduced 1/21/2022, by Rep. Chris Bos, Chris Miller, Norine K. Hammond, Keith R. Wheeler, Blaine Wilhour, et al.

#### **SYNOPSIS AS INTRODUCED:**

720 ILCS 5/10-9  
720 ILCS 5/11-14.1

Amends the Criminal Code of 2012. Provides for increased penalties for involuntary servitude if the victim was recruited, enticed, or obtained by any means from a shelter, safe house, or facility, including, but not limited to, a residential treatment center that serves runaway youth, foster children, the homeless, or victims of trafficking, or those subjected to domestic violence or sexual assault. Provides that a person also commits the offense of involuntary sexual servitude of a minor when he or she knowingly recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, provide, or obtain by any means, another person under 18 years of age, knowing that the minor will engage in commercial sexual activity, a sexually-explicit performance, or the production of pornography, or causes or attempts to cause a minor to engage in one or more of those activities and the minor is under 18 years of age and was recruited, enticed, or obtained by any means from a shelter, safe house, or facility, including, but not limited to, a residential treatment center that serves runaway youth, foster children, the homeless, or victims of trafficking, or those subjected to domestic violence or sexual assault. Provides that solicitation of a sexual act is a Class 4 felony and a second or subsequent offense is a Class 3 felony (rather than a Class A misdemeanor). Provides that solicitation of a sexual act from a person who is under 18 years of age or who is a person with a severe or profound intellectual disability is a Class 3 (rather than a Class 4) felony and a second or subsequent offense is a Class 2 felony.

LRB102 24398 RLC 33632 b

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 Criminal Code of 2012 is amended by  
5 changing Sections 10-9 and 11-14.1 as follows:

6 (720 ILCS 5/10-9)

7 Sec. 10-9. Trafficking in persons, involuntary servitude,  
8 and related offenses.

9 (a) Definitions. In this Section:

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

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

15 (2.5) "Company" means any sole proprietorship,  
16 organization, association, corporation, partnership,  
17 joint venture, limited partnership, limited liability  
18 partnership, limited liability limited partnership,  
19 limited liability company, or other entity or business  
20 association, including all wholly owned subsidiaries,  
21 majority-owned subsidiaries, parent companies, or  
22 affiliates of those entities or business associations,  
23 that exist for the purpose of making profit.

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

4           (4) (Blank).

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

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

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

12          (7.1) "Residential treatment center" has the meaning  
13          ascribed to it in subsection (12.3) of Section 1-3 of the  
14          Juvenile Court Act of 1987.

15          (7.5) "Serious harm" means any harm, whether physical  
16          or nonphysical, including psychological, financial, or  
17          reputational harm, that is sufficiently serious, under all  
18          the surrounding circumstances, to compel a reasonable  
19          person of the same background and in the same  
20          circumstances to perform or to continue performing labor  
21          or services in order to avoid incurring that harm.

22          (8) "Services" means activities resulting from a  
23          relationship between a person and the actor in which the  
24          person performs activities under the supervision of or for  
25          the benefit of the actor. Commercial sexual activity and  
26          sexually-explicit performances are forms of activities

1 that are "services" under this Section. Nothing in this  
2 definition may be construed to legitimize or legalize  
3 prostitution.

4 (9) "Sexually-explicit performance" means a live,  
5 recorded, broadcast (including over the Internet), or  
6 public act or show intended to arouse or satisfy the  
7 sexual desires or appeal to the prurient interests of  
8 patrons.

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

11 (b) Involuntary servitude. A person commits involuntary  
12 servitude when he or she knowingly subjects, attempts to  
13 subject, or engages in a conspiracy to subject another person  
14 to labor or services obtained or maintained through any of the  
15 following means, or any combination of these means:

16 (1) causes or threatens to cause physical harm to any  
17 person;

18 (2) physically restrains or threatens to physically  
19 restrain another person;

20 (3) abuses or threatens to abuse the law or legal  
21 process;

22 (4) knowingly destroys, conceals, removes,  
23 confiscates, or possesses any actual or purported passport  
24 or other immigration document, or any other actual or  
25 purported government identification document, of another  
26 person;

1 (5) uses intimidation, or exerts financial control  
2 over any person; or

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

7 Sentence. Except as otherwise provided in subsection (e)  
8 or (f), a violation of subsection (b)(1) is a Class X felony,  
9 (b)(2) is a Class 1 felony, (b)(3) is a Class 2 felony, (b)(4)  
10 is a Class 3 felony, (b)(5) and (b)(6) is a Class 4 felony.

11 A violation of subsection (b)(2) if the person was  
12 recruited, enticed, or obtained by any means from a shelter,  
13 safe house, or facility, including, but not limited to, a  
14 residential treatment center that serves runaway youth, foster  
15 children, the homeless, or victims of trafficking, or those  
16 subjected to domestic violence or sexual assault is a Class X  
17 felony.

18 A violation of subsection (b)(3) if the person was  
19 recruited, enticed, or obtained by any means from a shelter,  
20 safe house, or facility, including, but not limited to, a  
21 residential treatment center that serves runaway youth, foster  
22 children, the homeless, or victims of trafficking, or those  
23 subjected to domestic violence or sexual assault is a Class 1  
24 felony.

25 A violation of subsection (b)(4) if the person was  
26 recruited, enticed, or obtained by any means from a shelter,

1 safe house, or facility, including, but not limited to, a  
2 residential treatment center that serves runaway youth, foster  
3 children, the homeless, or victims of trafficking, or those  
4 subjected to domestic violence or sexual assault is a Class 2  
5 felony.

6 A violation of subsection (b)(5) or (b)(6) if the person  
7 was recruited, enticed, or obtained by any means from a  
8 shelter, safe house, or facility, including, but not limited  
9 to, a residential treatment center that serves runaway youth,  
10 foster children, the homeless, or victims of trafficking, or  
11 those subjected to domestic violence or sexual assault is a  
12 Class 3 felony.

13 (c) Involuntary sexual servitude of a minor. A person  
14 commits involuntary sexual servitude of a minor when he or she  
15 knowingly recruits, entices, harbors, transports, provides, or  
16 obtains by any means, or attempts to recruit, entice, harbor,  
17 provide, or obtain by any means, another person under 18 years  
18 of age, knowing that the minor will engage in commercial  
19 sexual activity, a sexually-explicit performance, or the  
20 production of pornography, or causes or attempts to cause a  
21 minor to engage in one or more of those activities and:

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

24 (2) there is no overt force or threat and the minor is  
25 under the age of 17 years; ~~or~~

26 (3) there is overt force or threat; or.

1           (4) the minor is under 18 years of age and was  
2           recruited, enticed, or obtained by any means from a  
3           shelter, safe house, or facility, including, but not  
4           limited to, a residential treatment center that serves  
5           runway youth, foster children, the homeless, or victims of  
6           trafficking, or those subjected to domestic violence or  
7           sexual assault.

8           Sentence. Except as otherwise provided in subsection (e)  
9           or (f), a violation of subsection (c)(1) is a Class 1 felony,  
10          (c)(2) is a Class X felony, ~~and~~ (c)(3) is a Class X felony, and  
11          (c)(4) is a Class X felony.

12          (d) Trafficking in persons. A person commits trafficking  
13          in persons when he or she knowingly: (1) recruits, entices,  
14          harbors, transports, provides, or obtains by any means, or  
15          attempts to recruit, entice, harbor, transport, provide, or  
16          obtain by any means, another person, intending or knowing that  
17          the person will be subjected to involuntary servitude; or (2)  
18          benefits, financially or by receiving anything of value, from  
19          participation in a venture that has engaged in an act of  
20          involuntary servitude or involuntary sexual servitude of a  
21          minor. A company commits trafficking in persons when the  
22          company knowingly benefits, financially or by receiving  
23          anything of value, from participation in a venture that has  
24          engaged in an act of involuntary servitude or involuntary  
25          sexual servitude of a minor.

26          Sentence. Except as otherwise provided in subsection (e)

1 or (f), a violation of this subsection by a person is a Class 1  
2 felony. A violation of this subsection by a company is a  
3 business offense for which a fine of up to \$100,000 may be  
4 imposed.

5 (e) Aggravating factors. A violation of this Section  
6 involving kidnapping or an attempt to kidnap, aggravated  
7 criminal sexual assault or an attempt to commit aggravated  
8 criminal sexual assault, or an attempt to commit first degree  
9 murder is a Class X felony.

10 (f) Sentencing considerations.

11 (1) Bodily injury. If, pursuant to a violation of this  
12 Section, a victim suffered bodily injury, the defendant  
13 may be sentenced to an extended-term sentence under  
14 Section 5-8-2 of the Unified Code of Corrections. The  
15 sentencing court must take into account the time in which  
16 the victim was held in servitude, with increased penalties  
17 for cases in which the victim was held for between 180 days  
18 and one year, and increased penalties for cases in which  
19 the victim was held for more than one year.

20 (2) Number of victims. In determining sentences within  
21 statutory maximums, the sentencing court should take into  
22 account the number of victims, and may provide for  
23 substantially increased sentences in cases involving more  
24 than 10 victims.

25 (g) Restitution. Restitution is mandatory under this  
26 Section. In addition to any other amount of loss identified,



1 the court shall order restitution including the greater of (1)  
2 the gross income or value to the defendant of the victim's  
3 labor or services or (2) the value of the victim's labor as  
4 guaranteed under the Minimum Wage Law and overtime provisions  
5 of the Fair Labor Standards Act (FLSA) or the Minimum Wage Law,  
6 whichever is greater.

7 (g-5) Fine distribution. If the court imposes a fine under  
8 subsection (b), (c), or (d) of this Section, it shall be  
9 collected and distributed to the Specialized Services for  
10 Survivors of Human Trafficking Fund in accordance with Section  
11 5-9-1.21 of the Unified Code of Corrections.

12 (h) Trafficking victim services. Subject to the  
13 availability of funds, the Department of Human Services may  
14 provide or fund emergency services and assistance to  
15 individuals who are victims of one or more offenses defined in  
16 this Section.

17 (i) Certification. The Attorney General, a State's  
18 Attorney, or any law enforcement official shall certify in  
19 writing to the United States Department of Justice or other  
20 federal agency, such as the United States Department of  
21 Homeland Security, that an investigation or prosecution under  
22 this Section has begun and the individual who is a likely  
23 victim of a crime described in this Section is willing to  
24 cooperate or is cooperating with the investigation to enable  
25 the individual, if eligible under federal law, to qualify for  
26 an appropriate special immigrant visa and to access available

1 federal benefits. Cooperation with law enforcement shall not  
2 be required of victims of a crime described in this Section who  
3 are under 18 years of age. This certification shall be made  
4 available to the victim and his or her designated legal  
5 representative.

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

11 (Source: P.A. 101-18, eff. 1-1-20.)

12 (720 ILCS 5/11-14.1)

13 Sec. 11-14.1. Solicitation of a sexual act.

14 (a) Any person who offers a person not his or her spouse  
15 any money, property, token, object, or article or anything of  
16 value for that person or any other person not his or her spouse  
17 to perform any act of sexual penetration as defined in Section  
18 11-0.1 of this Code, or any touching or fondling of the sex  
19 organs of one person by another person for the purpose of  
20 sexual arousal or gratification, commits solicitation of a  
21 sexual act.

22 (b) Sentence. Solicitation of a sexual act is a Class 4  
23 felony and a second or subsequent offense is a Class 3 felony ~~A~~  
24 ~~misdemeanor~~. Solicitation of a sexual act from a person who is  
25 under the age of 18 or who is a person with a severe or

1 profound intellectual disability is a Class 3 4 felony and a  
2 second or subsequent offense is a Class 2 felony. If the court  
3 imposes a fine under this subsection (b), it shall be  
4 collected and distributed to the Specialized Services for  
5 Survivors of Human Trafficking Fund in accordance with Section  
6 5-9-1.21 of the Unified Code of Corrections.

7 (b-5) It is an affirmative defense to a charge of  
8 solicitation of a sexual act with a person who is under the age  
9 of 18 or who is a person with a severe or profound intellectual  
10 disability that the accused reasonably believed the person was  
11 of the age of 18 years or over or was not a person with a  
12 severe or profound intellectual disability at the time of the  
13 act giving rise to the charge.

14 (c) This Section does not apply to a person engaged in  
15 prostitution who is under 18 years of age.

16 (d) A person cannot be convicted under this Section if the  
17 practice of prostitution underlying the offense consists  
18 exclusively of the accused's own acts of prostitution under  
19 Section 11-14 of this Code.

20 (Source: P.A. 98-1013, eff. 1-1-15; 99-143, eff. 7-27-15.)