

**SB0477**



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**SB0477**

Introduced 2/16/2005, by Sen. John J. Cullerton

**SYNOPSIS AS INTRODUCED:**

720 ILCS 5/Art. 10A heading new  
720 ILCS 5/10A-5 new  
720 ILCS 5/10A-10 new

Amends the Criminal Code of 1961. Creates the offenses of involuntary servitude, sexual servitude of a minor, and trafficking of persons for forced labor and services. Mandates restitution.

LRB094 07760 RLC 37938 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

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 Criminal Code of 1961 is amended by adding  
5 Article 10A as follows:

6 (720 ILCS 5/Art. 10A heading new)

7 ARTICLE 10A. TRAFFICKING OF PERSONS AND INVOLUNTARY SERVITUDE

8 (720 ILCS 5/10A-5 new)

9 Sec. 10A-5. Definitions. In this Article:

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

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

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

18 (4) "Forced labor or services" means labor or services that  
19 are performed or provided by another person and are obtained or  
20 maintained through an actor's:

21 (A) causing or threatening to cause serious harm to any  
22 person;

23 (B) physically restraining or threatening to  
24 physically restrain another person;

25 (C) abusing or threatening to abuse the law or legal  
26 process;

27 (D) knowingly destroying, concealing, removing,  
28 confiscating, or possessing any actual or purported  
29 passport or other immigration document, or any other actual  
30 or purported government identification document, of  
31 another person;

1           (E) blackmail; or

2           (F) causing or threatening to cause financial harm to  
3           or exerting financial control over any person.

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

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

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

11           (8) "Services" means an ongoing relationship between a  
12           person and the actor in which the person performs activities  
13           under the supervision of or for the benefit of the actor.  
14           Commercial sexual activity and sexually-explicit performances  
15           are forms of "services" under this Section. Nothing in this  
16           provision should be construed to legitimize or legalize  
17           prostitution.

18           (9) "Sexually-explicit performance" means a live or public  
19           act or show intended to arouse or satisfy the sexual desires or  
20           appeal to the prurient interests of patrons.

21           (10) "Trafficking victim" means a person subjected to the  
22           practices set forth in subsection (a) of Section 10A-10  
23           (involuntary servitude) or subsection (b) of Section 10A-10  
24           (sexual servitude of a minor), or transported in violation of  
25           subsection (c) of Section 10A-10 (trafficking of persons for  
26           forced labor or services).

27           (720 ILCS 5/10A-10 new)

28           Sec. 10A-10. Criminal provisions.

29           (a) Servitude. Whoever knowingly subjects, or attempts to  
30           subject, another person to forced labor or services shall be  
31           punished as follows, subject to subsection (d):

32           (1) by causing or threatening to cause physical harm to  
33           any person, is guilty of a Class X felony;

34           (2) by physically restraining or threatening to  
35           physically restrain another person, is guilty of a Class 1

1 felony;

2 (3) by abusing or threatening to abuse the law or legal  
3 process, is guilty of a Class 2 felony;

4 (4) by knowingly destroying, concealing, removing,  
5 confiscating or possessing any actual or purported  
6 passport or other immigration document, or any other actual  
7 or purported government identification document, of  
8 another person, is guilty of a Class 3 felony.

9 (5) by using intimidation, or using or threatening to  
10 cause financial harm to or by exerting financial control  
11 over any person, is guilty of a Class 4 felony.

12 (b) Servitude of a minor. Whoever knowingly recruits,  
13 entices, harbors, transports, provides, or obtains by any  
14 means, or attempts to recruit, entice, harbor, provide, or  
15 obtain by any means, another person under 18 years of age,  
16 knowing that the minor will engage in commercial sexual  
17 activity, sexually-explicit performance, or the production of  
18 pornography, or causes or attempts to cause a minor to engage  
19 in commercial sexual activity, sexually-explicit performance,  
20 or the production of pornography, shall be punished as follows,  
21 subject to the provisions of subsection (d):

22 (1) In cases involving a minor between the ages of 17  
23 and 18 years, not involving overt force or threat, the  
24 defendant is guilty of a Class 1 felony.

25 (2) In cases in which the minor had not attained the  
26 age of 17 years, not involving overt force or threat, the  
27 defendant is guilty of a Class X felony.

28 (3) In cases in which the violation involved overt  
29 force or threat, the defendant is guilty of a Class X  
30 felony.

31 (c) Trafficking of persons for forced labor or services.  
32 Whoever knowingly: (1) recruits, entices, harbors, transports,  
33 provides, or obtains by any means, or attempts to recruit,  
34 entice, harbor, transport, provide, or obtain by any means,  
35 another person, intending or knowing that the person will be  
36 subjected to forced labor or services; or (2) benefits,

1 financially or by receiving anything of value, from  
2 participation in a venture which has engaged in an act  
3 described in violation of paragraphs (a) or (b) of this  
4 Section, subject to the provisions of subsection (d), is guilty  
5 of a Class 1 felony.

6 (d) Sentencing enhancements.

7 (1) Statutory maximum; sexual assault, extreme  
8 violence, and death. If the violation of this Article  
9 involves kidnaping or an attempt to kidnap, aggravated  
10 criminal sexual assault or the attempt to commit aggravated  
11 criminal sexual assault, or an attempt to kill, the  
12 defendant is guilty of a Class X felony, or if death  
13 results, may be sentenced as provided for first degree  
14 murder.

15 (2) Sentencing considerations within statutory  
16 maximums.

17 (A) Bodily injury. If, pursuant to a violation of  
18 this Article, a victim suffered bodily injury, the  
19 defendant may be sentenced to an extended term sentence  
20 under Section 5-8-2 of the Unified Code of Corrections.  
21 The sentencing court must take into account the time in  
22 which the victim was held in servitude, with increased  
23 penalties for cases in which the victim was held for  
24 between 180 days and one year, and increased penalties  
25 for cases in which the victim was held for more than  
26 one year.

27 (B) Number of victims. In determining sentences  
28 within statutory maximums, the sentencing court should  
29 take into account the number of victims, and may  
30 provide for substantially-increased sentences in cases  
31 involving more than 10 victims.

32 (e) Restitution. Restitution is mandatory under this  
33 Article. In addition to any other amount of loss identified,  
34 the court shall order restitution including the greater of (1)  
35 the gross income or value to the defendant of the victim's  
36 labor or services or (2) the value of the victim's labor as

1 guaranteed under the Minimum Wage Law and overtime provisions  
2 of the Fair Labor Standards Act (FLSA).