



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB2191

Introduced 2/10/2011, by Sen. Toi W. Hutchinson

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-1401

from Ch. 110, par. 2-1401

Amends the Code of Civil Procedure. Adds provisions to allow relief at any time from a judgment that is a conviction in which the arresting charge was prostitution or first offender felony prostitution under the Criminal Code of 1961 or a similar local ordinance and the defendant's participation in the offense was a result of having been a victim of sex trafficking or trafficking in persons. Provides that a motion seeking this relief must be made with due diligence, after the defendant has ceased to be a victim of the trafficking or has sought victim services, subject to reasonable concerns for the safety of the defendant and others. Provides that official documentation, which is not required to obtain the relief, of the defendant's status as a victim of sex trafficking from a federal, state, or local government agency creates a presumption that the defendant's participation in the offense was a result of having been a victim of sex trafficking or trafficking in persons.

LRB097 07823 AJO 47936 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 2-1401 as follows:

6 (735 ILCS 5/2-1401) (from Ch. 110, par. 2-1401)  
7 Sec. 2-1401. Relief from judgments.

8 (a) Relief from final orders and judgments, after 30 days  
9 from the entry thereof, may be had upon petition as provided in  
10 this Section. Writs of error coram nobis and coram vobis, bills  
11 of review and bills in the nature of bills of review are  
12 abolished. All relief heretofore obtainable and the grounds for  
13 such relief heretofore available, whether by any of the  
14 foregoing remedies or otherwise, shall be available in every  
15 case, by proceedings hereunder, regardless of the nature of the  
16 order or judgment from which relief is sought or of the  
17 proceedings in which it was entered. Except as provided in  
18 Section 6 of the Illinois Parentage Act of 1984, there shall be  
19 no distinction between actions and other proceedings,  
20 statutory or otherwise, as to availability of relief, grounds  
21 for relief or the relief obtainable.

22 (b) The petition must be filed in the same proceeding in  
23 which the order or judgment was entered but is not a

1 continuation thereof. The petition must be supported by  
2 affidavit or other appropriate showing as to matters not of  
3 record. All parties to the petition shall be notified as  
4 provided by rule.

5 (c) Except as provided in Section 20b of the Adoption Act  
6 and Section 2-32 of the Juvenile Court Act of 1987 or in a  
7 petition based upon Section 116-3 of the Code of Criminal  
8 Procedure of 1963, the petition must be filed not later than 2  
9 years after the entry of the order or judgment. Time during  
10 which the person seeking relief is under legal disability or  
11 duress or the ground for relief is fraudulently concealed shall  
12 be excluded in computing the period of 2 years.

13 (d) The filing of a petition under this Section does not  
14 affect the order or judgment, or suspend its operation.

15 (e) Unless lack of jurisdiction affirmatively appears from  
16 the record proper, the vacation or modification of an order or  
17 judgment pursuant to the provisions of this Section does not  
18 affect the right, title or interest in or to any real or  
19 personal property of any person, not a party to the original  
20 action, acquired for value after the entry of the order or  
21 judgment but before the filing of the petition, nor affect any  
22 right of any person not a party to the original action under  
23 any certificate of sale issued before the filing of the  
24 petition, pursuant to a sale based on the order or judgment.

25 (f) Nothing contained in this Section affects any existing  
26 right to relief from a void order or judgment, or to employ any

1 existing method to procure that relief.

2 (g) A petition under this Section may be filed at any time  
3 after the entry of judgment, if the judgment is a conviction  
4 where the arresting charge was under Section 11-14  
5 (prostitution) or Section 11-14.2 (first offender; felony  
6 prostitution) of the Criminal Code of 1961 or a similar local  
7 ordinance and the defendant's participation in the offense was  
8 a result of having been a victim of sex trafficking under  
9 Section 10-9 (trafficking in persons, involuntary servitude,  
10 and related offenses) of the Criminal Code of 1961 or  
11 trafficking in persons under the federal Trafficking Victims  
12 Protection Act (U.S.C., Title 22, Chapter 78), provided that:

13 (1) A motion under this subsection shall be made with  
14 due diligence, after the defendant has ceased to be a  
15 victim of such trafficking or has sought services for  
16 victims of such trafficking, subject to reasonable  
17 concerns for the safety of the defendant, family members of  
18 the defendant, or other victims of such trafficking that  
19 may be jeopardized by the bringing of such motion, or for  
20 other reasons consistent with the purpose of this  
21 subsection; and

22 (2) Official documentation of the defendant's status  
23 as a victim of sex trafficking or trafficking in persons at  
24 the time of the offense from a federal, state, or local  
25 government agency shall create a presumption that the  
26 defendant's participation in the offense was a result of

1       having been a victim of sex trafficking or trafficking in  
2       persons, but shall not be required for granting a motion  
3       under this subsection.

4       (Source: P.A. 95-331, eff. 8-21-07.)