

# HB3565



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB3565

by Rep. Jehan A. Gordon-Booth

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/10-9

Amends the Criminal Code of 2012. Provides that a person also commits involuntary sexual servitude of a minor when he or she knowingly advertises or attempts to advertise 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. Provides that depending on the circumstances a violation is a Class 1 or Class X felony.

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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 2012 is amended by changing  
5 Section 10-9 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 (3) "Financial harm" includes intimidation that brings  
16 about financial loss, criminal usury, or employment  
17 contracts that violate the Frauds Act.

18 (4) (Blank).

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

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

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

3           (7.5) "Serious harm" means any harm, whether physical  
4 or nonphysical, including psychological, financial, or  
5 reputational harm, that is sufficiently serious, under all  
6 the surrounding circumstances, to compel a reasonable  
7 person of the same background and in the same circumstances  
8 to perform or to continue performing labor or services in  
9 order to avoid incurring that harm.

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

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

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

24          (b) Involuntary servitude. A person commits involuntary  
25 servitude when he or she knowingly subjects, attempts to  
26 subject, or engages in a conspiracy to subject another person

1 to labor or services obtained or maintained through any of the  
2 following means, or any combination of these means:

3 (1) causes or threatens to cause physical harm to any  
4 person;

5 (2) physically restrains or threatens to physically  
6 restrain another person;

7 (3) abuses or threatens to abuse the law or legal  
8 process;

9 (4) knowingly destroys, conceals, removes,  
10 confiscates, or possesses any actual or purported passport  
11 or other immigration document, or any other actual or  
12 purported government identification document, of another  
13 person;

14 (5) uses intimidation, or exerts financial control  
15 over any person; or

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

20 Sentence. Except as otherwise provided in subsection (e) or  
21 (f), a violation of subsection (b)(1) is a Class X felony,  
22 (b)(2) is a Class 1 felony, (b)(3) is a Class 2 felony, (b)(4)  
23 is a Class 3 felony, (b)(5) and (b)(6) is a Class 4 felony.

24 (c) Involuntary sexual servitude of a minor. A person  
25 commits involuntary sexual servitude of a minor when he or she  
26 knowingly recruits, entices, harbors, transports, provides,

1 advertises, or obtains by any means, or attempts to recruit,  
2 entice, harbor, provide, advertise, or obtain by any means,  
3 another person under 18 years of age, knowing that the minor  
4 will engage in commercial sexual activity, a sexually-explicit  
5 performance, or the production of pornography, or causes or  
6 attempts to cause a minor to engage in one or more of those  
7 activities and:

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

10 (2) there is no overt force or threat and the minor is  
11 under the age of 17 years; or

12 (3) there is overt force or threat.

13 Sentence. Except as otherwise provided in subsection (e) or  
14 (f), a violation of subsection (c)(1) is a Class 1 felony,  
15 (c)(2) is a Class X felony, and (c)(3) is a Class X felony.

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

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

1 (f), a violation of this subsection is a Class 1 felony.

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

7 (f) Sentencing considerations.

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

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

22 (g) Restitution. Restitution is mandatory under this  
23 Section. In addition to any other amount of loss identified,  
24 the court shall order restitution including the greater of (1)  
25 the gross income or value to the defendant of the victim's  
26 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) or the Minimum Wage Law,  
3 whichever is greater.

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

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

14 (i) Certification. The Attorney General, a State's  
15 Attorney, or any law enforcement official shall certify in  
16 writing to the United States Department of Justice or other  
17 federal agency, such as the United States Department of  
18 Homeland Security, that an investigation or prosecution under  
19 this Section has begun and the individual who is a likely  
20 victim of a crime described in this Section is willing to  
21 cooperate or is cooperating with the investigation to enable  
22 the individual, if eligible under federal law, to qualify for  
23 an appropriate special immigrant visa and to access available  
24 federal benefits. Cooperation with law enforcement shall not be  
25 required of victims of a crime described in this Section who  
26 are under 18 years of age. This certification shall be made

1 available to the victim and his or her designated legal  
2 representative.

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

8 (Source: P.A. 97-897, eff. 1-1-13; 98-756, eff. 7-16-14;  
9 98-1013, eff. 1-1-15.)