



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1588

Introduced 2/20/2015, by Sen. John G. Mulroe

SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-14 from Ch. 38, par. 11-14
725 ILCS 5/115-6.1 new

Amends the Criminal Code of 2012. Provides that it is an affirmative defense to a charge of prostitution that the accused engaged in or performed prostitution as a result of being a victim of involuntary servitude or trafficking in persons as defined in the Code, or was a victim of trafficking as defined in the federal Trafficking Victims Protection Act of 2000. Amends the Code of Criminal Procedure of 1963. Provides that in prosecutions for prostitution, when the accused intends to raise at trial the affirmative defense of being a victim of involuntary servitude or trafficking in persons as defined in the Code, or was a victim of trafficking as defined in the federal Trafficking Victims Protection Act of 2000 and has reason to believe that the evidence presented in asserting that defense may jeopardize the safety of the accused, courtroom personnel, or others impacted by human trafficking, the accused may file under seal a motion for an in camera hearing to review the accused's safety concerns. Upon receipt of the motion and notice to the parties, the court shall conduct an in camera hearing, with counsel present, limited to review of potential safety concerns. Provides that the court shall not consider the merits of the affirmative defense during the in camera review. Provides that if the court finds that the assertion of an affirmative defense by the accused in open court could jeopardize the safety of the accused, court personnel, or other persons, the court may clear the courtroom with the agreement of the accused, order additional in camera hearings, seal the records, prohibit court personnel from disclosing the proceedings without prior court approval, or take any other appropriate measure that in the court's discretion will enhance the safety of the proceedings and ensure the accused a full and fair opportunity to assert his or her affirmative defense. Provides that statements made by the accused during the in camera hearing to review safety concerns shall not be admissible against the accused for the crimes charged. Effective immediately.

LRB099 08488 RLC 28644 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 changing
5 Section 11-14 as follows:

6 (720 ILCS 5/11-14) (from Ch. 38, par. 11-14)

7 Sec. 11-14. Prostitution.

8 (a) Any person who knowingly performs, offers or agrees to
9 perform any act of sexual penetration as defined in Section
10 11-0.1 of this Code for anything of value, or any touching or
11 fondling of the sex organs of one person by another person, for
12 anything of value, for the purpose of sexual arousal or
13 gratification commits an act of prostitution.

14 (b) Sentence. A violation of this Section is a Class A
15 misdemeanor.

16 (c) (Blank).

17 (c-5) It is an affirmative defense to a charge under this
18 Section that the accused engaged in or performed prostitution
19 as a result of being a victim of involuntary servitude or
20 trafficking in persons as defined in Section 10-9 of this Code,
21 or was a victim of trafficking as defined in the federal
22 Trafficking Victims Protection Act of 2000, 22 U.S.C. 7102.

23 (d) Notwithstanding the foregoing, if it is determined,

1 after a reasonable detention for investigative purposes, that a
2 person suspected of or charged with a violation of this Section
3 is a person under the age of 18, that person shall be immune
4 from prosecution for a prostitution offense under this Section,
5 and shall be subject to the temporary protective custody
6 provisions of Sections 2-5 and 2-6 of the Juvenile Court Act of
7 1987. Pursuant to the provisions of Section 2-6 of the Juvenile
8 Court Act of 1987, a law enforcement officer who takes a person
9 under 18 years of age into custody under this Section shall
10 immediately report an allegation of a violation of Section 10-9
11 of this Code to the Illinois Department of Children and Family
12 Services State Central Register, which shall commence an
13 initial investigation into child abuse or child neglect within
14 24 hours pursuant to Section 7.4 of the Abused and Neglected
15 Child Reporting Act.

16 (Source: P.A. 97-1118, eff. 1-1-13; 98-164, eff. 1-1-14;
17 98-538, eff. 8-23-13; 98-756, eff. 7-16-14.)

18 Section 10. The Code of Criminal Procedure of 1963 is
19 amended by adding Section 115-6.1 as follows:

20 (725 ILCS 5/115-6.1 new)

21 Sec. 115-6.1. Prostitution; affirmative defense.

22 (a) In prosecutions for prostitution, when the accused
23 intends to raise at trial the affirmative defense provided in
24 subsection (c-5) of Section 11-14 of the Criminal Code of 2012

1 and has reason to believe that the evidence presented in
2 asserting that defense may jeopardize the safety of the
3 accused, courtroom personnel, or others impacted by human
4 trafficking, the accused may file under seal a motion for an in
5 camera hearing to review the accused's safety concerns. Upon
6 receipt of the motion and notice to the parties, the court
7 shall conduct an in camera hearing, with counsel present,
8 limited to review of potential safety concerns. The court shall
9 not consider the merits of the affirmative defense during the
10 in camera review.

11 (b) If the court finds that the assertion of an affirmative
12 defense under subsection (c-5) of Section 11-14 of the Criminal
13 Code of 2012 by the accused in open court could jeopardize the
14 safety of the accused, court personnel, or other persons, the
15 court may clear the courtroom with the agreement of the
16 accused, order additional in camera hearings, seal the records,
17 prohibit court personnel from disclosing the proceedings
18 without prior court approval, or take any other appropriate
19 measure that in the court's discretion will enhance the safety
20 of the proceedings and ensure the accused a full and fair
21 opportunity to assert his or her affirmative defense.

22 (c) Statements made by the accused during the in camera
23 hearing to review safety concerns shall not be admissible
24 against the accused for the crimes charged.

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.