

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Code of Criminal Procedure of 1963 is amended by adding Section 116-2.1 as follows:

(725 ILCS 5/116-2.1 new)

Sec. 116-2.1. Motion to vacate prostitution convictions for sex trafficking victims.

(a) A motion under this Section may be filed at any time following the entry of a verdict or finding of guilty where the conviction was under Section 11-14 (prostitution) or Section 11-14.2 (first offender; felony prostitution) of 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 trafficking victim under Section 10-9 (involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services) of the Criminal Code of 1961; or a victim of a severe form of trafficking under the federal Trafficking Victims Protection Act (22 U.S.C. Section 7102(13)); provided that:

(1) a motion under this Section shall state why the facts giving rise to this motion were not presented to the trial court, and shall be made with due diligence, after

the defendant has ceased to be a victim of such trafficking or has sought services for victims of such trafficking, subject to reasonable concerns for the safety of the defendant, family members of the defendant, or other victims of such trafficking that may be jeopardized by the bringing of such motion, or for other reasons consistent with the purpose of this Section; and

(2) reasonable notice of the motion shall be served upon the State.

(b) The court may grant the motion if, in the discretion of the court, the violation was a result of the defendant having been a victim of human trafficking. Evidence of such may include, but is not limited to:

(1) certified records of federal or State court proceedings which demonstrate that the defendant was a victim of a trafficker charged with a trafficking offense under Section 10-9 of the Criminal Code of 1961 or under 22 U.S.C. Chapter 78;

(2) certified records of "approval notices" or "law enforcement certifications" generated from federal immigration proceedings available to such victims; or

(3) a sworn statement from a trained professional staff of a victim services organization, an attorney, a member of the clergy, or a medical or other professional from whom the defendant has sought assistance in addressing the trauma associated with being trafficked.

Alternatively, the court may consider such other evidence as it deems of sufficient credibility and probative value in determining whether the defendant is a trafficking victim or victim of a severe form of trafficking.

(c) If the court grants a motion under this Section, it must vacate the conviction and may take such additional action as is appropriate in the circumstances.