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
AN ACT concerning criminal law.

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

Section 5. The Criminal Code of 2012 is amended by changing Section 10-9 as follows:

(720 ILCS 5/10-9)
Sec. 10-9. Trafficking in persons, involuntary servitude, and related offenses.
(a) Definitions. In this Section:
(1) "Intimidation" has the meaning prescribed in Section 12-6.
(2) "Commercial sexual activity" means any sex act on account of which anything of value is given, promised to, or received by any person.
(3) "Financial harm" includes intimidation that brings about financial loss, criminal usury, or employment contracts that violate the Frauds Act.
(4) (Blank).
(5) "Labor" means work of economic or financial value.
(6) "Maintain" means, in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement on the part of the victim to perform that type of service.
(7) "Obtain" means, in relation to labor or services, to secure performance thereof.

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

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

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

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

(b) Involuntary servitude. A person commits involuntary servitude when he or she knowingly subjects, attempts to subject, or engages in a conspiracy to subject another person
to labor or services obtained or maintained through any of the following means, or any combination of these means:

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

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

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

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

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

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

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

(c) Involuntary sexual servitude of a minor. A person commits involuntary sexual servitude of a minor when he or she knowingly recruits, entices, harbors, transports, provides,
advertises, or obtains by any means, or attempts to recruit, entice, harbor, provide, advertise, or obtain by any means, 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, or causes or attempts to cause a minor to engage in one or more of those activities and:

(1) there is no overt force or threat and the minor is between the ages of 17 and 18 years;
(2) there is no overt force or threat and the minor is under the age of 17 years; or
(3) there is overt force or threat.

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

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

Sentence. Except as otherwise provided in subsection (e) or
(f), a violation of this subsection is a Class 1 felony.

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

(f) Sentencing considerations.

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

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

(g) Restitution. Restitution is mandatory under this Section. In addition to any other amount of loss identified, the court shall order restitution including the greater of (1) the gross income or value to the defendant of the victim's labor or services or (2) the value of the victim's labor as
guaranteed under the Minimum Wage Law and overtime provisions of the Fair Labor Standards Act (FLSA) or the Minimum Wage Law, whichever is greater.

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

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

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

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

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