

Illinois State Report State Ratings 2014

The Polaris annual state ratings process tracks the presence or absence of 10 categories of state statutes that Polaris believes are critical to a comprehensive anti-trafficking legal framework. It is important to note that these 10 categories are not exhaustive of all the important legislation that helps combat human trafficking in a given state. Moreover, the ratings do not assess the effectiveness or implementation of these laws, nor the anti-trafficking efforts of task forces, law enforcement, prosecutors, judges, service providers, and advocates in the state. The purpose of the annual state ratings process is to document laws on the books, to motivate legislators and policy advocates, and to focus the attention of states on the statutes that still need to be enacted in order to achieve a strong anti-trafficking legal framework.

Rating: Tier One (green)

Total Points: 9

Credited Categories: 1 Sex Trafficking; 2 Labor Trafficking; 3(a) Asset Forfeiture; (3)(b) Investigative Tools; 5 No Requirement of Force, Fraud, or Coercion for Minor Victims of Sex Trafficking; 7 Safe Harbor for Minors; 8 Victim Assistance; 9 Civil Remedy; and 10 Vacating Convictions.

Categories Still Needed: 4(a) Training for Law Enforcement; 4(b) Human Trafficking Task Force; and 6 Posting of a Hotline

Category By Category Break-Down:

Category 1: Sex Trafficking Statute

§ 720 ILCS 5/10-9. 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, or obtains by any means, or attempts to recruit, entice, harbor, provide, 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.



Category 2: Labor Trafficking Statute

Yes. See § 720 ILCS 5/10-9.

Category 3(a): Asset Forfeiture

§ 720 ILCS 5/10-9. Trafficking in persons, involuntary servitude, and related offenses

(j) A person who commits the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services 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.

Sec. 11-19.3. Vehicle impoundment.

(a) In addition to any other penalty provided by law, a peace officer who arrests a person for a violation of Section 10-9, 10-14, 11-14.1, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, or 11-19.2 of this Code, may tow and impound any vehicle used by the person in the commission of the offense. The person arrested for one or more such violations shall be charged a \$1,000 fee, to be paid to the unit of government that made the arrest. The person may recover the vehicle from the impound after a minimum of 2 hours after arrest upon payment of the fee.

(b) \$500 of the fee shall be distributed to the unit of government whose peace officers made the arrest, for the costs incurred by the unit of government to tow and impound the vehicle. Upon the defendant's conviction of one or more of the offenses in connection with which the vehicle was impounded and the fee imposed under this Section, the remaining \$500 of the fee shall be deposited into the Violent Crime Victims Assistance Fund and shall be used by the Department of Human Services to make grants to non-governmental organizations to provide services for persons encountered during the course of an investigation into any violation of Section 10-9, 11-14, 11-14.1, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, or 11-19.2 of this Code, provided such persons constitute prostituted persons or other victims of human trafficking.

(c) Upon the presentation by the defendant of a signed court order showing that the defendant has been acquitted of all of the offenses in connection with which a vehicle was impounded and a fee imposed under this Section, or that the charges against the defendant for those offenses have been dismissed, the unit of government shall refund the \$1,000 fee to the defendant.

Category 3(b): Investigative Tools

§ 720 ILCS 5/§ 33G-3. Definitions. As used in this Article:

(a) "Another state" means any State of the United States (other than the State of Illinois), or the District of Columbia, or the Commonwealth of Puerto Rico, or any territory or possession of the United States, or any political subdivision, or any department, agency, or instrumentality thereof.

(b) "Enterprise" includes:

- (1) any partnership, corporation, association, business or charitable trust, or other legal entity; and
- (2) any group of individuals or other legal entities, or any combination thereof, associated in fact although not itself a legal entity. An association in fact must be held together by a common purpose of engaging in a course of conduct, and it may be



associated together for purposes that are both legal and illegal. An association in fact must:

- (A) have an ongoing organization or structure, either formal or informal;
- (B) the various members of the group must function as a continuing unit, even if the group changes membership by gaining or losing members over time; and
- (C) have an ascertainable structure distinct from that inherent in the conduct of a pattern of predicate activity.

As used in this Article, “enterprise” includes licit and illicit enterprises.

(c) “Labor organization” includes any organization, labor union, craft union, or any voluntary unincorporated association designed to further the cause of the rights of union labor that is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or apprenticeships or applications for apprenticeships, or of other mutual aid or protection in connection with employment, including apprenticeships or applications for apprenticeships.

(d) “Operation or management” means directing or carrying out the enterprise's affairs and is limited to any person who knowingly serves as a leader, organizer, operator, manager, director, supervisor, financier, advisor, recruiter, supplier, or enforcer of an enterprise in violation of this Article.

(e) “Predicate activity” means any act that is a Class 2 felony or higher and constitutes a violation or violations of any of the following provisions of the laws of the State of Illinois (as amended or revised as of the date the activity occurred or, in the instance of a continuing offense, the date that charges under this Article are filed in a particular matter in the State of Illinois) or any act under the law of another jurisdiction for an offense that could be charged as a Class 2 felony or higher in this State:

(1) under the Criminal Code of 1961: 8-1.2 (solicitation of murder for hire), 9-1 (first degree murder), 9-3.3 (drug-induced homicide), 10-1 (kidnapping), 10-2 (aggravated kidnapping), 10-3.1 (aggravated unlawful restraint), 10-4 (forcible detention), 10-5(b)(10) (child abduction), 10-9 (trafficking in persons, involuntary servitude, and related offenses), 11-1.20 (criminal sexual assault), 11-1.30 (aggravated criminal sexual assault), 11-1.40 (predatory criminal sexual assault of a child), 11-1.60 (aggravated criminal sexual abuse), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 11-14.3(a)(2)(A) and (a)(2)(B) (promoting prostitution), 11-14.4 (promoting juvenile prostitution), 11-18.1 (patronizing a minor engaged in prostitution; patronizing a juvenile prostitute), 12-3.05 (aggravated battery), 12-6.4 (criminal street gang recruitment), 12-6.5 (compelling organization membership of persons), 12-7.3 (stalking), 12-7.4 (aggravated stalking), 12-7.5 (cyberstalking), 12-11 (home invasion), 12-11.1 (vehicular invasion), 18-1 (robbery), 18-2 (armed robbery), 18-3 (vehicular hijacking), 18-4 (aggravated vehicular hijacking), 18-5 (aggravated robbery), 19-1 (burglary), 19-3 (residential burglary), 20-1 (arson), 20-1.1 (aggravated arson), 20-1.2 (residential arson), 20-1.3 (place of worship arson), 24-1.2 (aggravated discharge of a firearm), 24-1.2-5 (aggravated discharge of a machine gun or silencer equipped firearm), 24-1.8 (unlawful possession of a firearm by a street gang member), 24-3.2 (unlawful discharge of firearm projectiles), 24-3.9 (aggravated possession of a stolen firearm), 24-3A (gunrunning), 26-5 (dog-fighting), 29D-14.9 (terrorism), 29D-15 (soliciting support for terrorism), 29D-15.1 (causing a catastrophe), 29D-15.2 (possession of a deadly substance), 29D-20 (making a terrorist threat), 29D-25 (falsely making a terrorist threat), 29D-29.9



(material support for terrorism), 29D-35 (hindering prosecution of terrorism), 31A-1.2 (unauthorized contraband in a penal institution), or 33A-3 (armed violence);
(2) under the Cannabis Control Act: Sections 5 (manufacture or delivery of cannabis), 5.1 (cannabis trafficking), or 8 (production or possession of cannabis plants), provided the offense either involves more than 500 grams of any substance containing cannabis or involves more than 50 cannabis sativa plants;
(3) under the Illinois Controlled Substances Act: Sections 401 (manufacture or delivery of a controlled substance), 401.1 (controlled substance trafficking), 405 (calculated criminal drug conspiracy), or 405.2 (street gang criminal drug conspiracy); or
(4) under the Methamphetamine Control and Community Protection Act: Sections 15 (methamphetamine manufacturing), or 55 (methamphetamine delivery) .

(f) “Pattern of predicate activity” means:

(1) at least 3 occurrences of predicate activity that are in some way related to each other and that have continuity between them, and that are separate acts. Acts are related to each other if they are not isolated events, including if they have similar purposes, or results, or participants, or victims, or are committed a similar way, or have other similar distinguishing characteristics, or are part of the affairs of the same enterprise. There is continuity between acts if they are ongoing over a substantial period, or if they are part of the regular way some entity does business or conducts its affairs; and
(2) which occurs after the effective date of this Article, and the last of which falls within 3 years (excluding any period of imprisonment) after the first occurrence of predicate activity.

(g) “Unlawful death” includes the following offenses: under the Criminal Code of 1961: Sections 9-1 (first degree murder) or 9-2 (second degree murder).

§725 ILCS 5/108B-3. Authorization for the interception of private communication

(a) The State's Attorney, or a person designated in writing or by law to act for him and to perform his duties during his absence or disability, may authorize, in writing, an ex parte application to the chief judge of a court of competent jurisdiction for an order authorizing the interception of a private communication when no party has consented to the interception and

(i) the interception may provide evidence of, or may assist in the apprehension of a person who has committed, is committing or is about to commit, a violation of Section 8-1(b) (solicitation of murder), 8-1.2 (solicitation of murder for hire), 9-1 (first degree murder), 10-9 (involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services), 11-15.1 (soliciting for a minor engaged in prostitution), 11-16 (pandering), 11-17.1 (keeping a place of juvenile prostitution), 11-18.1 (patronizing a minor engaged in prostitution), 11-19.1 (juvenile pimping and aggravated juvenile pimping), or 29B-1 (money laundering) of the Criminal Code of 1961, Section 401, 401.1 (controlled substance trafficking), 405, 405.1 (criminal drug conspiracy) or 407 of the Illinois Controlled Substances Act or any Section of the Methamphetamine Control and Community Protection Act, a violation of Section 24-2.1, 24-2.2, 24-3, 24-3.1, 24-3.3, 24-3.4, 24-4, or 24-5 or subsection 24-1(a)(4), 24-1(a)(6), 24-1(a)(7), 24-1(a)(9), 24-1(a)(10), or 24-1(c) of the Criminal Code of 1961 or conspiracy to commit money laundering or conspiracy to commit first degree murder;
(ii) in response to a clear and present danger of imminent death or great bodily harm to persons resulting from:



(1) a kidnapping or the holding of a hostage by force or the threat of the imminent use of force; or

(2) the occupation by force or the threat of the imminent use of force of any premises, place, vehicle, vessel or aircraft;

(iii) to aid an investigation or prosecution of a civil action brought under the Illinois Street gang Terrorism Omnibus Prevention Act when there is probable cause to believe the interception of the private communication will provide evidence that a street gang is committing, has committed, or will commit a second or subsequent gang-related offense or that the interception of the private communication will aid in the collection of a judgment entered under that Act; or (iv) upon information and belief that a streetgang has committed, is committing, or is about to commit a felony.

(b) The State's Attorney or a person designated in writing or by law to act for the State's Attorney and to perform his or her duties during his or her absence or disability, may authorize, in writing, an ex parte application to the chief judge of a circuit court for an order authorizing the interception of a private communication when no party has consented to the interception and the interception may provide evidence of, or may assist in the apprehension of a person who has committed, is committing or is about to commit, a violation of an offense under Article 29D of the Criminal Code of 1961.

(b-1) Subsection (b) is inoperative on and after January 1, 2005.

(b-2) No conversations recorded or monitored pursuant to subsection (b) shall be made inadmissible in a court of law by virtue of subsection (b-1).

(c) As used in this Section, "street gang" and "gang-related" have the meanings ascribed to them in Section 10 of the Illinois Street gang Terrorism Omnibus Prevention Act.

Category 4(a): Training for Law Enforcement

None.

Category 4(b): Human Trafficking Task Force

None.

Category 5: Lower Burden of Proof for Sex Trafficking of Minors

Yes. See § 720 ILCS 5/10-9.

Category 6: Posting of a Human Trafficking Hotline

None.

Category 7: Safe Harbor

§ 720 ILCS 5/11-14. Prostitution

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



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

(c) (Blank).

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

The Abused and Neglected Child Reporting Act

Sec. 3. As used in this Act unless the context otherwise requires:

"Child" means any person under the age of 18 years, unless legally emancipated by reason of marriage or entry into a branch of the United States armed services.

"Department" means Department of Children and Family Services.

"Local law enforcement agency" means the police of a city, town, village or other incorporated area or the sheriff of an unincorporated area or any sworn officer of the Illinois Department of State Police.

"Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

(a) inflicts, causes to be inflicted, or allows to be inflicted upon such child physical injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

(b) creates a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

(c) commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of 1961, as amended, or in the Wrongs to Children Act, and extending those definitions of sex offenses to include children under 18 years of age;

(d) commits or allows to be committed an act or acts of torture upon such child;

(e) inflicts excessive corporal punishment;

(f) commits or allows to be committed the offense of female genital mutilation, as defined in Section 12-34 of the Criminal Code of 1961, against the child; or

(g) causes to be sold, transferred, distributed, or given to such child under 18 years of age, a controlled substance as defined in Section 102 of the Illinois Controlled Substances Act in violation of Article IV of the Illinois Controlled Substances Act or in violation of the Methamphetamine Control and Community Protection Act, except for controlled substances that are prescribed in accordance with Article III of the Illinois Controlled Substances Act and are dispensed to such child in a manner that substantially complies with the prescription.

(h) commits or allows to be committed the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services as



defined in Section 10-9 of the Criminal Code of 1961 against the child. A child shall not be considered abused for the sole reason that the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act.

"Neglected child" means any child who is not receiving the proper or necessary nourishment or medically indicated treatment including food or care not provided solely on the basis of the present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise is not receiving the proper or necessary support or medical or other remedial care recognized under State law as necessary for a child's well-being, or other care necessary for his or her well-being, including adequate food, clothing and shelter; or who is abandoned by his or her parents or other person responsible for the child's welfare without a proper plan of care; or who has been provided with interim crisis intervention services under Section 3-5 of the Juvenile Court Act of 1987 and whose parent, guardian, or custodian refuses to permit the child to return home and no other living arrangement agreeable to the parent, guardian, or custodian can be made, and the parent, guardian, or custodian has not made any other appropriate living arrangement for the child; or who is a newborn infant whose blood, urine, or meconium contains any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or the newborn infant. A child shall not be considered neglected for the sole reason that the child's parent or other person responsible for his or her welfare has left the child in the care of an adult relative for any period of time. A child shall not be considered neglected for the sole reason that the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act. A child shall not be considered neglected or abused for the sole reason that such child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care as provided under Section 4 of this Act. A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of The School Code, as amended.

"Child Protective Service Unit" means certain specialized State employees of the Department assigned by the Director to perform the duties and responsibilities as provided under Section 7.2 of this Act.

"Person responsible for the child's welfare" means the child's parent; guardian; foster parent; relative caregiver; any person responsible for the child's welfare in a public or private residential agency or institution; any person responsible for the child's welfare within a public or private profit or not for profit child care facility; or any other person responsible for the child's welfare at the time of the alleged abuse or neglect, or any person who came to know the child through an official capacity or position of trust, including but not limited to health care professionals, educational personnel, recreational supervisors, members of the clergy, and volunteers or support personnel in any setting where children may be subject to abuse or neglect.

"Temporary protective custody" means custody within a hospital or other medical facility or a place previously designated for such custody by the Department, subject to review by the Court, including a licensed foster home, group home, or other institution; but such place shall not be a jail or other place for the detention of criminal or juvenile offenders.

"An unfounded report" means any report made under this Act for which it is determined after an investigation that no credible evidence of abuse or neglect exists.



"An indicated report" means a report made under this Act if an investigation determines that credible evidence of the alleged abuse or neglect exists.

"An undetermined report" means any report made under this Act in which it was not possible to initiate or complete an investigation on the basis of information provided to the Department.

"Subject of report" means any child reported to the central register of child abuse and neglect established under Section 7.7 of this Act and his or her parent, guardian or other person responsible who is also named in the report.

"Perpetrator" means a person who, as a result of investigation, has been determined by the Department to have caused child abuse or neglect.

"Member of the clergy" means a clergyman or practitioner of any religious denomination accredited by the religious body to which he or she belongs.

The Juvenile Court Act of 1987

705 ILCS 405/2-3. Neglected or abused minor.

(1) Those who are neglected include:

(a) any minor under 18 years of age who is not receiving the proper or necessary support, education as required by law, or medical or other remedial care recognized under State law as necessary for a minor's well-being, or other care necessary for his or her well-being, including adequate food, clothing and shelter, or who is abandoned by his or her parent or parents or other person or persons responsible for the minor's welfare, except that a minor shall not be considered neglected for the sole reason that the minor's parent or parents or other person or persons responsible for the minor's welfare have left the minor in the care of an adult relative for any period of time, who the parent or parents or other person responsible for the minor's welfare know is both a mentally capable adult relative and physically capable adult relative, as defined by this Act; or

(b) any minor under 18 years of age whose environment is injurious to his or her welfare; or

(c) any newborn infant whose blood, urine, or meconium contains any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act, as now or hereafter amended, or a metabolite of a controlled substance, with the exception of controlled substances or metabolites of such substances, the presence of which in the newborn infant is the result of medical treatment administered to the mother or the newborn infant; or

(d) any minor under the age of 14 years whose parent or other person responsible for the minor's welfare leaves the minor without supervision for an unreasonable period of time without regard for the mental or physical health, safety, or welfare of that minor; or

(e) any minor who has been provided with interim crisis intervention services under Section 3-5 of this Act and whose parent, guardian, or custodian refuses to permit the minor to return home unless the minor is an immediate physical danger to himself, herself, or others living in the home. Whether the minor was left without regard for the mental or physical health, safety, or welfare of that minor or the period of time was unreasonable shall be determined by considering the following factors, including but not limited to:

(1) the age of the minor;

(2) the number of minors left at the location;



- (3) special needs of the minor, including whether the minor is physically or mentally handicapped, or otherwise in need of ongoing prescribed medical treatment such as periodic doses of insulin or other medications;
- (4) the duration of time in which the minor was left without supervision;
- (5) the condition and location of the place where the minor was left without supervision;
- (6) the time of day or night when the minor was left without supervision;
- (7) the weather conditions, including whether the minor was left in a location with adequate protection from the natural elements such as adequate heat or light;
- (8) the location of the parent or guardian at the time the minor was left without supervision, the physical distance the minor was from the parent or guardian at the time the minor was without supervision;
- (9) whether the minor's movement was restricted, or the minor was otherwise locked within a room or other structure;
- (10) whether the minor was given a phone number of a person or location to call in the event of an emergency and whether the minor was capable of making an emergency call;
- (11) whether there was food and other provision left for the minor;
- (12) whether any of the conduct is attributable to economic hardship or illness and the parent, guardian or other person having physical custody or control of the child made a good faith effort to provide for the health and safety of the minor;
- (13) the age and physical and mental capabilities of the person or persons who provided supervision for the minor;
- (14) whether the minor was left under the supervision of another person;
- (15) any other factor that would endanger the health and safety of that particular minor.

A minor shall not be considered neglected for the sole reason that the minor has been relinquished in accordance with the Abandoned Newborn Infant Protection Act.

(2) Those who are abused include any minor under 18 years of age whose parent or immediate family member, or any person responsible for the minor's welfare, or any person who is in the same family or household as the minor, or any individual residing in the same home as the minor, or a paramour of the minor's parent:

- (i) inflicts, causes to be inflicted, or allows to be inflicted upon such minor physical injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;
- (ii) creates a substantial risk of physical injury to such minor by other than accidental means which would be likely to cause death, disfigurement, impairment of emotional health, or loss or impairment of any bodily function;
- (iii) commits or allows to be committed any sex offense against such minor, as such sex offenses are defined in the Criminal Code of 1961, as amended, or in the Wrongs to Children Act, and extending those definitions of sex offenses to include minors under 18 years of age;
- (iv) commits or allows to be committed an act or acts of torture upon such minor; or
- (v) inflicts excessive corporal punishment;



(vi) commits or allows to be committed the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services defined in Section 10-9 of the Criminal Code of 1961, upon such minor; or
(vii) allows, encourages or requires a minor to commit any act of prostitution, as defined in the Criminal Code of 1961, and extending those definitions to include minors under 18 years of age.

A minor shall not be considered abused for the sole reason that the minor has been relinquished in accordance with the Abandoned Newborn Infant Protection Act.

(3) This Section does not apply to a minor who would be included herein solely for the purpose of qualifying for financial assistance for himself, his parents, guardian or custodian.

Sec. 2-18. Evidence.

(1) At the adjudicatory hearing, the court shall first consider only the question whether the minor is abused, neglected or dependent. The standard of proof and the rules of evidence in the nature of civil proceedings in this State are applicable to proceedings under this Article. If the petition also seeks the appointment of a guardian of the person with power to consent to adoption of the minor under Section 2-29, the court may also consider legally admissible evidence at the adjudicatory hearing that one or more grounds of unfitness exists under subdivision D of Section 1 of the Adoption Act.

(2) In any hearing under this Act, the following shall constitute prima facie evidence of abuse or neglect, as the case may be:

- (a) proof that a minor has a medical diagnosis of battered child syndrome is prima facie evidence of abuse;
- (b) proof that a minor has a medical diagnosis of failure to thrive syndrome is prima facie evidence of neglect;
- (c) proof that a minor has a medical diagnosis of fetal alcohol syndrome is prima facie evidence of neglect;
- (d) proof that a minor has a medical diagnosis at birth of withdrawal symptoms from narcotics or barbiturates is prima facie evidence of neglect;
- (e) proof of injuries sustained by a minor or of the condition of a minor of such a nature as would ordinarily not be sustained or exist except by reason of the acts or omissions of the parent, custodian or guardian of such minor shall be prima facie evidence of abuse or neglect, as the case may be;
- (f) proof that a parent, custodian or guardian of a minor repeatedly used a drug, to the extent that it has or would ordinarily have the effect of producing in the user a substantial state of stupor, unconsciousness, intoxication, hallucination, disorientation or incompetence, or a substantial impairment of judgment, or a substantial manifestation of irrationality, shall be prima facie evidence of neglect;
- (g) proof that a parent, custodian, or guardian of a minor repeatedly used a controlled substance, as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act, in the presence of the minor or a sibling of the minor is prima facie evidence of neglect. "Repeated use", for the purpose of this subsection, means more than one use of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act;
- (h) proof that a newborn infant's blood, urine, or meconium contains any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act, or a metabolite of a controlled substance, with the exception of



controlled substances or metabolites of those substances, the presence of which is the result of medical treatment administered to the mother or the newborn, is prime facie evidence of neglect;

(i) proof that a minor was present in a structure or vehicle in which the minor's parent, custodian, or guardian was involved in the manufacture of methamphetamine constitutes prima facie evidence of abuse and neglect; .

(j) proof that a parent, custodian, or guardian of a minor allows, encourages, or requires a minor to perform, offer, or agree to perform any act of sexual penetration as defined in Section 12-12 of the Criminal Code of 1961 for any money, property, token, object, or article or anything of value, or any touching or fondling of the sex organs of one person by another person, for any money, property, token, object, or article or anything of value, for the purpose of sexual arousal or gratification, constitutes prima facie evidence of abuse and neglect;

(k) proof that a parent, custodian, or guardian of a minor commits or allows to be committed the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services defined in Section 10-9 of the Criminal Code of 1961, upon such minor, constitutes prima facie evidence of abuse and neglect.

(3) In any hearing under this Act, proof of the abuse, neglect or dependency of one minor shall be admissible evidence on the issue of the abuse, neglect or dependency of any other minor for whom the respondent is responsible.

(4) (a) Any writing, record, photograph or x-ray of any hospital or public or private agency, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any condition, act, transaction, occurrence or event relating to a minor in an abuse, neglect or dependency proceeding, shall be admissible in evidence as proof of that condition, act, transaction, occurrence or event, if the court finds that the document was made in the regular course of the business of the hospital or agency and that it was in the regular course of such business to make it, at the time of the act, transaction, occurrence or event, or within a reasonable time thereafter. A certification by the head or responsible employee of the hospital or agency that the writing, record, photograph or x-ray is the full and complete record of the condition, act, transaction, occurrence or event and that it satisfies the conditions of this paragraph shall be prima facie evidence of the facts contained in such certification. A certification by someone other than the head of the hospital or agency shall be accompanied by a photocopy of a delegation of authority signed by both the head of the hospital or agency and by such other employee. All other circumstances of the making of the memorandum, record, photograph or x-ray, including lack of personal knowledge of the maker, may be proved to affect the weight to be accorded such evidence, but shall not affect its admissibility.

(b) Any indicated report filed pursuant to the Abused and Neglected Child Reporting Act shall be admissible in evidence.

(c) Previous statements made by the minor relating to any allegations of abuse or neglect shall be admissible in evidence. However, no such statement, if uncorroborated and not subject to cross-examination, shall be sufficient in itself to support a finding of abuse or neglect.

(d) There shall be a rebuttable presumption that a minor is competent to testify in abuse or neglect proceedings. The court shall determine how much weight to give to the



minor's testimony, and may allow the minor to testify in chambers with only the court, the court reporter and attorneys for the parties present.

(e) The privileged character of communication between any professional person and patient or client, except privilege between attorney and client, shall not apply to proceedings subject to this Article.

(f) Proof of the impairment of emotional health or impairment of mental or emotional condition as a result of the failure of the respondent to exercise a minimum degree of care toward a minor may include competent opinion or expert testimony, and may include proof that such impairment lessened during a period when the minor was in the care, custody or supervision of a person or agency other than the respondent.

(5) In any hearing under this Act alleging neglect for failure to provide education as required by law under subsection (1) of Section 2-3, proof that a minor under 13 years of age who is subject to compulsory school attendance under the School Code is a chronic truant as defined under the School Code shall be prima facie evidence of neglect by the parent or guardian in any hearing under this Act and proof that a minor who is 13 years of age or older who is subject to compulsory school attendance under the School Code is a chronic truant shall raise a rebuttable presumption of neglect by the parent or guardian. This subsection (5) shall not apply in counties with 2,000,000 or more inhabitants.

(6) In any hearing under this Act, the court may take judicial notice of prior sworn testimony or evidence admitted in prior proceedings involving the same minor if (a) the parties were either represented by counsel at such prior proceedings or the right to counsel was knowingly waived and (b) the taking of judicial notice would not result in admitting hearsay evidence at a hearing where it would otherwise be prohibited.

Category 8: Victim Assistance

SB 3558 (2014)

Sec. 5-9-1.21. Specialized Services for Survivors of Human Trafficking Fund.

(a) There is created in the State treasury a Specialized Services for Survivors of Human Trafficking Fund. Moneys deposited into the Fund under this Section shall be available for the Department of Human Services for the purposes in this Section.

(b) Each plea of guilty, stipulation of facts, or finding of guilt resulting in a judgment of conviction or order of supervision for an offense under Section 10-9, 11-14.1, 11-14.3, or 11-18 of the Criminal Code of 2012 that results in the imposition of a fine shall have a portion of that fine deposited into the Specialized Services for Survivors of Human Trafficking Fund.

(c) If imposed, the fine shall be collected by the circuit court clerk in addition to any other imposed fee. The circuit court clerk shall retain \$50 to cover the costs in administering and enforcing this Section. The circuit court clerk shall remit the remainder of the fine within one month of its receipt as follows:

(1) \$300 shall be distributed equally between all State law enforcement agencies whose officers or employees conducted the investigation or prosecution that resulted in the finding of guilt; and

(2) The remainder of the fine shall be remitted to the Department of Human Services for deposit into the Specialized Services for Survivors of Human Trafficking Fund.

(d) Upon appropriation of moneys from the Specialized Services for Survivors of Human Trafficking Fund, the Department of Human Services shall use these moneys to make grants to



non-governmental organizations to provide specialized, trauma-informed services specifically designed to address the priority service needs associated with prostitution and human trafficking. Priority services include, but are not limited to, community based drop-in centers, emergency housing, and long-term safe homes. The Department shall consult with prostitution and human trafficking advocates, survivors, and service providers to identify priority service needs in their respective communities.

(e) Grants made under this Section are in addition to, and not substitutes for, other grants authorized and made by the Department.

(f) Notwithstanding any other law to the contrary, the Specialized Services for Survivors of Human Trafficking Fund is not subject to sweeps, administrative charge-backs, or any other fiscal maneuver that would in any way transfer any amounts from the Specialized Services for Survivors of Human Trafficking Fund into any other fund of the State.

720 ILCS 5/10-9. Trafficking in persons, involuntary servitude, and related offenses

(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.

Category 9: Access to Civil Damages

740 ILCS 128/5; 15

§ 5. Purpose. The purpose of this Act is to allow persons who have been or who are subjected to the sex trade to seek civil damages and remedies from individuals and entities that recruited, harmed, profited from, or maintained them in the sex trade.

§ 15. Cause of action.

(a) Violations of this Act are actionable in civil court.

(b) A victim of the sex trade has a cause of action against a person or entity who:

- (1) recruits, profits from, or maintains the victim in any sex trade act;
- (2) intentionally abuses, as defined in Section 103 of the Illinois Domestic Violence Act of 1986, or causes bodily harm, as defined in Section 11-0.1 of the Criminal Code of 1961, to the victim in any sex trade act; or
- (3) knowingly advertises or publishes advertisements for purposes of recruitment into sex trade activity.



- (c) This Section shall not be construed to create liability to any person or entity who provides goods or services to the general public, who also provides those goods or services to persons who would be liable under subsection (b) of this Section, absent a showing that the person or entity either:
 - (1) knowingly markets or provides its goods or services primarily to persons or entities liable under subsection (b) of this Section;
 - (2) knowingly receives a higher level of compensation from persons or entities liable under subsection (b) of this Section than it generally receives from customers; or
 - (3) supervises or exercises control over persons or entities liable under subsection (b) of this Section.

Category 10: Vacating Convictions

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.



If you would like assistance in enacting laws to fill in the gaps, please contact the Polaris Policy Program at policy@polarisproject.org.